

HOUSE JOURNAL  
OF THE  
SIXTY-SIXTH LEGISLATURE  
OF THE  
STATE OF WASHINGTON  
AT  
OLYMPIA, THE STATE CAPITOL

2019 Regular Session  
Convened January 14, 2019  
Adjourned Sine Die April 28, 2019

VOLUME II



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**Frank Chopp**, Speaker  
**John Lovick**, Speaker Pro Tempore  
**Bernard Dean**, Chief Clerk

Compiled and edited by Maureen Mueller, Journal Clerk

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## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## SEVENTY EIGHTH DAY

House Chamber, Olympia, Monday, April 1, 2019

The House was called to order at 10:00 a.m. by the Speaker (Representative Orwall presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Amber Abbott and Aiden Thien. The Speaker (Representative Orwall presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Representative Paul Harris, 17<sup>th</sup> Legislative District, Washington.

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

The Speaker assumed the chair.

#### SIGNED BY THE SPEAKER

The Speaker signed the following bills:

HOUSE BILL NO. 1001  
HOUSE BILL NO. 1011  
HOUSE BILL NO. 1055  
HOUSE BILL NO. 1247  
HOUSE BILL NO. 2072

The Speaker called upon Representative Orwall to preside.

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

#### INTRODUCTION & FIRST READING

HB 2163 by Representative Stokesbary

AN ACT Relating to transferring extraordinary revenue growth from the budget stabilization account for K-12 education; creating a new section; and declaring an emergency.

Referred to Committee on Appropriations.

HJM 4010 by Representatives Young, Shea, Walsh, McCaslin, Sutherland, Rude and Eslick

Requesting that Congress allow design defect claims against vaccine manufacturers by individuals who have experienced adverse side effects caused by vaccines.

Referred to Committee on Civil Rights & Judiciary.

There being no objection, the bill and memorial listed on the day's committee reports under the fourth order of business were referred to the committees so designated.

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

#### REPORTS OF STANDING COMMITTEES

March 26, 2019

SSB 5023 Prime Sponsor, Committee on Early Learning & K-12 Education: Concerning ethnic studies materials and resources for public school students. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

On page 1, line 10, after "to" insert "develop, and periodically update, essential academic learning requirements and grade-level expectations that identify the knowledge and skills that all public school students need to be global citizens in a global society with an appreciation for the contributions of diverse cultures. The office of the superintendent of public instruction must also"

On page 1, after line 15, insert the following:

"NEW SECTION. Sec. 2. A new section is added to chapter 28A.655 RCW to read as follows:

By September 1, 2020, the office of the superintendent of public instruction shall adopt essential academic learning requirements and grade-level expectations that identify the knowledge and skills that all public school students need to be global citizens in a global society with an appreciation for the contributions of diverse cultures. These essential academic learning requirements and grade-level expectations must be periodically updated to incorporate best practices in ethnic studies."

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

On page 2, beginning on line 10, after "(1)" strike all material through "the" on line 12 and insert "The"

On page 2, beginning on line 13, after "committee" strike all material through "advise" on line 14 and insert "to:

(a) Advise"

On page 2, line 17, after "resources" strike "required" and insert ": (i) Described"

On page 2, beginning on line 17, after "act" strike all material through "develop" on line 18 and insert "; and (ii) for use in elementary schools; and

(b) Develop"

On page 2, at the beginning of line 21, strike "(d)" and insert "(2)"

On page 2, line 26, strike all material through "Indian"

On page 2, line 27, strike "(2)" and insert "(3)"

On page 2, after line 27, insert the following:

"NEW SECTION. Sec. 4. The legislature intends that nothing in this act supersedes the use of the since time immemorial: tribal sovereignty in Washington state curriculum, developed as required under RCW 28A.320.170(1)(b)."

Correct the title.

Signed by Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Bergquist; Callan; Kilduff; Ortiz-Self; Rude; Stonier; Thai and Valdez.

MINORITY recommendation: Do not pass. Signed by Representatives Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Caldier; Kraft and Ybarra.

MINORITY recommendation: Without recommendation. Signed by Representative Corry.

Referred to Committee on Rules for second reading.

March 28, 2019

SB 5088 Prime Sponsor, Senator Wellman:  
Awarding credits for computer science.  
Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes the benefit of computer science and computational thinking in education, not only with respect to educational development, but also in cultivating the skills needed to compete and excel in our state's career landscape. By providing more opportunities to take courses and earn credit in computer science, Washington can better prepare students to excel both in school and after graduation.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.230 RCW to read as follows:

(1) Beginning no later than the 2022-23 school year, each school district that operates a high school must, at a minimum, provide an opportunity to access an elective computer science course that is available to all high school students. School districts are encouraged to consider community-based or public-private partnerships in establishing and administering a course, but any course offered in accordance with this section must be aligned to the state learning standards for computer science or mathematics.

(2) In accordance with the requirements of this section, beginning in the 2019-20 school year, school districts may award academic credit for computer science to students based on student completion of a competency examination that is aligned with the state learning standards for computer science or mathematics and course equivalency requirements adopted by the office of the superintendent of public instruction to implement this section. Each school district board of directors in districts that award credit under this subsection shall develop a written policy for awarding such credit that includes:

(a) A course equivalency approval procedure;

(b) Procedures for awarding competency-based credit for skills learned partially or wholly outside of a course; and

(c) An approval process for computer science courses taken before attending high school under RCW 28A.230.090 (4) and (5).

(3) Prior to the use of any competency examination under this section that may be used to award academic credit to students, the office of the superintendent of public instruction must review the examination to ensure its alignment with:

(a) The state learning standards for computer science or mathematics; and

(b) Course equivalency requirements adopted by the office of the superintendent of public instruction to implement this section.

**Sec. 3.** RCW 28A.230.100 and 2012 c 229 s 504 are each amended to read as follows:

(1) The superintendent of public instruction, in consultation with the student achievement council, the state board for community and technical colleges, and the workforce training and education coordinating board, shall adopt rules pursuant to chapter 34.05 RCW, to implement the course requirements set forth in RCW 28A.230.090. The rules shall include, as the superintendent deems necessary, granting equivalencies for and temporary exemptions from the course requirements in RCW 28A.230.090 and special alterations of the course requirements in RCW 28A.230.090. In developing such rules the superintendent shall recognize the relevance of vocational and applied courses and allow such courses to fulfill in whole or in part the courses required

for graduation in RCW 28A.230.090, as determined by the high school or school district in accordance with RCW 28A.230.097.

(2) The rules ~~((may))~~ created under subsection (1) of this section must include provisions for:

(a) Competency testing in lieu of such courses required for graduation in RCW 28A.230.090 ~~((€))~~;

(b) Competency testing in lieu of electives, including computer science electives created under section 2 of this act, provided applicable state learning standards and equivalency requirements are met; and

(c) Demonstration of specific skill proficiency or understanding of concepts through work or experience."

Correct the title.

Signed by Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Bergquist; Caldier; Callan; Corry; Harris; Kilduff; Kraft; Ortiz-Self; Rude; Stonier; Thai and Valdez.

Referred to Committee on Rules for second reading.

April 8, 2019

E2SSB 5091 Prime Sponsor, Committee on Ways & Means: Concerning state and federal special education funding. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Education.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to provide the funding necessary to support a comprehensive and responsive education system that fully addresses the needs of students with disabilities eligible for special education. Under the current funding model, students with disabilities eligible for special education are funded as basic education students first, with additional funding provided through a statewide multiplier intended to meet the additional needs of each student as established in the student's individualized education program. Additionally, a safety net administered by the office of the superintendent of public instruction is available for school districts that demonstrate significant extra need beyond what they receive from the base funding formula.

The legislature notes that school districts across the state have identified the need for additional resources to create the educational environment necessary to give every student with an individualized education program the opportunity to succeed. It is the legislature's intent to

maintain the current funding structure for special education with necessary resources, and to collect data related to the numbers of students who fall into different cost categories of support. These additional data will inform whether an alternative system of funding may be necessary to better reflect current needs of our schools and our students. However, as these data are collected, the legislature also intends to provide immediate relief to school district special education programs by enhancing the supplemental funding school districts receive for every student in the program of special education and to provide easier access to the safety net when those base funds are not adequate.

**Sec. 2.** RCW 28A.150.392 and 2018 c 266 s 106 are each amended to read as follows:

(1)(a) To the extent necessary, funds shall be made available for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided through the special education funding formula under RCW 28A.150.390.

(b) If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in any fiscal year, then the superintendent shall expend all available federal discretionary funds necessary to meet this need.

(2) Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall award additional funds for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas.

(b) In the determination of need, the committee shall consider additional available revenues from federal sources.

(c) Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(d) In the determination of need, the committee shall require that districts demonstrate that they are maximizing their eligibility for all state revenues related to services for students eligible for special education~~((eligible students))~~ and all federal revenues from federal impact aid, medicaid, and the individuals with disabilities education act-Part B and appropriate special projects. Awards associated with (e) and (f) of this subsection shall not exceed the total of a district's specific determination of need.

(e) The committee shall then consider the extraordinary high cost needs of one or more individual students eligible for and receiving special education ~~((students))~~. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(f) Using criteria developed by the committee, the committee shall then consider extraordinary costs associated with communities that draw a larger number of families with children in need of special education services, which may

include consideration of proximity to group homes, military bases, and regional hospitals. Safety net awards under this subsection (2)(f) shall be adjusted to reflect amounts awarded under (e) of this subsection.

(g) The committee shall then consider the extraordinary high cost needs of one or more individual students eligible for and receiving special education (~~students~~) served in residential schools as defined in RCW 28A.190.020, programs for juveniles under the department of corrections, and programs for juveniles operated by city and county jails to the extent they are providing a secondary program of education (~~for students enrolled in special education~~).

(h) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(i) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent of public instruction in accordance with chapter 318, Laws of 1999.

(j) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(3) The superintendent of public instruction shall adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. By December 1, 2018, the superintendent shall review and revise the rules to achieve full and complete implementation of the requirements of this subsection and subsection (4) of this section including revisions to rules that provide additional flexibility to access community impact awards. Before revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature. In adopting and revising the rules, the superintendent shall ensure the application process to access safety net funding is streamlined, timelines for submission are not in conflict, feedback to school districts is timely and provides sufficient information to allow school districts to understand how to correct any deficiencies in a safety net application, and that there is consistency between awards approved by school district and by application period. The office of the superintendent of public instruction shall also provide technical assistance to school districts in preparing and submitting special education safety net applications.

(4) On an annual basis, the superintendent shall survey districts regarding their satisfaction with the safety net process and consider feedback from districts to improve the safety net process. Each year by December 1st, the superintendent shall prepare and submit a report to the office of financial management and the appropriate policy and fiscal committees of the legislature that summarizes the survey results and those changes made to the safety net process as a result of the school district feedback.

(5) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) One staff member from the office of the superintendent of public instruction;

(b) Staff of the office of the state auditor who shall be nonvoting members of the committee; and

(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(6) Beginning in the 2019-20 school year, a high-need student is eligible for safety net awards from state funding under subsection (2)(e) and (g) of this section if the student's individualized education program costs exceed two and two-tenths times the average per-pupil expenditure as defined in Title 20 U.S.C. Sec. 7801, the every student succeeds act of 2015.

**Sec. 3.** RCW 28A.150.415 and 2017 3rd sp.s. c 13 s 105 are each amended to read as follows:

(1) Beginning with the 2018-19 school year, the legislature shall begin phasing in funding for professional learning days for certificated instructional staff. At a minimum, the state must allocate funding for:

(a) One professional learning day in the 2018-19 school year;

(b) Two professional learning days in the 2019-20 school year; and

(c) Three professional learning days in the 2020-21 school year.

(2) The office of the superintendent of public instruction shall calculate each school district's professional learning allocation as provided in subsection (1) of this section separate from the minimum state allocation for salaries as specified in RCW 28A.150.410 and associated fringe benefits on the apportionment reports provided to each school district. The professional learning allocation shall be equal to the proportional increase resulting from adding the professional learning days provided in subsection (1) of this section to the required minimum number of school days in RCW 28A.150.220(5)(a) applied to the school district's minimum state allocation for salaries and associated fringe benefits for certificated instructional staff as specified in the omnibus operating appropriations act. Professional learning allocations shall be included in per-pupil calculations, such as special education, for programs funded on a per-pupil basis.

(3) Nothing in this section entitles an individual certificated instructional staff to any particular number of professional learning days.

~~((3))~~ (4) The professional learning days must meet the definitions and standards provided in RCW 28A.415.430, 28A.415.432, and 28A.415.434.

**Sec. 4.** RCW 28A.150.390 and 2018 c 266 s 102 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special

education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8) and 28A.150.415.

(2) The excess cost allocation to school districts shall be based on the following:

(a) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten who are eligible for and ~~((enrolled in))~~ receiving special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.15; ~~((and))~~

(b) A district's annual average ~~((full-time equivalent basic education))~~ enrollment ~~((, multiplied by the district's funded enrollment percent))~~ of resident students who are eligible for and enrolled in special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by ~~((0.9609))~~ either the special education cost multiplier rate of:

(i) 1.00 for students eligible for and receiving special education and reported to be in the general education setting for eighty percent or more of the school day; or

(ii) 0.9823 for students eligible for and receiving special education and reported to be in the general education setting for less than eighty percent of the school day.

(3) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation under RCW 28A.150.415, to be divided by the district's full-time equivalent enrollment.

(b) "Basic education enrollment" means enrollment of resident students including nonresident students enrolled under RCW 28A.225.225 and students from nonhigh districts enrolled under RCW 28A.225.210 and excluding students residing in another district enrolled as part of an interdistrict cooperative program under RCW 28A.225.250.

(c) "Enrollment percent" means the district's resident ~~((special education))~~ annual average enrollment of students who are eligible for and receiving special education, excluding students ages birth through four and those five year olds not yet enrolled in kindergarten and students enrolled in institutional education programs, as a percent of the district's annual average full-time equivalent basic education enrollment. If the enrollment percent exceeds thirteen and five-tenths percent, the excess cost allocation calculated under subsection (2) of this section must be adjusted by multiplying the allocation by thirteen and five-tenths percent divided by the enrollment percent.

~~((d) "Funded enrollment percent" means the lesser of the district's actual enrollment percent or thirteen and five-tenths percent.))~~

**Sec. 5.** RCW 43.09.2856 and 2018 c 266 s 406 are each amended to read as follows:

(1) Beginning with the 2019-20 school year, to ensure that school district local revenues are used solely for purposes of enriching the state's statutory program of basic education, the state auditor's regular financial audits of school districts must include a review of the expenditure of school district local revenues for compliance with RCW 28A.150.276, including the spending plan approved by the superintendent of public instruction under RCW 28A.505.240 and its implementation, and any supplemental contracts entered into under RCW 28A.400.200.

(2) If an audit under subsection (1) of this section results in findings that a school district has failed to comply with these requirements, then within ninety days of completing the audit the auditor must report the findings to the superintendent of public instruction, the office of financial management, and the education and operating budget committees of the legislature.

(3) The use of the state allocation provided for professional learning under RCW 28A.150.415 must be audited as part of the regular financial audits of school districts by the state auditor's office to ensure compliance with the limitations and conditions of RCW 28A.150.415.

(4)(a) The state auditor must conduct a financial or accountability audit of each school district by June 1, 2020, for the 2018-19 school year to include a review of the following:

(i) Special education revenues and the sources of those revenues, by school district; and

(ii) Special education expenditures and the object of those expenditures, by school district.

(b) Special education data reported for each school district through the audits under this subsection must be compiled and submitted to the education committees of the legislature by December 1, 2020.

NEW SECTION. **Sec. 6.** Section 5 of this act expires December 1, 2021."

Correct the title.

Signed by Representatives Ormsby, Chair; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger and Ybarra.

MINORITY recommendation: Without recommendation. Signed by Representative Kraft.

Referred to Committee on Appropriations.

March 28, 2019

2SSB 5093 Prime Sponsor, Committee on Transportation: Enhancing litter control along state highways. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass. Signed by Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; Shea, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke; DeBolt; Doglio; Fey; Mead; Peterson and Shewmake.

Referred to Committee on Rules for second reading.

March 28, 2019

2SSB 5141 Prime Sponsor, Committee on Ways & Means: Concerning school resource officer mandatory training and policies. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is not the intent of the legislature to require school resource officers to work in schools. If a school district chooses to have a school resource officer program, it is the intent of the legislature to create statewide consistency for the minimum training requirements that school resource officers must receive and ensure that there is a clear agreement between the school district and local law enforcement agency in order to help establish effective partnerships that protect the health and safety of all students.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) If a school district chooses to have a school resource officer program, the school district must confirm that every school resource officer has received training on the following topics:

(a) Constitutional and civil rights of children in schools, including state law governing search and interrogation of youth in schools;

(b) Child and adolescent development;

(c) Trauma-informed approaches to working with youth;

(d) Recognizing and responding to youth mental health issues;

(e) Educational rights of students with disabilities, the relationship of disability to behavior, and best practices for interacting with students with disabilities;

(f) Collateral consequences of arrest, referral for prosecution, and court involvement;

(g) Resources available in the community that serve as alternatives to arrest and prosecution and pathways for youth to access services without court or criminal justice involvement;

(h) Local and national disparities in the use of force and arrests of children;

(i) De-escalation techniques when working with youth or groups of youth;

(j) State law regarding restraint and isolation in schools, including RCW 28A.600.485;

(k) Bias free policing and cultural competency, including best practices for interacting with students from particular backgrounds, including English learners, LGBTQ, and immigrants; and

(l) The federal family educational rights and privacy act (20 U.S.C. Sec. 1232g) requirements including limits on access to and dissemination of student records for noneducational purposes.

(2) School districts that have a school resource officer program must annually review and adopt an agreement with the local law enforcement agency using a process that involves parents, students, and community members. At a minimum, the agreement must incorporate the following elements:

(a) A clear statement that school resource officers may not be involved in student discipline or enforcing school rules and a clear description of the types of incidents that do not warrant school resource officer action;

(b) School district policy and procedure for teachers that clarify the circumstances under which teachers and school administrators may ask an officer to intervene with a student;

(c) Annual collection and reporting of data regarding calls for law enforcement service and the outcome of each call, including student arrest and referral for prosecution, disaggregated by school, offense type, race, gender, age, and students who have an individualized education program or plan developed under section 504 of the federal rehabilitation act of 1973;

(d) A process for families to file complaints with the school and local law enforcement agency related to school resource officers and a process for investigating and responding to complaints; and

(e) Confirmation that the school resource officers have received the training required under subsection (1) of this section.

(3)(a) School districts that choose to have a school resource officer program must comply with the requirements in subsection (2) of this section by the beginning of the 2020-21 school year.

(b)(i) School resource officers assigned to work in a school on or before July 28, 2019, must satisfy the training

requirements established in subsection (1) of this section by July 28, 2023.

(ii) School resource officers assigned to work in a school after July 28, 2019, must satisfy the training requirements established in subsection (1) of this section before working in a school.

(4) For the purposes of this section, "school resource officer" means a commissioned law enforcement officer in the state of Washington with sworn authority to make arrests, deployed in community-oriented policing, and assigned by the employing police department or sheriff's office to work in schools to address crime and disorder problems, gangs, and drug activities affecting or occurring in or around K-12 schools. School resource officers should focus on keeping students out of the criminal justice system when possible and should not be used to attempt to impose criminal sanctions in matters that are more appropriately handled within the educational system.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.300 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must establish and implement a grant program to fund training for school resource officers as described in section 2 of this act. Training under this section may be developed by schools in partnership with local law enforcement and organizations that have expertise in topics such as juvenile brain development; restorative practices or restorative justice; social-emotional learning; civil rights; and student rights, including free speech and search and seizure. This training may be provided by the criminal justice training commission.

(2) By December 1st of each year the program is funded, the office of the superintendent of public instruction must submit an annual report to the governor and appropriate committees of the legislature on the program."

Correct the title.

Signed by Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Bergquist; Callan; Kilduff; Ortiz-Self; Stonier; Thai and Valdez.

MINORITY recommendation: Do not pass. Signed by Representatives Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Caldier; Corry and Kraft.

MINORITY recommendation: Without recommendation. Signed by Representatives Harris and Rude.

Referred to Committee on Appropriations.

March 27, 2019

SSB 5167

Prime Sponsor, Committee on Financial Institutions, Economic Development & Trade: Addressing the linked deposit program. Reported by Committee on Innovation, Technology & Economic Development

MAJORITY recommendation: Do pass. Signed by Representatives Hudgins, Chair; Kloba, Vice Chair; Smith, Ranking Minority Member; Boehnke, Assistant Ranking Minority Member; Morris; Slatter; Tarleton; Van Werven and Wylie.

Referred to Committee on Appropriations.

March 28, 2019

SB 5205

Prime Sponsor, Senator Dhingra: Concerning provisions governing firearms possession by persons who have been found incompetent to stand trial and who have a history of one or more violent acts. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 10.77.088 and 2016 sp.s. c 29 s 411 are each amended to read as follows:

(1)(a) If the defendant is charged with a nonfelony crime which is a serious offense as identified in RCW 10.77.092 and found by the court to be not competent, then the court:

(i) Shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment;

(ii) May alternatively order the defendant to undergo evaluation and treatment at some other facility or provider as determined by the department, or under the guidance and control of a professional person. The facilities or providers may include community mental health providers or other local facilities that contract with the department and are willing and able to provide treatment under this section. During the 2015-2017 fiscal biennium, the department may contract with one or more cities or counties to provide competency restoration services in a city or county jail if the city or county jail is willing and able to serve as a location for competency restoration services and if the secretary determines that there is an emergent need for beds and documents the justification, including a plan to address the emergency. Patients receiving competency restoration services in a city or county jail must be physically separated from other populations at the jail and restoration treatment services must be provided as much as possible within a therapeutic environment. The placement under (a)(i) and (ii) of this subsection shall not exceed fourteen days in addition

to any unused time of the evaluation under RCW 10.77.060. The court shall compute this total period and include its computation in the order. The fourteen-day period plus any unused time of the evaluation under RCW 10.77.060 shall be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility;

(iii) May alternatively order that the defendant be placed on conditional release for up to ninety days for mental health treatment and restoration of competency; or

(iv) May order any combination of this subsection.

(b) If the court has determined or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in (c) of this subsection.

(c)(i) If the proceedings are dismissed under RCW 10.77.084 and the defendant was on conditional release at the time of dismissal, the court shall order the designated crisis responder within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.

(ii) If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two-hour period.

(2) If the defendant is charged with a nonfelony crime that is not a serious offense as defined in RCW 10.77.092(+) and found by the court to be not competent, the court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least twenty-four hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings.

(3) If at any time the court dismisses charges under subsection (1) or (2) of this section, the court shall make a finding as to whether the defendant has a history of one or more violent acts. If the court so finds, the defendant is barred from the possession of firearms until a court restores his or her right to possess a firearm under RCW 9.41.047. The court shall state to the defendant and provide written notice that the defendant is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

**Sec. 2.** RCW 9.41.040 and 2018 c 234 s 1 are each amended to read as follows:

(1)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, has in his or her possession, or has in his or her control any firearm after having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any serious offense as defined in this chapter.

(b) Unlawful possession of a firearm in the first degree is a class B felony punishable according to chapter 9A.20 RCW.

(2)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under subsection (1) of this section for the crime of unlawful possession of a firearm in the first degree and the person owns, has in his or her possession, or has in his or her control any firearm:

(i) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any felony not specifically listed as prohibiting firearm possession under subsection (1) of this section, or any of the following crimes when committed by one family or household member against another, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

(ii) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of harassment when committed by one family or household member against another, committed on or after June 7, 2018;

(iii) During any period of time that the person is subject to a court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99, 26.09, 26.10, (~~26.26~~) 26.26B, or 26.50 RCW that:

(A) Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

(B) Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(I) Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; and

(II) By its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury;

(iv) After having previously been involuntarily committed for mental health treatment under RCW

71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(v) After dismissal of criminal charges based on incompetency to stand trial under RCW 10.77.088 when the court has made a finding indicating that the defendant has a history of one or more violent acts, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(vi) If the person is under eighteen years of age, except as provided in RCW 9.41.042; and/or

~~((v+))~~ (vii) If the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010.

(b) (a)(iii) of this subsection does not apply to a sexual assault protection order under chapter 7.90 RCW if the order has been modified pursuant to RCW 7.90.170 to remove any restrictions on firearm purchase, transfer, or possession.

(c) Unlawful possession of a firearm in the second degree is a class C felony punishable according to chapter 9A.20 RCW.

(3) Notwithstanding RCW 9.41.047 or any other provisions of law, as used in this chapter, a person has been "convicted", whether in an adult court or adjudicated in a juvenile court, at such time as a plea of guilty has been accepted, or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing or disposition, post-trial or post-fact-finding motions, and appeals. Conviction includes a dismissal entered after a period of probation, suspension or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state. A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. Where no record of the court's disposition of the charges can be found, there shall be a rebuttable presumption that the person was not convicted of the charge.

(4)(a) Notwithstanding subsection (1) or (2) of this section, a person convicted or found not guilty by reason of insanity of an offense prohibiting the possession of a firearm under this section other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401 and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction or finding of not guilty by reason of insanity. Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) or (2) of this section and has not

previously been convicted or found not guilty by reason of insanity of a sex offense prohibiting firearm ownership under subsection (1) or (2) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:

(i) Under RCW 9.41.047; and/or

(ii)(A) If the conviction or finding of not guilty by reason of insanity was for a felony offense, after five or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525; or

(B) If the conviction or finding of not guilty by reason of insanity was for a nonfelony offense, after three or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525 and the individual has completed all conditions of the sentence.

(b) An individual may petition a court of record to have his or her right to possess a firearm restored under (a) of this subsection (4) only at:

(i) The court of record that ordered the petitioner's prohibition on possession of a firearm; or

(ii) The superior court in the county in which the petitioner resides.

(5) In addition to any other penalty provided for by law, if a person under the age of eighteen years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) or (2) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within twenty-four hours and the person's privilege to drive shall be revoked under RCW 46.20.265, unless the offense is the juvenile's first offense in violation of this section and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.52, 69.41, or 69.50 RCW.

(6) Nothing in chapter 129, Laws of 1995 shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the

offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense.

(8) For purposes of this section, "intimate partner" includes: A spouse, a domestic partner, a former spouse, a former domestic partner, a person with whom the restrained person has a child in common, or a person with whom the restrained person has cohabitated or is cohabitating as part of a dating relationship.

**Sec. 3.** RCW 9.41.047 and 2018 c 201 s 6001 are each amended to read as follows:

(1)(a) At the time a person is convicted or found not guilty by reason of insanity of an offense making the person ineligible to possess a firearm, or at the time a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW for mental health treatment, or at the time that charges are dismissed based on incompetency to stand trial under RCW 10.77.088 and the court makes a finding that the person has a history of one or more violent acts, the convicting or committing court, or court that dismisses charges, shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a court of record. For purposes of this section a convicting court includes a court in which a person has been found not guilty by reason of insanity.

(b) The ~~((convicting or committing))~~ court shall forward within three judicial days after conviction ~~((or))~~, entry of the commitment order, or dismissal of charges, a copy of the person's driver's license or identicaid, or comparable information, along with the date of conviction or commitment, or date charges are dismissed, to the department of licensing. When a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW, for mental health treatment, or when a person's charges are dismissed based on incompetency to stand trial under RCW 10.77.088 and the court makes a finding that the person has a history of one or more violent acts, the ~~((committing))~~ court also shall forward, within three judicial days after entry of the commitment order, or dismissal of charges, a copy of the person's driver's license, or comparable information, along with the date of commitment or date charges are dismissed, to the national instant criminal background check system index, denied persons file, created by the federal Brady handgun violence prevention act (P.L. 103-159). The petitioning party shall provide the court with the information required. If more than one commitment order is entered under one cause number, only one notification to the department of licensing and the national instant criminal background check system is required.

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the convicted or committed person, or the person whose charges are dismissed based on incompetency

to stand trial, has a concealed pistol license. If the person does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of such notification, shall immediately revoke the license.

(3)(a) A person who is prohibited from possessing a firearm, by reason of having been involuntarily committed for mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, or because the person's charges were dismissed based on incompetency to stand trial under RCW 10.77.088 and the court made a finding that the person has a history of one or more violent acts, may, upon discharge, petition the superior court to have his or her right to possess a firearm restored.

(b) The petition must be brought in the superior court that ordered the involuntary commitment or dismissed the charges based on incompetency to stand trial or the superior court of the county in which the petitioner resides.

(c) Except as provided in (d) of this subsection, the court shall restore the petitioner's right to possess a firearm if the petitioner proves by a preponderance of the evidence that:

(i) The petitioner is no longer required to participate in court-ordered inpatient or outpatient treatment;

(ii) The petitioner has successfully managed the condition related to the commitment or incompetency;

(iii) The petitioner no longer presents a substantial danger to himself or herself, or the public; and

(iv) The symptoms related to the commitment or incompetency are not reasonably likely to recur.

(d) If a preponderance of the evidence in the record supports a finding that the person petitioning the court has engaged in violence and that it is more likely than not that the person will engage in violence after his or her right to possess a firearm is restored, the person shall bear the burden of proving by clear, cogent, and convincing evidence that he or she does not present a substantial danger to the safety of others.

(e) When a person's right to possess a firearm has been restored under this subsection, the court shall forward, within three judicial days after entry of the restoration order, notification that the person's right to possess a firearm has been restored to the department of licensing, the health care authority, and the national instant criminal background check system index, denied persons file.

(4) No person who has been found not guilty by reason of insanity may petition a court for restoration of the right to possess a firearm unless the person meets the requirements for the restoration of the right to possess a firearm under RCW 9.41.040(4)."

Correct the title.

Signed by Representatives Jinkins, Chair; Thai, Vice Chair; Goodman; Hansen; Kilduff; Kirby; Orwall; Valdez and Walen.

MINORITY recommendation: Without recommendation. Signed by Representative Irwin, Ranking Minority Member.

MINORITY recommendation: Do not pass. Signed by Representatives Klippert and Shea.

Referred to Committee on Rules for second reading.

March 27, 2019

ESB 5210 Prime Sponsor, Senator Palumbo: Notifying purchasers of hearing instruments about uses and benefits of telecoil and bluetooth technology. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that approximately twenty percent of the population have hearing loss, including more than six hundred fifty thousand Washington state residents who have been diagnosed with hearing loss. The number is rising; the aging baby boomer generation is increasing age-related hearing loss exponentially, and hearing loss has increased among children and youth in the last decade. As these trends continue, telecoil technology has the potential to benefit more people, but only if consumers are made aware of the technology and its benefits.

The legislature finds that the federal Americans with disabilities act of 1990 was amended in 2010 to require assistive listening systems in places of public assembly, served by a public address system, to be hearing aid compatible. Currently, the telecoil is the only component within a consumer hearing instrument that enables this mandated compatibility. Without a telecoil-enabled hearing instrument a person cannot effectively access mandated assistive listening systems.

The legislature finds that bluetooth technology is evolving, but it is still generally not suited for long range transmission in a large venue like an auditorium. To date, hearing aid bluetooth technology does not meet compliance standards for assistive listening system requirements.

Therefore, the legislature intends to increase consumer awareness of benefits and uses of the different types of hearing instruments and technologies.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.35 RCW to read as follows:

(1) Any person who engages in fitting and dispensing of hearing instruments shall:

(a) Prior to initial fitting and purchase, notify a person seeking to purchase a hearing instrument, both orally and in writing, about the uses, benefits, and limitations of current hearing assistive technologies, as defined by the department of health in rule.

(b) Provide to each person who enters into an agreement to purchase a hearing instrument a receipt, which must be signed by the purchaser at the time of the purchase, containing language that verifies that prior to initial fitting and purchase the consumer was informed, both orally and in writing, about the uses, benefits, and limitations of current hearing assistive technologies, as defined by the department of health in rule.

(2) The department may adopt rules to create a standard receipt form that persons required to provide notice under this section may provide to purchasers, as required in subsection (1)(a) of this section.

(3) A person required to provide written notice in subsection (1) of this section may produce written materials, use materials produced by hearing instrument manufacturers or others, or use the materials created by the office of the deaf and hard of hearing, as required in section 3 of this act.

(4) This section may not be construed to create a private right of action or claim against any person engaging in the fitting and dispensing of hearing instruments.

(5) The department must adopt rules necessary to implement this section. The department may consider a number of factors in defining current hearing assistive technologies, but must consider whether hearing assistive technologies are compatible with assistive listening systems that are compliant with the Americans with disabilities act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.20A RCW to read as follows:

The office of the deaf and hard of hearing shall develop educational materials to be distributed by hearing aid dispensers, including audiologists, to persons with hearing loss that explains the uses, benefits, and limitations of current hearing assistive technologies as defined by the department of health in rule."

Correct the title.

Signed by Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers; Davis; DeBolt; Harris; Jinkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

Referred to Committee on Rules for second reading.

March 26, 2019

E2SSB 5223 Prime Sponsor, Committee on Ways & Means: Concerning net metering.

Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 80.60.010 and 2007 c 323 s 1 are each amended to read as follows:

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

(1) "Commission" means the utilities and transportation commission.

(2) "Customer-generator" means a user of a net metering system.

(3) "Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.

(4) "Electric cooperative" means a cooperative or association organized under chapter 23.86 or 24.06 RCW.

(5) "Electric utility" means any electrical company, public utility district, irrigation district, port district, electric cooperative, or municipal electric utility that is engaged in the business of distributing electricity to retail electric customers in the state.

(6) "Irrigation district" means an irrigation district under chapter 87.03 RCW.

(7) "Meter aggregation" means the administrative combination of ~~((readings from and))~~ billing ~~((for all meters, regardless of the rate class, on premises owned or leased by a customer generator located within the service territory of a single electric utility))~~ net energy consumption from a designated net meter and eligible aggregated meter.

(8) "Municipal electric utility" means a city or town that owns or operates an electric utility authorized by chapter 35.92 RCW.

(9) "Net metering" means measuring the difference between the electricity supplied by an electric utility and the excess electricity generated by a customer-generator's net metering system over the applicable billing period.

(10) "Net metering system" means a fuel cell, a facility that produces electricity and used and useful thermal energy from a common fuel source, or a facility for the production of electrical energy that generates renewable energy, and that:

(a) Has an electrical generating nameplate capacity of not more than one hundred kilowatts;

(b) Is located on the customer-generator's premises;

(c) Operates in parallel with the electric utility's transmission and distribution facilities and is connected to the electric utility's distribution system; and

(d) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

(11) "Premises" means any residential property, commercial real estate, or lands, owned or leased by a customer-generator within the service area of a single electric utility.

(12) "Port district" means a port district within which an industrial development district has been established as authorized by Title 53 RCW.

(13) "Public utility district" means a district authorized by chapter 54.04 RCW.

(14) "Renewable energy" means energy generated by a facility that uses water, wind, solar energy, or biogas ~~((from animal waste))~~ as a fuel.

(15) "Aggregated meter" means an electric service meter measuring electric energy consumption that is eligible to receive credits under a meter aggregation arrangement as described in RCW 80.60.030.

(16) "Consumer-owned utility" means a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual corporation or association formed under chapter 24.06 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(17) "Designated meter" means an electric service meter at the service of a net metering system that is interconnected to the utility distribution system.

(18) "Retail electric customer" includes an individual, organization, group, association, partnership, corporation, agency, unit of state government, or entity that is connected to the electric utility's distribution system and purchases electricity for ultimate consumption and not for resale.

Sec. 2. RCW 80.60.020 and 2007 c 323 s 2 are each amended to read as follows:

(1) An electric utility:

(a) Shall offer to make net metering, pursuant to RCW 80.60.030, available to eligible ~~((customers-generators))~~ customer-generators on a first-come, first-served basis until the ~~((cumulative generating capacity of net metering systems equals 0.25 percent of the utility's peak demand during 1996. On January 1, 2014, the cumulative generating capacity available to net metering systems will equal 0.5 percent of the utility's peak demand during 1996))~~ earlier of either: (i) June 30, 2029; or (ii) the first date upon which the cumulative generating capacity of net metering systems equals four percent of the utility's peak demand during 1996. Not less than one-half of the utility's 1996 peak demand available for net metering systems shall be reserved for the cumulative generating capacity attributable to net metering systems that generate renewable energy;

(b) Shall allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of registering the flow of electricity in two directions, unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment:

(i) That the use of additional metering equipment to monitor the flow of electricity in each direction is necessary and appropriate for the interconnection of net metering systems, after taking into account the benefits and costs of purchasing and installing additional metering equipment; and

(ii) How the cost of purchasing and installing an additional meter is to be allocated between the customer-generator and the utility;

(c) Shall charge the customer-generator a minimum monthly fee that is the same as other customers of the electric utility in the same rate class, but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment that:

(i) The electric utility will incur direct costs associated with interconnecting or administering net metering systems that exceed any offsetting benefits associated with these systems; and

(ii) Public policy is best served by imposing these costs on the customer-generator rather than allocating these costs among the utility's entire customer base.

(2) If a production meter and software is required by the electric utility to provide meter aggregation under RCW 80.60.030(4), the customer-generator is responsible for the purchase of the production meter and software.

(3)(a)(i) A consumer-owned utility may develop a standard rate or tariff schedule that deviates from RCW 80.60.030 for eligible customer-generators to take effect at the earlier of either: (A) June 30, 2029; or (B) the first date upon which the cumulative generating capacity of net metering systems equals four percent of the utility's peak demand during 1996.

(ii) An electrical company may submit a filing with the commission to develop a standard tariff schedule that deviates from RCW 80.60.030 for eligible customer-generators. The commission must approve, reject, or approve with conditions a net metering tariff schedule pursuant to this subsection within one year of an electrical company filing. If the commission approves the filing with conditions, the investor-owned utility may choose to accept the tariff schedule with conditions or file a new tariff schedule with the commission.

(b) An approved standard rate or tariff schedule under this subsection applies to any customer-generator subject to an interconnection agreement entered into: (i) After June 30, 2029, or (ii) the first date upon which the

cumulative generating capacity of net metering systems pursuant to RCW 80.60.030 equals four percent of the utility's peak demand during 1996, whichever is earlier, unless the commission or governing body determines that a customer-generator is eligible for net metering under a rate or tariff schedule pursuant to RCW 80.60.030.

(c)(i) A consumer-owned utility must notify the Washington State University extension energy program sixty days in advance of when a standard rate for an eligible customer-generator is first placed on the agenda of the governing body.

(ii) Each electric utility must give notice by July 31, 2020, and semiannually thereafter, to the Washington State University extension energy program of the status of meeting the cumulative generating capacity available to net metering systems pursuant to subsection (1)(a) of this section.

(iii) The Washington State University extension energy program must make available on its web site a list of the following:

(A) Each electric utility's progress on reaching the cumulative generating capacity available to net metering systems pursuant to subsection (1)(a) of this section;

(B) Electric utilities that have provided notice of a rate or tariff schedule under this subsection; and

(C) Electric utilities that have adopted a standard rate or tariff schedule under this subsection.

(d) If the commission does not approve an electrical company's tariff schedule under (a)(ii) of this subsection, the commission may determine the alternative cumulative generating capacity available to net metering systems pursuant to RCW 80.60.030.

(4)(a) An electric utility must continue to credit a customer-generator pursuant to RCW 80.60.030 if:

(i) The customer-generator takes service under net metering prior to the earlier of: (A) June 30, 2029; or (B) the first date upon which the cumulative generating capacity of net metering systems reaches four percent of the utility's peak demand in 1996; and

(ii) The customer-generator's existing interconnection agreement for the net metering system remains valid.

(b) The commission, in the case of electrical companies, and a governing body, in the case of consumer-owned utilities, must determine as part of a standard rate or tariff schedule under this subsection when customer-generators become ineligible for credit pursuant to RCW 80.60.030.

(c) Upon adoption of a standard rate or tariff schedule by the commission or governing body pursuant to subsection (3)(a) of this section, the electric utility is exempt from requirements under subsection (1)(c) of this section and RCW 80.60.030 for new interconnection agreements.

**Sec. 3.** RCW 80.60.030 and 2007 c 323 s 3 are each amended to read as follows:

Consistent with the other provisions of this chapter, the net energy measurement, billed charges for kilowatt-hour consumption, and credits for excess kilowatt-hour generation by a net metered system, must be calculated in the following manner:

(1) The electric utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(2) If the electricity supplied by the electric utility exceeds the electricity generated by the customer-generator's net metering system and fed back to the electric utility during the billing period, the customer-generator shall be billed for the net electricity supplied by the electric utility, in accordance with normal metering practices.

(3) If excess electricity generated by the ~~((customer-generator))~~ net metering system during a billing period exceeds the electricity supplied by the electric utility during the same billing period, the customer-generator:

(a) Shall be billed for the appropriate customer charges for that billing period, in accordance with RCW 80.60.020; and

(b) Shall be credited for the excess kilowatt-hours generated during the billing period, with ~~((this kilowatt-hour credit))~~ the credit for kilowatt-hours appearing on the bill for the following billing period.

(4) If a customer-generator requests, an electric utility shall provide such a customer-generator meter aggregation.

(a) For a customer-generator~~((s))~~ participating in meter aggregation, credits for kilowatt-hours ~~((credits))~~ earned by ~~((a))~~ the customer-generator's net metering system during the billing period first shall be used to offset electricity supplied by the electric utility at the location of the customer-generator's designated meter.

~~((b))~~ ~~((Not more than a total of one hundred kilowatts shall be aggregated among all customer generators participating in a generating facility under this subsection.~~

~~((e)))~~ A customer-generator may aggregate a designated meter with one additional aggregated meter located on the same parcel as the designated meter or a parcel that is contiguous with the parcel where the designated meter is located.

(c) For the purposes of (b) of this subsection, a parcel is considered contiguous if they share a common property boundary, but may be separated only by a road or rail corridor.

(d) A retail electric customer who is a customer-generator and receives retail electric service from an electric utility at an aggregated meter must be the same retail electric customer who receives retail electric service from such an electric utility at the designated meter that is located on the premises where such a customer-generator's net metering system is located.

~~((e))~~ Credits for excess kilowatt-hours ~~((credits))~~ earned by the net metering system~~((s))~~ at the site of a designated meter during ~~((the same))~~ a billing period~~((s))~~ shall be credited ~~((equally))~~ by the electric utility ~~((to remaining meters located on all premises of a customer-generator))~~ for kilowatt hour charges due at the aggregated meter at the ~~((designated))~~ applicable rate of ~~((each))~~ the aggregated meter.

~~((d)))~~ (f) If credits generated in any billing period exceed total consumption for that billing period at both meters that are part of an aggregated arrangement, credits are retained pursuant to subsections (3) and (5) of this section.

(g) Credits carried over from one billing period to the next pursuant to (f) of this subsection must be applied in subsequent billing periods in the same manner described under (a) and (e) of this subsection.

(h) Meters so aggregated shall not change rate classes due to meter aggregation under this section.

(5) On ~~((April 30th))~~ March 31st of each calendar year or the billing period that contains March 31st of each year, any remaining unused ~~((kilowatt-hour credit))~~ credits for kilowatt-hours accumulated during the previous year shall be granted to the electric utility, without any compensation to the customer-generator.

(6) Nothing in this section prohibits a utility from allowing aggregation under terms different than the requirements of subsection (4) of this section if a customer-generator has an existing arrangement for meter aggregation in effect or a customer submits a written request for aggregation on or before July 1, 2019.

(7) Nothing in this section prohibits the owner of multifamily residential facility from installing a net metering system as defined in RCW 80.60.010 assigned to a single designated meter located on the premises of the multifamily residential facility where the tenants are not individually metered customers of the utility and distributing any benefits of the net metering to tenants of the facility where the net metering system is located. The utility must measure the net energy produced and provide credit to the single designated meter to which the net metering system is assigned in accordance with subsections (1) through (3) of this section or under the terms of a standard rate or tariff schedule established under RCW 80.60.020(3). The distribution of benefits to tenants of such a system, if any, is the responsibility of the owner of the net metering system and not the responsibility of the utility.

**Sec. 4.** RCW 80.60.040 and 2006 c 201 s 4 are each amended to read as follows:

(1) A net metering system used by a customer-generator shall include, at the customer-generator's own expense, all equipment necessary to meet applicable safety, power quality, and interconnection requirements established by the national electrical code, national electrical safety code, the institute of electrical and electronics engineers, and underwriters laboratories.

(2) The commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, after appropriate notice and opportunity for comment, may adopt by regulation additional safety, power quality, and interconnection requirements for customer-generators, including limitations on the number of customer-generators and total capacity of net metering systems that may be interconnected to any distribution feeder line, circuit, or network that the commission or governing body determines are necessary to protect public safety and system reliability.

(3) An electric utility may not require a customer-generator whose net metering system meets the standards in subsections (1) and (2) of this section to comply with additional safety or performance standards, perform or pay for additional tests, or purchase additional liability insurance. However, an electric utility shall not be liable directly or indirectly for permitting or continuing to allow an attachment of a net metering system, or for the acts or omissions of the customer-generator that cause loss or injury, including death, to any third party.

(4) Except when required under the federal public utility regulatory policies act, an electric utility may not establish compensation arrangements or interconnection requirements, other than those permitted in this chapter, for a customer-generator that would have the effect of prohibiting or restricting the ability of a customer-generator to generate or store electricity for consumption on its premises.

**Sec. 5.** RCW 82.16.090 and 1988 c 228 s 1 are each amended to read as follows:

Any customer billing issued by a light or power business or gas distribution business that serves a total of more than twenty thousand customers and operates within the state shall include the following information:

(1) The rates and amounts of taxes paid directly by the customer upon products or services rendered by the light and power business or gas distribution business; (~~and~~)

(2) The rate, origin and approximate amount of each tax levied upon the revenue of the light and power business or gas distribution business and added as a component of the amount charged to the customer. Taxes based upon revenue of the light and power business or gas distribution business to be listed on the customer billing need not include taxes levied by the federal government or taxes levied under chapters 54.28, 80.24, or 82.04 RCW; and

(3) The total amount of kilowatt-hours of electricity consumed for the most recent twelve-month period or other information that provides the customer with information regarding their energy usage over a twelve-month period.

**NEW SECTION. Sec. 6.** A new section is added to chapter 19.27 RCW to read as follows:

The state building code council, in consultation with the department of commerce and local governments, shall

conduct a study of the state building code and adopt changes necessary to encourage greater use of renewable energy systems as defined in RCW 82.16.110."

Correct the title.

Signed by Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; Doglio; Fey; Mead; Peterson and Shewmake.

MINORITY recommendation: Do not pass. Signed by Representatives Shea, Ranking Minority Member; Dye, Assistant Ranking Minority Member and Boehnke.

Referred to Committee on Rules for second reading.

March 28, 2019

SB 5263

Prime Sponsor, Senator Zeiger:  
Concerning school bus driver requirements. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The office of the superintendent of public instruction, working collaboratively with the Washington state school directors' association, shall survey each school district to determine whether and to what extent state statutory and rule requirements governing the hiring and training of school bus drivers, and other factors, affect or may affect the ability of school districts to hire and retain qualified school bus drivers. The department of licensing shall assist the office of the superintendent of public instruction and the Washington state school directors' association in developing questions to be included in the survey.

(2) By December 13, 2019, the office of the superintendent of public instruction and the Washington state school directors' association shall, in accordance with RCW 43.01.036, jointly report the results of the survey and findings and recommendations to the education and transportation committees of the house of representatives and the senate.

(3) This section expires June 30, 2020."

Correct the title.

Signed by Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Bergquist; Caldier; Callan; Corry; Harris; Kilduff; Kraft; Ortiz-Self; Rude; Stonier; Thai and Valdez.

Referred to Committee on Rules for second reading.

March 27, 2019

2SSB 5292

Prime Sponsor, Committee on Ways & Means: Concerning prescription drug cost transparency. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. FINDINGS.** The legislature finds that the state of Washington has substantial public interest in the following:

(1) The price and cost of prescription drugs. Washington state is a major purchaser through the department of corrections, the health care authority, and other entities acting on behalf of a state purchaser;

(2) Enacting this chapter to provide notice and disclosure of information relating to the cost and pricing of prescription drugs in order to provide accountability to the state for prescription drug pricing;

(3) Rising drug costs and consumer ability to access prescription drugs; and

(4) Containing prescription drug costs. It is essential to understand the drivers and impacts of these costs, as transparency is typically the first step toward cost containment and greater consumer access to needed prescription drugs.

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

(1) "Authority" means the health care authority.

(2) "Covered drug" means any prescription drug that:

(a) A covered manufacturer intends to introduce to the market at a wholesale acquisition cost of ten thousand dollars or more for a course of treatment lasting less than one month or a thirty-day supply, whichever period is longer; or

(b) Is currently on the market, is manufactured by a covered manufacturer, and has a wholesale acquisition cost of more than one hundred dollars for a course of treatment lasting less than one month or a thirty-day supply, and the manufacturer increases the wholesale acquisition cost at least twenty percent, including the proposed increase and the cumulative increase that occurred two calendar years prior to the date of the proposed increase.

(3) "Covered manufacturer" means a person, corporation, or other entity engaged in the manufacture of prescription drugs sold in or into Washington state. "Covered manufacturer" does not include a private label distributor or retail pharmacy that sells a drug under the retail pharmacy's store, or a prescription drug repackager.

(4) "Data organization" means an organization selected by the authority under section 3 of this act to collect and verify prescription drug pricing data.

(5) "Health care provider," "health plan," and "carrier" mean the same as in RCW 48.43.005.

(6) "Pharmacy benefit manager" means the same as in RCW 19.340.010. "Pharmacy benefit manager" does not include a health maintenance organization as defined in RCW 48.46.020.

(7) "Prescription drug" means a drug regulated under chapter 69.41 or 69.50 RCW. It includes generic, brand name, and specialty drugs, as well as biological products.

(8) "Qualifying price increase" means a price increase described in subsection (2)(b) of this section.

(9) "Wholesale acquisition cost" or "price" means, with respect to a prescription drug, the manufacturer's list price for the drug to wholesalers or direct purchasers in the United States, excluding any discounts, rebates, or reductions in price, for the most recent month for which the information is available, as reported in wholesale price guides or other publications of prescription drug pricing.

**NEW SECTION. Sec. 3. PROCUREMENT PROCESS.** The authority shall use a competitive procurement process in accordance with chapter 39.26 RCW to select a data organization to collect, verify, and summarize the prescription drug pricing data provided by carriers and manufacturers under sections 4 and 5 of this act.

**NEW SECTION. Sec. 4. CARRIER REPORTING AND DATA.** (1) By March 1st of each year, a carrier must submit to the data organization the following prescription drug cost and utilization data for the previous calendar year:

(a) The twenty-five prescription drugs most frequently prescribed by health care providers participating in the carrier's network;

(b) The twenty-five costliest prescription drugs by total health plan spending, and the carrier's total spending for each of these prescription drugs;

(c) The twenty-five drugs with the highest year-over-year increase in prescription drug spending, and the percentages of the increases for each of these prescription drugs; and

(d) A summary analysis of the impact of prescription drug costs on health plan premiums or on spending per medical assistance enrollee under chapter 74.09 RCW, as applicable, disaggregated by the state Medicaid program, public employees' benefits board programs, school employees benefits board programs, and the individual, small group, and large group markets.

(2) An employer-sponsored self-funded health plan or a Taft-Hartley trust health plan may voluntarily provide the data described in subsection (1) of this section to the data organization.

**NEW SECTION. Sec. 5. MANUFACTURER REPORTING AND DATA.** (1) Beginning October 1, 2019,

a covered manufacturer must report the following data for each covered drug to the data organization:

(a) A description of the specific financial and nonfinancial factors used to make the decision to increase the wholesale acquisition cost of the drug and the amount of the increase including, but not limited to, an explanation of how these factors explain the increase in the wholesale acquisition cost of the drug;

(b) A schedule of wholesale acquisition cost increases for the drug for the previous five years if the drug was manufactured by the company;

(c) If the drug was acquired by the manufacturer within the previous five years, all of the following information:

(i) The wholesale acquisition cost of the drug at the time of acquisition and in the calendar year prior to acquisition; and

(ii) The name of the company from which the drug was acquired, the date acquired, and the purchase price;

(d) The year the drug was introduced to market and the wholesale acquisition cost of the drug at the time of introduction;

(e) The patent expiration date of the drug if it is under patent;

(f) If the drug is a multiple source drug, an innovator multiple source drug, a noninnovator multiple source drug, or a single source drug;

(g) The itemized cost for production and sales, including annual manufacturing costs, annual marketing and advertising costs, total research and development costs, total costs of clinical trials and regulation, and total cost for acquisition for the drug; and

(h) The total financial assistance given by the manufacturer through assistance programs, rebates, and coupons.

(2) A covered manufacturer must submit this information:

(a) At least sixty days in advance of a qualifying price increase for a covered drug defined in section 2(2)(b) of this act; and

(b) Within thirty days of release of a new covered drug to the market as defined in section 2(2)(a) of this act.

**NEW SECTION. Sec. 6.** (1) In the event of a drug shortage, a covered manufacturer must report the following information to the authority within thirty days of the shortage occurring:

(a) An explanation of what caused the shortage; and

(b) The estimated duration of the shortage.

(2) Within one hundred eighty days of submitting the notice required in subsection (1) of this section, the covered manufacturer must report to the authority:

(a) Whether the sales of other drugs manufactured by the covered manufacturer increased during the shortage period; and

(b) The name, wholesale acquisition cost, and the amount the sales increased for each drug that increased in sales during the shortage period.

**NEW SECTION. Sec. 7. REPORTING TO PURCHASERS.** (1) A covered manufacturer must report the information required by subsection (2) of this section no later than sixty days in advance of a qualifying price increase for a covered drug defined in section 2(2)(b) of this act.

(2)(a) Beginning October 1, 2019, a manufacturer of a covered drug shall notify the purchaser of a qualifying price increase in writing at least sixty days prior to the planned effective date of the increase. The notice must include:

(i) The date of the increase, the current wholesale acquisition cost of the prescription drug, and the dollar amount of the future increase in the wholesale acquisition cost of the prescription drug; and

(ii) A statement regarding whether a change or improvement in the drug necessitates the price increase. If so, the manufacturer shall describe the change or improvement.

(b) If a pharmacy benefit manager receives a notice of an increase in wholesale acquisition cost consistent with (a) of this subsection, it shall notify its large contracting public and private purchasers of the increase. For the purposes of this section, a "large purchaser" means a purchaser that provides coverage to more than five hundred covered lives.

(3) The data submitted under this section must be made publicly available on the authority's web site.

**NEW SECTION. Sec. 8. ENFORCEMENT.** The authority may assess a fine of up to one thousand dollars per day for failure to comply with the requirements of sections 4, 5, 6, and 7 of this act. The assessment of a fine under this section is subject to review under the administrative procedure act, chapter 34.05 RCW. Fines collected under this section must be deposited in the medicaid fraud penalty account created in RCW 74.09.215. The authority shall report any fines levied pursuant to this section against a health carrier to the office of the insurance commissioner.

**NEW SECTION. Sec. 9. DATA REPORT TO AUTHORITY.** (1) The data organization must compile the data submitted by carriers under section 4 of this act and manufacturers under section 5 of this act and submit the data to the authority in one report.

(2) The authority shall perform an independent analysis of data submitted by the data organization under sections 4, 5, and 6 of this act, and prepare a final report for the public and legislators synthesizing the data under

sections 4, 5, and 6 of this act that demonstrates the overall impact of drug costs on health care premiums. The data in the report must be aggregated and must not reveal information specific to individual health plans.

(3) Beginning January 1, 2020, and by each January 1st thereafter, the authority shall publish the report on its web site.

(4) The authority shall share the information provided by carriers to the organization with the office of the insurance commissioner.

(5) Except for the report, the authority and the office of the insurance commissioner shall keep confidential all of the information provided pursuant to sections 4, 5, and 6 of this act, and the information shall not be subject to public disclosure under chapter 42.56 RCW.

(6) The authority may only use the data reported under this chapter for purposes of analyzing and reporting the data to the public and the legislature. The data may not be used for any other purpose.

(7) The authority must also, using all available claims data from the statewide all-payer health care claims database established in RCW 43.371.020, collect data on drugs prescribed and prescription drug claims submitted to include billed charges and paid charges.

(8) By November 1, 2020, the authority must produce a report for the legislature that includes charts demonstrating the variance in the billed charges and paid charges among carriers for the twenty-five drugs with higher than average variances in billed charges and paid charges based on the data collected in subsection (6) of this section.

**NEW SECTION. Sec. 10. RULE MAKING.** The authority may adopt any rules necessary to implement the requirements of sections 1 through 9 of this act.

**NEW SECTION. Sec. 11.** By March 1st of each year, a pharmacy benefit manager must submit to the office of the insurance commissioner the following data from the previous calendar year:

(1) All discounts, including the total dollar amount and percentage discount, and all rebates received from a manufacturer for each drug on the pharmacy benefit manager's formularies;

(2) The total dollar amount of all discounts and rebates that are retained by the pharmacy benefit manager for each drug on the pharmacy benefit manager's formularies;

(3) Actual total reimbursement amounts for each drug the pharmacy benefit manager pays retail pharmacies after all direct and indirect administrative and other fees that have been retrospectively charged to the pharmacies are applied;

(4) The negotiated price health plans pay the pharmacy benefit manager for each drug on the pharmacy benefit manager's formularies;

(5) The amount, terms, and conditions relating to copayments, reimbursement options, and other payments or fees associated with a prescription drug benefit plan;

(6) Disclosure of any ownership interest the pharmacy benefit manager has in a pharmacy or health plan with which it conducts business; and

(7) The results of any appeal filed pursuant to RCW 19.340.100(3).

**NEW SECTION. Sec. 12.** (1) No later than March 1st of each calendar year, each pharmacy benefit manager must file with the office of the insurance commissioner, in the form and detail as required by the insurance commissioner, a report for the preceding calendar year stating that the pharmacy benefit manager is in compliance with this chapter.

(2) An employer-sponsored self-funded health plan or a Taft-Hartley trust health plan may voluntarily provide the data described in subsection (1) of this section.

**NEW SECTION. Sec. 13.** A pharmacy benefit manager may not cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading.

**NEW SECTION. Sec. 14.** The office of the insurance commissioner shall have the authority to examine or audit the financial records of a pharmacy benefit manager for purposes of ensuring the information submitted under section 11 of this act is accurate. Information the office of the insurance commissioner acquires in an examination of financial records pursuant to this section is proprietary and confidential.

**NEW SECTION. Sec. 15.** (1) The office of the insurance commissioner shall analyze the data submitted by the pharmacy benefit managers under section 11 of this act, and prepare a final report for the public and legislators synthesizing the data under section 11 of this act. The data in the report must be aggregated and must not reveal information specific to individual health plans or pharmacy benefit managers.

(2) Beginning December 1, 2020, and by each December 1st thereafter, the office of the insurance commissioner shall publish the report on its web site.

(3) Except for the report, the office of the insurance commissioner shall keep confidential all of the information provided pursuant to sections 11 and 14 of this act, and the information is not subject to public disclosure under chapter 42.56 RCW.

NEW SECTION. **Sec. 16.** The office of the insurance commissioner may assess a fine of up to one thousand dollars per day for a violation or failure to comply with the requirements of sections 11, 12, 13, and 14 of this act. The assessment of a fine under this section is subject to review under the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. **Sec. 17.** The insurance commissioner may adopt any rules necessary to implement the requirements of sections 11 through 16 of this act.

**Sec. 18.** RCW 74.09.215 and 2013 2nd sp.s. c 4 s 1902, 2013 2nd sp.s. c 4 s 997, and 2013 2nd sp.s. c 4 s 995 are each reenacted and amended to read as follows:

The medicaid fraud penalty account is created in the state treasury. All receipts from civil penalties collected under RCW 74.09.210, all receipts received under judgments or settlements that originated under a filing under the federal false claims act, all receipts from fines received pursuant to section 8 of this act, and all receipts received under judgments or settlements that originated under the state medicaid fraud false claims act, chapter 74.66 RCW, must be deposited into the account. Moneys in the account may be spent only after appropriation and must be used only for medicaid services, fraud detection and prevention activities, recovery of improper payments, for other medicaid fraud enforcement activities, and the prescription monitoring program established in chapter 70.225 RCW. For the 2013-2015 fiscal biennium, moneys in the account may be spent on inpatient and outpatient rebasing and conversion to the tenth version of the international classification of diseases. For the 2011-2013 fiscal biennium, moneys in the account may be spent on inpatient and outpatient rebasing.

NEW SECTION. **Sec. 19.** Sections 1 through 17 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 20.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers; Davis; Jinkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives DeBolt and Harris.

Referred to Committee on Appropriations.

April 8, 2019

ESSB 5311 Prime Sponsor, Committee on State Government, Tribal Relations & Elections: Eliminating, revising, or decodifying obsolete or inactive statutory provisions that concern the office of financial management. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger and Ybarra.

MINORITY recommendation: Without recommendation. Signed by Representative Stokesbary, Ranking Minority Member.

Referred to Committee on Rules.

April 8, 2019

ESSB 5318 Prime Sponsor, Committee on Labor & Commerce: Reforming the compliance and enforcement provisions for marijuana licensees. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Commerce & Gaming.

Strike everything after the enacting clause and insert the following:

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

(1) In the years since the creation of a legal and regulated marketplace for adult use of cannabis, the industry, stakeholders, and state agencies have collaborated to develop a safe, fully regulated marketplace.

(2) As the regulated marketplace has been developing, Washington residents with a strong entrepreneurial spirit have taken great financial and personal risk to become licensed and part of this nascent industry.

(3) It should not be surprising that mistakes have been made both by licensees and regulators, and that both have learned from these mistakes leading to a stronger, safer industry.

(4) While a strong focus on enforcement is an important component of the regulated marketplace, a strong focus on compliance and education is also critically necessary to assist licensees who strive for compliance and in order to allow the board to focus its enforcement priorities

on those violations that directly harm public health and safety.

(5) The risk taking entrepreneurs who are trying to comply with board regulations should not face punitive consequences for mistakes made during this initial phase of the industry that did not pose a direct threat to public health and safety.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.05 RCW to read as follows:

(1) If, during an inspection or visit to a marijuana business licensed under chapter 69.50 RCW that is not a technical assistance visit, the liquor and cannabis board becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the board and are not subject to civil penalties as provided for in section 3 of this act, the board may issue a notice of correction to the licensee that includes:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the board requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the board or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the board.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the liquor and cannabis board issues a notice of correction, it may not issue a civil penalty for the violations identified in the notice of correction unless the licensee fails to comply with the notice.

**NEW SECTION. Sec. 3.** A new section is added to chapter 69.50 RCW to read as follows:

(1) The liquor and cannabis board may issue a civil penalty without first issuing a notice of correction if:

(a) The licensee has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule;

(b) Compliance is not achieved by the date established by the liquor and cannabis board in a previously issued notice of correction and if the board has responded to a request for review of the date by reaffirming the original date or establishing a new date; or

(c) The board can prove by a preponderance of the evidence:

(i) Diversion of marijuana product to the illicit market or sales across state lines;

(ii) Intentional furnishing of marijuana product to minors;

(iii) Diversion of revenue to criminal enterprises, gangs, cartels, or parties not qualified to hold a marijuana license based on criminal history requirements; or

(iv) The commission of nonmarijuana-related crimes.

(2) The liquor and cannabis board may adopt rules to implement this section and section 2 of this act.

**Sec. 4.** RCW 69.50.342 and 2015 2nd sp.s. c 4 s 1601 are each amended to read as follows:

(1) For the purpose of carrying into effect the provisions of chapter 3, Laws of 2013 according to their true intent or of supplying any deficiency therein, the state liquor and cannabis board may adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the state liquor and cannabis board is empowered to adopt rules regarding the following:

(a) The equipment and management of retail outlets and premises where marijuana is produced or processed, and inspection of the retail outlets and premises where marijuana is produced or processed;

(b) The books and records to be created and maintained by licensees, the reports to be made thereon to the state liquor and cannabis board, and inspection of the books and records;

(c) Methods of producing, processing, and packaging marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(d) Security requirements for retail outlets and premises where marijuana is produced or processed, and safety protocols for licensees and their employees;

(e) Screening, hiring, training, and supervising employees of licensees;

(f) Retail outlet locations and hours of operation;

(g) Labeling requirements and restrictions on advertisement of marijuana, useable marijuana, marijuana concentrates, cannabis health and beauty aids, and marijuana-infused products for sale in retail outlets;

(h) Forms to be used for purposes of this chapter and chapter 69.51A RCW or the rules adopted to implement and

enforce these chapters, the terms and conditions to be contained in licenses issued under this chapter and chapter 69.51A RCW, and the qualifications for receiving a license issued under this chapter and chapter 69.51A RCW, including a criminal history record information check. The state liquor and cannabis board may submit any criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor and cannabis board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(i) Application, reinstatement, and renewal fees for licenses issued under this chapter and chapter 69.51A RCW, and fees for anything done or permitted to be done under the rules adopted to implement and enforce this chapter and chapter 69.51A RCW;

(j) The manner of giving and serving notices required by this chapter and chapter 69.51A RCW or rules adopted to implement or enforce these chapters;

(k) Times and periods when, and the manner, methods, and means by which, licensees transport and deliver marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products within the state;

(l) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by this chapter or chapter 69.51A RCW or the rules adopted to implement and enforce these chapters.

(2) Rules adopted on retail outlets holding medical marijuana endorsements must be adopted in coordination and consultation with the department.

(3) The board must adopt rules to perfect and expand existing programs for compliance education for licensed marijuana businesses and their employees. The rules must include a voluntary compliance program created in consultation with licensed marijuana businesses and their employees. The voluntary compliance program must include recommendations on abating violations of this chapter and rules adopted under this chapter.

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

(1) The board may grant a licensee's application for advice and consultation as provided in RCW 69.50.342(3) and visit the licensee's licensed premises in order to provide such advice and consultation. Advice and consultation services are limited to the matters specified in the request affecting the interpretation and applicability of the standards in this chapter to the conditions, structures, machines, equipment, apparatus, devices, materials, methods, means, and practices in the licensee's licensed premises. The board

may provide for an alternative means of affording consultation and advice other than on-site consultation.

(2) The board must make recommendations on eliminating areas of concern disclosed within the scope of the on-site consultation. A visit to a licensee's licensed premises may not be considered an inspection or investigation under this chapter. During the visit, the board may not issue notices or citations and may not assess civil penalties. However, if the on-site visit discloses a violation with a direct or immediate relationship to public safety and the violation is not corrected, the board may investigate.

(3) This section does not provide immunity to a licensee who has applied for consultative services from inspections or investigations conducted under this chapter or from any inspection conducted as a result of a complaint before, during, or after the provision of consultative services.

(4) This section does not require an inspection of a licensee's licensed premises that has been visited for consultative purposes. However, if the premises are inspected after a visit, the board may consider any information obtained during the consultation visit in determining the nature of an alleged violation and the amount of penalties to be assessed, if any.

(5) Rules adopted under section 6 of this act must provide that violations with a direct or immediate relationship to public safety discovered during the consultation visit must be corrected within a specified period of time and an inspection must be conducted at the end of that time period.

(6) All licensees requesting consultative services must be advised of this section and the rules adopted by the board relating to the voluntary compliance program. Valuable formulae or financial or proprietary commercial information records received during a consultative visit or while providing consultative services in accordance with this section are not subject to inspection pursuant to chapter 42.56 RCW.

(7) The board may adopt rules on the frequency, manner, and method of providing consultative services to licensees. Rules may include scheduling of consultative services and prioritizing requests for the services while maintaining the enforcement requirements of this chapter.

**NEW SECTION. Sec. 6.** A new section is added to chapter 69.50 RCW to read as follows:

(1) The board must prescribe procedures for the following:

(a) Issuance of written warnings or notices to correct in lieu of penalties, sanctions, or other violations with respect to regulatory violations that have no direct or immediate relationship to public safety as defined by the board;

(b) Waiving any fines, civil penalties, or administrative sanctions for violations, that have no direct or immediate relationship to public safety, and are corrected by

the licensee within a reasonable amount of time as designated by the board; and

(c) A compliance program in accordance with chapter 43.05 RCW and RCW 69.50.342, whereby licensees may request compliance assistance and inspections without issuance of a penalty, sanction, or other violation provided that any noncompliant issues are resolved within a specified period of time.

(2) The board must adopt rules prescribing penalties for violations of this chapter. The board:

(a) May establish escalating penalties for violation of this chapter, provided that the cumulative effect of any such escalating penalties cannot last beyond two years and the escalation applies only to multiple violations that are the same or similar in nature;

(b) May not include cancellation of a license for a single violation, unless the board can prove by a preponderance of the evidence:

(i) Diversion of marijuana product to the illicit market or sales across state lines;

(ii) Intentional furnishing of marijuana product to minors;

(iii) Diversion of revenue to criminal enterprises, gangs, cartels, or parties not qualified to hold a marijuana license based on criminal history requirements; or

(iv) The commission of nonmarijuana-related crimes;

(c) May include cancellation of a license for cumulative violations only if a marijuana licensee commits at least four violations within a two-year period of time;

(d) Must consider aggravating and mitigating circumstances and deviate from the prescribed penalties accordingly, and must authorize enforcement officers to do the same, provided that such penalty may not exceed the maximum escalating penalty prescribed by the board for that violation; and

(e) May not issue a violation if there is employee misconduct that led to the violation if the licensee provides documentation that before the date of the violation the licensee:

(i) Established a compliance program designed to prevent the violation;

(ii) Performed meaningful training with employees designed to prevent the violation; and

(iii) Had not enabled or ignored the violation or other similar violations in the past.

(3) The board may not consider any violation that occurred more than two years prior as grounds for denial, suspension, revocation, cancellation, or nonrenewal, unless the board can prove by a preponderance of the evidence that the prior administrative violation evidences:

(a) Diversion of marijuana product to the illicit market or sales across state lines;

(b) Intentional furnishing of marijuana product to minors;

(c) Diversion of revenue to criminal enterprises, gangs, cartels, or parties not qualified to hold a marijuana license based on criminal history requirements; or

(d) The commission of nonmarijuana-related crimes.

**Sec. 7.** RCW 69.50.331 and 2017 c 317 s 2 are each amended to read as follows:

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

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

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

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

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

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

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

(2)(a) The ~~((state liquor and cannabis))~~ board may, in its discretion, subject to ~~((the provisions of))~~ sections 2, 3, and 6 of this act, RCW 69.50.334, and 69.50.342(3) suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, researching, or selling marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products thereunder must be suspended or terminated, as the case may be.

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

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

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

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

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

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

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

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

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

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

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

of the applicant, (~~state liquor and cannabis~~) board representatives must present and defend the (~~state liquor and cannabis~~) board's initial decision to deny a license or renewal.

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

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

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

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

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

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

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

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

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

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

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

**NEW SECTION. Sec. 8.** A new section is added to chapter 69.50 RCW to read as follows:

(1) This section applies to the board's issuance of administrative violations to licensed marijuana producers, processors, retailers, transporters, and researchers, when a settlement conference is held between a hearing officer or designee of the board and the marijuana licensee that received a notice of an alleged administrative violation or violations.

(2) If a settlement agreement is entered between a marijuana licensee and a hearing officer or designee of the board at or after a settlement conference, the terms of the settlement agreement must be given substantial weight by the board.

(3) For the purposes of this section:

(a) "Settlement agreement" means the agreement or compromise between a licensed marijuana producer, processor, retailer, researcher, transporter, or researcher and the hearing officer or designee of the board with authority to participate in the settlement conference, that:

(i) Includes the terms of the agreement or compromise regarding an alleged violation or violations by the licensee of this chapter, chapter 69.51A RCW, or rules adopted under either chapter, and any related penalty or licensing restriction; and

(ii) Is in writing and signed by the licensee and the hearing officer or designee of the board.

(b) "Settlement conference" means a meeting or discussion between a licensed marijuana producer,

processor, retailer, researcher, transporter, researcher, or authorized representative of any of the preceding licensees, and a hearing officer or designee of the board, held for purposes such as discussing the circumstances surrounding an alleged violation of law or rules by the licensee, the recommended penalty, and any aggravating or mitigating factors, and that is intended to resolve the alleged violation before an administrative hearing or judicial proceeding is initiated.

**Sec. 9.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

(f) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include industrial hemp as defined in RCW 15.120.010.

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

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

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

(2) The term does not include:

(i) a controlled substance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(s) "Immediate precursor" means a substance:

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

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

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

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

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

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

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

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

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

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

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted

therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or

(2) Industrial hemp as defined in RCW 15.120.010.

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

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

(aa) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(bb) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

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

(dd) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

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

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

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

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

(3) Poppy straw and concentrate of poppy straw.

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

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

(6) Cocaine base.

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

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

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

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

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

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

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

(ll) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 10.** RCW 42.56.270 and 2018 c 201 s 8008, 2018 c 196 s 21, and 2018 c 4 s 9 are each reenacted and amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or

other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), marijuana producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(c) Valuable formulae or financial or proprietary commercial information records received during a consultative visit or while providing consultative services to a licensed marijuana business in accordance with section 5 of this act;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services or the health care authority for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in

applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information;

(21) Market share data submitted by a manufacturer under RCW 70.95N.190(4);

(22) Financial information supplied to the department of financial institutions or to a portal under RCW 21.20.883, when filed by or on behalf of an issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under RCW 21.20.880 or when filed by or on behalf of an investor for the purpose of purchasing such securities;

(23) Unaggregated or individual notices of a transfer of crude oil that is financial, proprietary, or commercial information, submitted to the department of ecology pursuant to RCW 90.56.565(1)(a), and that is in the possession of the department of ecology or any entity with

which the department of ecology has shared the notice pursuant to RCW 90.56.565;

(24) Financial institution and retirement account information, and building security plan information, supplied to the liquor and cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345, when filed by or on behalf of a licensee or prospective licensee for the purpose of obtaining, maintaining, or renewing a license to produce, process, transport, or sell marijuana as allowed under chapter 69.50 RCW;

(25) Marijuana transport information, vehicle and driver identification data, and account numbers or unique access identifiers issued to private entities for traceability system access, submitted by an individual or business to the liquor and cannabis board under the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345 for the purpose of marijuana product traceability. Disclosure to local, state, and federal officials is not considered public disclosure for purposes of this section;

(26) Financial and commercial information submitted to or obtained by the retirement board of any city that is responsible for the management of an employees' retirement system pursuant to the authority of chapter 35.39 RCW, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the retirement fund or to result in private loss to the providers of this information except that (a) the names and commitment amounts of the private funds in which retirement funds are invested and (b) the aggregate quarterly performance results for a retirement fund's portfolio of investments in such funds are subject to disclosure;

(27) Proprietary financial, commercial, operations, and technical and research information and data submitted to or obtained by the liquor and cannabis board in applications for marijuana research licenses under RCW 69.50.372, or in reports submitted by marijuana research licensees in accordance with rules adopted by the liquor and cannabis board under RCW 69.50.372;

(28) Trade secrets, technology, proprietary information, and financial considerations contained in any agreements or contracts, entered into by a licensed marijuana business under RCW 69.50.395, which may be submitted to or obtained by the state liquor and cannabis board; and

(29) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the Andy Hill cancer research endowment program in applications for, or delivery of, grants under chapter 43.348 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information; and

(30) Proprietary information filed with the department of health under chapter 69.48 RCW."

Correct the title.

Signed by Representatives Ormsby, Chair; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair;

Bergquist, 2nd Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger and Ybarra.

Referred to Committee on Appropriations.

March 28, 2019

SSB 5354 Prime Sponsor, Committee on Ways & Means: Concerning programs for highly capable students. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.185.020 and 2017 3rd sp.s. c 13 s 412 are each amended to read as follows:

~~((4))~~ The legislature finds that, for highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. There are multiple definitions of highly capable, from intellectual to academic to artistic. The research literature strongly supports using multiple criteria to identify highly capable students, and therefore, the legislature does not intend to prescribe a single method. Instead, the legislature intends to ~~((allocate funding based on 5.0 percent of each school district's population and))~~ authorize school districts to identify through the use of multiple, objective criteria those students most highly capable and eligible to receive accelerated learning and enhanced instruction in the program offered by the district. ~~((District practices for identifying the most highly capable students must prioritize equitable identification of low-income students. Access to accelerated learning and enhanced instruction through the program for highly capable students does not constitute an individual entitlement for any particular student.~~

~~(2) Supplementary funds provided by the state for the program for highly capable students under RCW 28A.150.260 shall be categorical funding to provide services to highly capable students as determined by a school district under RCW 28A.185.030.)~~

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.185 RCW to read as follows:

(1) The legislature intends to allocate state funding for basic education programs for highly capable students based on five percent of each school district's student population.

(2) Funds provided by the state for the state basic education program for highly capable students under RCW

28A.150.260 shall be categorical funding to provide services to highly capable students as determined by a school district under RCW 28A.185.030. However, school districts must use a portion of the funds provided under this subsection to deliver professional development in accordance with section 9(2) of this act.

(3) Funds provided by the state for student transportation to and from school includes transportation to and from programs for highly capable students as defined in RCW 28A.160.160, and must be expended in accordance with chapter 28A.160 RCW.

(4) Subject to the availability of amounts appropriated for this specific purpose, each school district must conduct universal screenings in accordance with RCW 28A.185.030 to find students who need further assessment for potential gifted program placement.

**Sec. 3.** RCW 28A.185.030 and 2009 c 380 s 4 are each amended to read as follows:

~~((Local))~~ (1) School districts may establish and operate, either separately or jointly, programs for highly capable students. Such authority shall include the right to employ and pay special instructors and to operate such programs jointly with a public institution of higher education. ~~((Local))~~

(2) School districts ~~((which))~~ that establish and operate programs for highly capable students shall adopt identification procedures and provide educational opportunities as follows:

~~((+))~~ (a) In accordance with rules adopted by the superintendent of public instruction, school districts shall implement procedures for ~~((nomination))~~ referral, screening, assessment ((and)), selection, and placement of their most highly capable students. ~~((Nominations shall))~~

(i) Referrals must be based upon data from teachers, other staff, parents, students, and members of the community.

(ii) Beginning with the 2019-20 school year, school districts must screen all newly enrolled students, including transfer students, for further assessment to determine whether the student is eligible for potential placement in a program for highly capable students. The district must use a portion of the funds appropriated to provide the screenings within the school day and at the school the student attends.

(iii) Assessments ((shall)) for highly capable program services must be based upon a review of each student's capability as shown by multiple criteria intended to reveal, from a wide variety of sources and data, each student's unique needs and capabilities. Assessments must be conducted within the school day and at the school the student attends.

(iv) Selection and placements shall be made by a ~~((broadly based committee of professionals,))~~ multidisciplinary selection committee after consideration of the results of the multiple criteria assessment. The committee members must have at least five hours of course

work or professional development addressing the needs and characteristics of highly capable students. Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity that takes into account each student's unique needs and capabilities, and the limits of the resources and program options available to the district, including those options that can be developed or provided using funds allocated by the superintendent of public instruction for that specific purpose.

(b) In addition to the criteria listed in (a) of this subsection, district practices for identifying the most highly capable students must prioritize equitable identification of low-income students.

~~((2))~~ (3) When a student, including a student who is a child of a military family in transition, has been assessed or enrolled as highly capable by a sending school, the receiving school shall initially honor placement of the student into a like program.

(a) The receiving school shall determine whether the district's program is a like program when compared to the sending school's program; and

(b) The receiving school may conduct subsequent assessments to determine appropriate placement and continued enrollment in the program.

~~((3) Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity which takes into account each student's unique needs and capabilities and the limits of the resources and program options available to the district, including those options which can be developed or provided by using funds allocated by the superintendent of public instruction for that purpose.))~~

(4) Access to accelerated learning and enhanced instruction through a program for highly capable students does not constitute an individual entitlement for any particular student.

(5) For a student who is a child of a military family in transition, the definitions in Article II of RCW 28A.705.010 apply to subsection ~~((2))~~ (3) of this section.

(6) For the purpose of this section, "screening" means review of evidence of a student's academic aptitudes and proficiency such as the results of aptitude tests or assessments, intelligence quotient scores, grades, transcripts, and rigor of courses completed.

**Sec. 4.** RCW 28A.185.050 and 2002 c 234 s 1 are each amended to read as follows:

(1) In order to ensure that school districts are meeting the requirements of an approved program for highly capable students, the superintendent of public instruction shall monitor highly capable programs at least once every five years. Monitoring shall begin during the 2002-03 school year.

(2) Any program review and monitoring under this section may be conducted concurrently with other program reviews and monitoring conducted by the office of the superintendent of public instruction. In its review, the office shall monitor program components that include but need not be limited to the process used by the district to identify and reach out to highly capable students with diverse talents and from diverse backgrounds, assessment data and other indicators to determine how well the district is meeting the academic needs of highly capable students, and district expenditures used to enrich or expand opportunities for these students.

(3) Beginning June 30, 2003, and every five years thereafter, the office of the superintendent of public instruction shall submit a report to the education committees of the house of representatives and the senate that provides the following:

(a) A brief description of the various instructional programs offered to highly capable students; and

(b) Relevant data to the programs for highly capable students collected under RCW 28A.300.042.

(4) The superintendent of public instruction may adopt rules under chapter 34.05 RCW to implement this section.

**Sec. 5.** RCW 28A.160.160 and 2009 c 548 s 305 are each amended to read as follows:

For purposes of RCW 28A.160.150 through 28A.160.190, except where the context shall clearly indicate otherwise, the following definitions apply:

(1) "Eligible student" means any student served by the transportation program of a school district or compensated for individual transportation arrangements authorized by RCW 28A.160.030 whose route stop is outside the walk area for a student's school, except if the student to be transported is disabled under RCW 28A.155.020 and is either not ambulatory or not capable of protecting his or her own welfare while traveling to or from the school or agency where special education services are provided, in which case no mileage distance restriction applies.

(2) "Superintendent" means the superintendent of public instruction.

(3)(a) "To and from school" means the transportation of students for the following purposes:

~~((a))~~ (i) Transportation to and from route stops and schools;

~~((b))~~ (ii) Transportation to and from schools pursuant to an interdistrict agreement pursuant to RCW 28A.335.160;

~~((c))~~ (iii) Transportation of students between schools and learning centers for instruction specifically required by statute; ~~(and~~

~~(d)) (iv) Transportation to and from programs for students enrolled in programs for highly capable students. School districts may not require parents to provide transportation of highly capable students to and from programs for highly capable students; and~~

(v) Transportation of students with disabilities to and from schools and agencies for special education services.

(b) Academic extended day transportation for the instructional program of basic education under RCW 28A.150.220 shall be considered part of transportation of students "to and from school" for the purposes of this section. Transportation for field trips may not be considered part of transportation of students "to and from school" under this section.

(4) "Transportation services" for students living within the walk area includes the coordination of walk-to-school programs, the funding of crossing guards, and matching funds for local and state transportation projects intended to mitigate hazardous walking conditions. Priority for transportation services shall be given to students in grades kindergarten through five.

(5) As used in this section, "walk area" means that area around a school with an adequate roadway configuration to provide students access to school with a walking distance of less than one mile. Mileage must be measured along the shortest roadway or maintained public walkway where hazardous conditions do not exist. The hazardous conditions must be documented by a process established in rule by the superintendent of public instruction and must include roadway, environmental, and social conditions. Each elementary school shall identify walk routes within the walk area.

**Sec. 6.** RCW 28A.300.042 and 2016 c 72 s 501 are each amended to read as follows:

(1) ~~(Beginning with the 2017-18 school year, and using the phase in provided in subsection (2) of this section.)~~ The superintendent of public instruction must collect and school districts must submit all student-level data using the United States department of education 2007 race and ethnicity reporting guidelines, including the subracial and subethnic categories within those guidelines, with the following modifications:

(a) Further disaggregation of the Black category to differentiate students of African origin and students native to the United States with African ancestors;

(b) Further disaggregation of countries of origin for Asian students;

(c) Further disaggregation of the White category to include subethnic categories for Eastern European nationalities that have significant populations in Washington; and

(d) For students who report as multiracial, collection of their racial and ethnic combination of categories.

(2) Beginning with the 2017-18 school year, school districts shall collect student-level data as provided in subsection (1) of this section for all newly enrolled students, including transfer students. When the students enroll in a different school within the district, school districts shall resurvey the newly enrolled students for whom subracial and subethnic categories were not previously collected. School districts may resurvey other students.

(3) All student data-related reports required of the superintendent of public instruction in this title must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, highly capable, transitional bilingual, migrant, special education, and students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794).

(4) All student data-related reports prepared by the superintendent of public instruction regarding student suspensions and expulsions as required under this title are subject to disaggregation by subgroups including:

- (a) Gender;
- (b) Foster care;
- (c) Homeless, if known;
- (d) School district;
- (e) School;
- (f) Grade level;
- (g) Behavior infraction code, including:
  - (i) Bullying;
  - (ii) Tobacco;
  - (iii) Alcohol;
  - (iv) Illicit drug;
  - (v) Fighting without major injury;
  - (vi) Violence without major injury;
  - (vii) Violence with major injury;
  - (viii) Possession of a weapon; and
  - (ix) Other behavior resulting from a short-term or long-term suspension, expulsion, or interim alternative education setting intervention;
- (h) Intervention applied, including:
  - (i) Short-term suspension;
  - (ii) Long-term suspension;
  - (iii) Emergency expulsion;
  - (iv) Expulsion;
  - (v) Interim alternative education settings;
  - (vi) No intervention applied; and

(vii) Other intervention applied that is not described in this subsection (4)(h);

(i) Number of days a student is suspended or expelled, to be counted in half or full days; and

(j) Any other categories added at a future date by the data governance group.

(5) All student data-related reports required of the superintendent of public instruction regarding student suspensions and expulsions as required in RCW 28A.300.046 are subject to cross-tabulation at a minimum by the following:

(a) School and district;

(b) Race, low income, highly capable, special education, transitional bilingual, migrant, foster care, homeless, students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794), and categories to be added in the future;

(c) Behavior infraction code; and

(d) Intervention applied.

(6) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data as required under this section, and the office of the superintendent of public instruction shall modify the statewide student data system as needed. The office of the superintendent of public instruction shall also incorporate training for school staff on best practices for collection of data ~~((on student race and ethnicity))~~ under this section in other training or professional development related to data provided by the office.

(7) By December 1, 2021, the superintendent of public instruction must submit a report to the legislature that includes a comparison of the race, ethnicity, and low-income status of highly capable students compared to the same demographic groups in the general student population of each school district. If the comparison reveals a disproportionate rate of participation in highly capable programs, the report must include recommendations to the legislature on how to adjust participation to better align with general student demographics.

**Sec. 7.** RCW 28A.300.770 and 2018 c 266 s 105 are each amended to read as follows:

(1) The superintendent of public instruction must disseminate guidance on referral, screening, assessment, selection, and placement best practices for programs for highly capable students. The guidance must be regularly updated and aligned with evidence-based practices.

(2) The superintendent of public instruction must require school districts to have identification procedures for their highly capable programs that are clearly stated and implemented by school districts using the following criteria:

(a) Districts must use multiple objective criteria to identify students who are ~~((among))~~ the most highly capable. Multiple pathways for qualifications must be available and

no single criterion may disqualify a student from identification;

(b) Highly capable selection decisions must ~~((be based on consideration of criteria benchmarked on))~~ consider the use of local norms, but local norms may not be used as a more restrictive criteria than national norms at the same percentile;

(c) Subjective measures such as teacher recommendations or report card grades may not be used to screen out a student from assessment. These data points may be used alongside other criteria during selection to support identification, but may not be used to disqualify a student from being identified; and

(d) To the extent practicable, screening and assessments must be given in the native language of the student. If native language screening and assessments are not available, a nonverbal screening and assessment must be used.

~~((2) The superintendent of public instruction must disseminate guidance on referral, screening, assessment, selection, and placement best practices for highly capable programs. The guidance must be regularly updated and aligned with evidence-based practices.))~~

**NEW SECTION. Sec. 8.** A new section is added to chapter 28A.300 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the superintendent of public instruction shall designate professional staff for the following purposes:

(1) Providing technical assistance and guidance to school districts regarding school district programs for highly capable students; and

(2) Collecting and analyzing data related to school district programs for highly capable students used in the report required under RCW 28A.185.050.

**NEW SECTION. Sec. 9.** A new section is added to chapter 28A.415 RCW to read as follows:

(1) School districts must use a portion of the funds provided under RCW 28A.150.260 to provide a minimum of two hours of professional development every two years for principals and counselors regarding recognition of students who may qualify for programs for highly capable students, why highly capable students need special services, and the best practices for providing these services. School districts must ensure that the principals and counselors attend this mandated training.

(2)(a) School districts may use a portion of the funds provided under RCW 28A.150.260 to provide additional professional development.

(b) The professional development may include all certificated and classified instructional staff, principals, counselors, and other school and school district staff.

(c) For teachers teaching students in a general education classroom who are also admitted to a program for highly capable students, the professional development must be job-embedded as defined in RCW 28A.415.434.

Sec. 10. RCW 28B.10.032 and 1987 c 525 s 233 are each amended to read as follows:

(1) The state's public and private institutions of higher education offering teacher preparation programs and school districts are encouraged to explore ways to facilitate faculty exchanges, and other cooperative arrangements, to generate increased awareness and understanding by higher education faculty of the common school teaching experience and increased awareness and understanding by common school faculty of the teacher preparation programs.

(2) Teacher preparation programs must include information on recognizing students who may qualify for programs for highly capable students, why highly capable students need special services, and the best practices for providing these services.

Correct the title.

Signed by Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Bergquist; Caldier; Callan; Corry; Kilduff; Kraft; Ortiz-Self; Rude; Stonier; Thai and Valdez.

Referred to Committee on Appropriations.

April 8, 2019

E2SSB 5356 Prime Sponsor, Committee on Ways & Means: Establishing the Washington state LGBTQ commission. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Rude, Assistant Ranking Minority Member; Cody; Dolan; Fitzgibbon; Hansen; Hudgins; Jinkins; Macri; Pettigrew; Pollet; Ryu; Senn; Springer; Stanford; Steele; Sullivan; Tarleton and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Caldier; Chandler; Dye; Hoff; Kraft; Mosbrucker; Schmick; Sutherland and Ybarra.

Referred to Committee on Appropriations.

March 27, 2019

SSB 5385 Prime Sponsor, Committee on Health & Long Term Care: Concerning telemedicine

payment parity. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Chambers; Davis; DeBolt; Harris; Jinkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representative Caldier, Assistant Ranking Minority Member.

Referred to Committee on Appropriations.

March 27, 2019

SSB 5405 Prime Sponsor, Committee on Health & Long Term Care: Concerning nondiscrimination in access to organ transplants. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. FINDINGS. (1) The legislature finds that a mental or physical disability does not diminish a person's right to health care including organ transplantation.

(2) The legislature finds that the Americans with disabilities act of 1990 prohibits discrimination against persons with disabilities, yet many individuals with disabilities still experience discrimination in accessing critical health care services.

(3) The legislature finds that although organ transplant centers must consider medical and psychosocial criteria when determining if a patient is suitable to receive an organ transplant, transplant centers that participate in medicare, medicaid, and other federal funding programs are required to use patient selection criteria that result in a fair and nondiscriminatory distribution of organs.

(4) The legislature finds that Washington residents in need of organ transplants are entitled to assurances that they will not encounter discrimination on the basis of a disability.

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

(1) "Anatomical gift" has the same meaning as provided in RCW 68.64.010.

(2) "Auxiliary aids and services" include, but are not limited to:

(a) Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(b) Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(c) Provision of information in a format that is accessible for individuals with cognitive, neurological, developmental, and/or intellectual disabilities;

(d) Provision of supported decision-making services; and

(e) Acquisition or modification of equipment or devices.

(3) "Covered entity" means:

(a) Any licensed provider of health care services, including licensed health care practitioners, hospitals, nursing facilities, laboratories, intermediate care facilities, psychiatric residential treatment facilities, institutions for individuals with intellectual or developmental disabilities, and prison health centers; or

(b) Any entity responsible for matching anatomical gift donors to potential recipients.

(4) "Disability" has the same meaning as provided in the Americans with disabilities act of 1990, as amended by the Americans with disabilities act amendments act of 2008, 42 U.S.C. Sec. 12102.

(5) "Qualified individual" means an individual who, with or without the support networks available to them, provision of auxiliary aids and services, and/or reasonable modifications to policies or practices, meets the essential eligibility requirements for the receipt of an anatomical gift.

(6) "Reasonable modifications to policies or practices" include, but are not limited to:

(a) Communication with individuals responsible for supporting an individual with postsurgical and posttransplantation care, including medication; and

(b) Consideration of support networks available to the individual, including family, friends, and home and community-based services, including home and community-based services funded through medicaid, medicare, another health plan in which the individual is enrolled, or any program or source of funding available to the individual, in determining whether the individual is able to comply with posttransplant medical requirements.

(7) "Supported decision making" means the use of a support person to assist an individual in making medical decisions, communicate information to the individual, or ascertain an individual's wishes. "Supported decision making" may include:

(a) The inclusion of the individual's attorney-in-fact, health care proxy, or any person of the individual's choice in communications about the individual's medical care;

(b) Permitting the individual to designate a person of their choice for the purposes of supporting that individual in communicating, processing information, or making medical decisions;

(c) Providing auxiliary aids and services to facilitate the individual's ability to communicate and process health-related information, including use of assistive communication technology;

(d) Providing information to persons designated by the individual, consistent with the provisions of the health insurance portability and accountability act of 1996, 42 U.S.C. Sec. 1301 et seq., and other applicable laws and regulations governing disclosure of health information;

(e) Providing health information in a format that is readily understandable by the individual; and

(f) Working with a court-appointed guardian or other individual responsible for making medical decisions on behalf of the individual, to ensure that the individual is included in decisions involving his or her own health care and that medical decisions are in accordance with the individual's own expressed interests.

NEW SECTION. **Sec. 3. PROHIBITION OF DISCRIMINATION.** (1) A covered entity may not, solely on the basis of a qualified individual's mental or physical disability:

(a) Deem an individual ineligible to receive an anatomical gift or organ transplant;

(b) Deny medical or related organ transplantation services, including evaluation, surgery, counseling, and postoperative treatment and care;

(c) Refuse to refer the individual to a transplant center or other related specialist for the purpose of evaluation or receipt of an organ transplant;

(d) Refuse to place an individual on an organ transplant waiting list, or placement of the individual at a lower-priority position on the list than the position at which he or she would have been placed if not for his or her disability; or

(e) Decline insurance coverage for any procedure associated with the receipt of the anatomical gift, including posttransplantation care.

(2) Notwithstanding subsection (1) of this section, a covered entity may take an individual's disability into account when making treatment and/or coverage recommendations or decisions, solely to the extent that the physical or mental disability has been found by a physician, following an individualized evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift. The provisions of this section may not be deemed to require referrals or recommendations for, or the performance of, medically inappropriate organ transplants.

(3) If an individual has the necessary support system to provide reasonable assurance that she or he will comply with posttransplant medical requirements, an individual's

inability to independently comply with those requirements may not be deemed to be medically significant for the purposes of subsection (2) of this section.

(4) A covered entity must make reasonable modifications to policies, practices, or procedures, when such modifications are necessary to make services such as transplantation-related counseling, information, coverage, or treatment available to qualified individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such services.

(5) A covered entity must take such steps as may be necessary to ensure that no qualified individual with a disability is denied services such as transplantation-related counseling, information, coverage, or treatment because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the services being offered or would result in an undue burden.

(6) A covered entity must otherwise comply with the requirements of Titles II and III of the Americans with disabilities act of 1990 and the Americans with disabilities act amendments act of 2008.

(7) The provisions of this section apply to each part of the organ transplant process.

NEW SECTION. Sec. 4. ENFORCEMENT. (1) Any individual who has been subjected to discrimination in violation of this chapter may initiate a civil action in a court of competent jurisdiction to enjoin further violations and recover the cost of the suit including reasonable attorneys' fees.

(2) The court must accord priority on its calendar and expeditiously proceed with an action brought under this chapter.

(3) Nothing in this section is intended to limit or replace available remedies under the Americans with disabilities act of 1990 and the Americans with disabilities act amendments act of 2008 or any other applicable law.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act constitute a new chapter in Title 68 RCW."

Correct the title.

Signed by Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers; Davis; DeBolt; Harris; Jinkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

Referred to Committee on Rules for second reading.

March 27, 2019

ESSB 5410 Prime Sponsor, Committee on Higher Education & Workforce Development:

Concerning a systemwide credit policy regarding advanced placement, international baccalaureate, and Cambridge international exams. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that advanced placement, international baccalaureate, and Cambridge international coursework prepares students for postsecondary success and provides opportunities for them to earn college credit or secure placement in advanced courses.

The legislature feels strongly that students who have earned minimum scores of three on advanced placement exams, four on standard-level and higher-level international baccalaureate exams, or scores of E or higher on A and AS level Cambridge international exams deserve to receive undergraduate college credit, including elective credit and, where appropriate, course equivalent credit, for their work.

The legislature finds it necessary to develop a systemwide credit policy that allows those students to easily understand in advance whether institutions of higher education will award them credit, as well as which type of credit students will receive and the rationale for the institution of higher education's determination.

The legislature further encourages institutions of higher education to establish a policy favoring the award of course equivalent credit for the successful completion of standardized and commonly required courses.

Sec. 2. RCW 28B.10.054 and 2017 c 179 s 2 are each amended to read as follows:

(1) The institutions of higher education must establish a coordinated, evidence-based policy for granting as many undergraduate college credits, as possible and appropriate, to students who have earned minimum scores of three on ~~((AP))~~ advanced placement exams ((as possible and appropriate)), four on standard-level and higher-level international baccalaureate exams, or scores of E or higher on A and AS level Cambridge international exams.

(2) Each institution of higher education must create a process for retroactively awarding international baccalaureate exam undergraduate college credits under the terms of this section to students who first enrolled in the institution of higher education in the 2018-19 academic year.

(3) Credit ~~((policy))~~ policies regarding all ~~((AP))~~ advanced placement and international baccalaureate exams must be posted on campus web sites effective for the ~~((2017))~~ 2019 fall academic term. Credit policies regarding all Cambridge international exams must be posted on

campus web sites effective for the 2020 fall academic term. If an institution of higher education is unable to award a general education course equivalency, the student may request in writing an evidence-based reason as to why general education course equivalency cannot be granted. Institutions of higher education must maintain web sites regarding their advanced placement, international baccalaureate, and Cambridge international policies in a publicly accessible way. The institutions of higher education must conduct biennial reviews of their ((AP)) advanced placement, international baccalaureate, and Cambridge international credit ((policy)) policies and report noncompliance to the appropriate committees of the legislature by November 1st each ((year)) biennium beginning November 1, 2019.

(4) The institutions of higher education must provide an update to the joint legislative audit and review committee on their credit awarding policies by December 31, 2019.

(5) For the purposes of this section, "general education course equivalency" means credit that fulfills general education or major requirements and is not awarded as elective credit.

NEW SECTION. Sec. 3. RCW 28B.10.051 (International baccalaureate and Cambridge international exams credit policies) and 2018 c 124 s 2 are each repealed."

Correct the title.

Signed by Representatives Hansen, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Van Werven, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Bergquist; Kraft; Mead; Paul; Pollet; Ramos; Rude; Sells; Slatter; Sutherland and Young.

Referred to Committee on Rules for second reading.

April 8, 2019

SB 5415 Prime Sponsor, Senator McCoy: Creating the Washington Indian health improvement act. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness.

Strike everything after the enacting clause and insert the following:

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

(a) As set forth in 25 U.S.C. Sec. 1602, it is the policy of the nation, in fulfillment of its special trust responsibilities and legal obligations to American Indians and Alaska Natives, to:

(i) Ensure the highest possible health status for American Indians and Alaska Natives and to provide all resources necessary to effect that policy;

(ii) Raise the health status of American Indians and Alaska Natives to at least the levels set forth in the goals contained within the healthy people 2020 initiative or successor objectives; and

(iii) Ensure tribal self-determination and maximum participation by American Indians and Alaska Natives in the direction of health care services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of tribes and American Indian and Alaska Native communities;

(b) According to the northwest tribal epidemiology center and the department of health, American Indians and Alaska Natives in the state experience some of the greatest health disparities compared to other groups, including excessively high rates of:

(i) Premature mortality due to suicide, overdose, unintentional injury, and various chronic diseases; and

(ii) Asthma, coronary heart disease, hypertension, diabetes, prediabetes, obesity, dental caries, poor mental health, youth depressive feelings, cigarette smoking and vaping, and cannabis use;

(c) These health disparities are a direct result of both historical trauma, leading to adverse childhood experiences across multiple generations, and inadequate levels of federal funding to the Indian health service;

(d) Under a 2016 update in payment policy from the centers for medicare and medicaid services, the state has the opportunity to shift more of the cost of care for American Indian and Alaska Native medicaid enrollees from the state general fund to the federal government if all of the federal requirements are met;

(e) Because the federal requirements to achieve this cost shift and obtain the new federal funds place significant administrative burdens on Indian health service and tribal health facilities, the state has no way to shift these costs of care to the federal government unless the state provides incentives for tribes to take on these administrative burdens; and

(f) The federal government's intent for this update in payment policy is to help states, the Indian health service, and tribes to improve delivery systems for American Indians and Alaska Natives by increasing access to care, strengthening continuity of care, and improving population health.

(2) The legislature, therefore, intends to:

(a) Establish that it is the policy of this state and the intent of this chapter, in fulfillment of the state's unique relationships and shared respect between sovereign governments, to:

(i) Recognize the United States' special trust responsibility to provide quality health care and allied health

services to American Indians and Alaska Natives, including those individuals who are residents of this state; and

(ii) Implement the national policies of Indian self-determination with the goal of reducing health inequities for American Indians and Alaska Natives;

(b) Establish the governor's Indian health advisory council to:

(i) Adopt a biennial Indian health improvement advisory plan, developed by the reinvestment committee;

(ii) Address issues with tribal implications that are not able to be resolved at the agency level; and

(iii) Provide oversight of the Indian health improvement reinvestment account;

(c) Establish the Indian health improvement reinvestment account in order to provide incentives for tribes to assume the administrative burdens created by the federal requirements for the state to shift health care costs to the federal government;

(d) Appropriate and deposit into the reinvestment account all of the new state savings, subject to federal appropriations and less agreed upon administrative costs to maintain fiscal neutrality to the state general fund; and

(e) Require the funds in the reinvestment account to be spent only on costs for projects, programs, or activities identified in the advisory plan.

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

(1) "Advisory council" means the governor's Indian health advisory council established in section 3 of this act.

(2) "Advisory plan" means the plan described in section 4 of this act.

(3) "American Indian" or "Alaska Native" means any individual who is: (a) A member of a federally recognized tribe; or (b) eligible for the Indian health service.

(4) "Authority" means the health care authority.

(5) "Board" means the northwest Portland area Indian health board, an Oregon nonprofit corporation wholly controlled by the tribes in the states of Idaho, Oregon, and Washington.

(6) "Commission" means the American Indian health commission for Washington state, a Washington nonprofit corporation wholly controlled by the tribes and urban Indian organizations in the state.

(7) "Community health aide" means a tribal community health provider 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, who can perform a wide range of duties within the provider's scope of certified practice in health programs of a tribe, tribal organization, Indian health

service facility, or urban Indian organization to improve access to culturally appropriate, quality care for American Indians and Alaska Natives and their families and communities, including but not limited to community health aides, community health practitioners, behavioral health aides, behavioral health practitioners, dental health aides, and dental health aide therapists.

(8) "Community health aide program" means a community health aide certification board for the state consistent with 25 U.S.C. Sec. 1616l and the training programs and certification requirements established thereunder.

(9) "Fee-for-service" means the state's medicaid program for which payments are made under the state plan, without a managed care entity, in accordance with the fee-for-service payment methodology.

(10) "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 25 U.S.C. Sec. 1603.

(11) "Indian health service" means the federal agency within the United States department of health and human services.

(12) "New state savings" means the savings to the state general fund that are achieved as a result of the centers for medicare and medicaid services state health official letter 16-002 and related guidance, calculated as the difference between (a) medicaid payments received from the centers for medicare and medicaid services based on the one hundred percent federal medical assistance percentage; and (b) medicaid payments received from the centers for medicare and medicaid services based on the federal medical assistance percentage that would apply in the absence of state health official letter 16-002 and related guidance.

(13) "Reinvestment account" means the Indian health improvement reinvestment account created in section 5 of this act.

(14) "Reinvestment committee" means the Indian health improvement reinvestment committee established in section 3(4) of this act.

(15) "Tribal organization" has the meaning set forth in 25 U.S.C. Sec. 5304.

(16) "Tribally operated facility" means a health care facility operated by one or more tribes or tribal organizations to provide specialty services, including but not limited to evaluation and treatment services, secure detox services, inpatient psychiatric services, nursing home services, and residential substance use disorder services.

(17) "Tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native claims settlement act (43 U.S.C. Sec. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(18) "Urban Indian" means any individual who resides in an urban center and is: (a) A member of a tribe terminated since 1940 and those tribes recognized now or in the future by the state in which they reside, or who is a descendant, in the first or second degree, of any such member; (b) an Eskimo or Aleut or other Alaska Native; (c) considered by the secretary of the interior to be an Indian for any purpose; or (d) considered by the United States secretary of health and human services to be an Indian for purposes of eligibility for Indian health services, including as a California Indian, Eskimo, Aleut, or other Alaska Native.

(19) "Urban Indian organization" means an urban Indian organization, as defined by 25 U.S.C. Sec. 1603.

**NEW SECTION. Sec. 3.** (1) The governor's Indian health advisory council is established, consisting of:

(a) The following voting members:

(i) One representative from each tribe, designated by the tribal council, who is either the tribe's commission delegate or an individual specifically designated for this role, or his or her designee;

(ii) The chief executive officer of each urban Indian organization, or the urban Indian organization's commission delegate if applicable, or his or her designee;

(iii) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(iv) One member from each of the two largest caucuses of the senate, appointed by the president of the senate; and

(v) One member representing the governor's office; and

(b) The following nonvoting members:

(i) One member of the executive leadership team from each of the following state agencies: The authority; the department of children, youth, and families; the department of commerce; the department of corrections; the department of health; the department of social and health services; the office of the insurance commissioner; the office of the superintendent of public instruction; and the Washington health benefit exchange;

(ii) The chief operating officer of each Indian health service area office and service unit, or his or her designee;

(iii) The executive director of the commission, or his or her designee; and

(iv) The executive director of the board, or his or her designee.

(2) The advisory council shall meet at least three times per year when the legislature is not in session, in a forum that offers both in-person and remote participation where everyone can hear and be heard.

(3) The advisory council has the responsibility to:

(a) Adopt the biennial Indian health improvement advisory plan prepared and amended by the reinvestment committee as described in section 4 of this act no later than November 1st of each odd-numbered year;

(b) Address current or proposed policies or actions that have tribal implications and are not able to be resolved or addressed at the agency level;

(c) Facilitate better understanding among advisory council members and their support staff of the Indian health system, American Indian and Alaska Native health disparities and historical trauma, and tribal sovereignty and self-governance;

(d) Provide oversight of contracting and performance of service coordination organizations or service contracting entities as defined in RCW 70.320.010 in order to address their impacts on services to American Indians and Alaska Natives and relationships with Indian health care providers; and

(e) Provide oversight of the Indian health improvement reinvestment account created in section 5 of this act, ensuring that amounts expended from the reinvestment account are consistent with the advisory plan adopted under section 4 of this act.

(4) The reinvestment committee of the advisory council is established, consisting of the following members of the advisory council:

(a) With voting rights on the reinvestment committee, every advisory council member who represents a tribe or an urban Indian organization; and

(b) With nonvoting rights on the reinvestment committee, every advisory council member who represents a state agency, the Indian health service area office or a service unit, the commission, and the board.

(5) The advisory council may appoint technical advisory committees, which may include members of the advisory council, as needed to address specific issues and concerns.

(6) The authority, in conjunction with the represented state agencies on the advisory council, shall supply such information and assistance as are deemed necessary for the advisory council and its committees to carry out its duties under this section.

(7) The authority shall provide (a) administrative and clerical assistance to the advisory council and its committees and (b) technical assistance with the assistance of the commission.

(8) The advisory council meetings, reports and recommendations, and other forms of collaboration described in this chapter support the tribal consultation process but are not a substitute for the requirements for state agencies to conduct consultation or maintain government-to-government relationships with tribes under federal and state law.

NEW SECTION. **Sec. 4.** (1) With assistance from the authority, the commission, and other member entities of the advisory council, the reinvestment committee of the advisory council shall prepare and amend from time to time a biennial Indian health improvement advisory plan to:

(a) Develop programs directed at raising the health status of American Indians and Alaska Natives and reducing the health inequities that these communities experience; or

(b) Help the state, the Indian health service, tribes, and urban Indian organizations, statewide or in regions, improve delivery systems for American Indians and Alaska Natives by increasing access to care, strengthening continuity of care, and improving population health through investments in capacity and infrastructure.

(2) The advisory plan shall include the following:

(a) An assessment of Indian health and Indian health care in the state;

(b) Specific recommendations for programs, projects, or activities, along with recommended reinvestment account expenditure amounts and priorities for expenditures, for the next two state fiscal bienniums. The programs, projects, and activities may include but are not limited to:

(i) The creation and expansion of facilities operated by Indian health services, tribes, and urban Indian health programs providing evaluation, treatment, and recovery services for opioid use disorder, other substance use disorders, mental illness, or specialty care;

(ii) Improvement in access to, and utilization of, culturally appropriate primary care, mental health, and substance use disorder and recovery services;

(iii) The elimination of barriers to, and maximization of, federal funding of substance use disorder and mental health services under the programs established in chapter 74.09 RCW;

(iv) Increased availability of, and identification of barriers to, crisis and related services established in chapter 71.05 RCW, with recommendations to increase access including, but not limited to, involuntary commitment orders, designated crisis responders, and discharge planning;

(v) Increased access to quality, culturally appropriate, trauma-informed specialty services, including adult and pediatric psychiatric services, medication consultation, and addiction or geriatric psychiatry;

(vi) A third-party administrative entity to provide, arrange, and make payment for services for American Indians and Alaska Natives;

(vii) Expansion of suicide prevention services, including culture-based programming, to instill and fortify cultural practices as a protective factor;

(viii) Expansion of traditional healing services;

(ix) Development of a community health aide program, including a community health aide certification

board for the state consistent with 25 U.S.C. Sec. 1616l, and support for community health aide services;

(x) Health information technology capability within tribes and urban Indian organizations to assure the technological capacity to: (A) Produce sound evidence for Indian health care provider best practices; (B) effectively coordinate care between Indian health care providers and non-Indian health care providers; (C) provide interoperability with state claims and reportable data systems, such as for immunizations and reportable conditions; and (D) support patient-centered medical home models, including sufficient resources to purchase and implement certified electronic health record systems, such as hardware, software, training, and staffing;

(xi) Support for care coordination by tribes and other Indian health care providers to mitigate barriers to access to care for American Indians and Alaska Natives, with duties to include without limitation: (A) Follow-up of referred appointments; (B) routine follow-up care for management of chronic disease; (C) transportation; and (D) increasing patient understanding of provider instructions;

(xii) Expanded support for tribal and urban Indian epidemiology centers to create a system of epidemiological analysis that meets the needs of the state's American Indian and Alaska Native population; and

(xiii) Other health care services and public health services that contribute to reducing health inequities for American Indians and Alaska Natives in the state and increasing access to quality, culturally appropriate health care for American Indians and Alaska Natives in the state; and

(c) Review of how programs, projects, or activities that have received investments from the reinvestment account have or have not achieved the objectives and why.

NEW SECTION. **Sec. 5.** (1) The Indian health improvement reinvestment account is created in the custody of the state treasurer. All receipts from new state savings as defined in section 2 of this act and any other moneys appropriated to the account must be deposited into the account. Expenditures from the account may be used only for projects, programs, and activities authorized by section 4 of this act. Only the director of the 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.

(2) Beginning November 1, 2019, the new state savings as defined in section 2 of this act, less the state's administrative costs as agreed upon by the state and the reinvestment committee, shall be deposited into the reinvestment account. With advice from the advisory council, the authority shall develop a report and methodology to identify and track the new state savings. Each fall, to assure alignment with existing budget processes, the methodology selected shall involve the same forecasting procedures that inform the authority's medical assistance and behavioral health appropriations to

prospectively identify new state savings each fiscal year, as defined in section 2 of this act.

(3) The authority shall pursue new state savings for medicaid managed care premiums on an actuarial basis and in consultation with tribes.

NEW SECTION. **Sec. 6.** This chapter may be known and cited as the "Washington Indian health improvement act."

**Sec. 7.** RCW 43.79A.040 and 2018 c 260 s 28, 2018 c 258 s 4, and 2018 c 127 s 6 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands

revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, ~~((the))~~ the public employees' and retirees' insurance account, ~~((the))~~ the school employees' insurance account, ~~((and))~~ the radiation perpetual maintenance fund, and the Indian health improvement reinvestment account.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 8. Sections 1 through 6 of this act constitute a new chapter in Title 43 RCW."

Correct the title.

Signed by Representatives Ormsby, Chair; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger and Ybarra.

Referred to Committee on Appropriations.

April 8, 2019

E2SSB 5432 Prime Sponsor, Committee on Ways & Means: Concerning fully implementing behavioral health integration for January 1, 2020, by removing behavioral health organizations from law; clarifying the roles and responsibilities among the health care authority, department of social and health services, and department of health, and the roles and responsibilities of behavioral health administrative services organizations and medicaid managed care organizations; and making technical corrections related to the behavioral health system. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness.

Strike everything after the enacting clause and insert the following:

**"PART 1**

**Sec. 1001.** RCW 71.24.011 and 1982 c 204 s 1 are each amended to read as follows:

This chapter may be known and cited as the community ~~((mental))~~ behavioral health services act.

**Sec. 1002.** RCW 71.24.015 and 2018 c 201 s 4001 are each amended to read as follows:

It is the intent of the legislature to establish a community ~~((mental))~~ behavioral health ~~((program))~~ system which shall help people experiencing mental illness or a substance use disorder to retain a respected and productive position in the community. This will be accomplished through programs that focus on resilience and recovery, and practices that are evidence-based, research-based,

consensus-based, or, where these do not exist, promising or emerging best practices, which provide for:

(1) Access to ~~((mental))~~ behavioral health services for adults with mental illness and children with mental illness ~~((or))~~, emotional disturbances ~~((who meet access to care standards which services))~~, or substance use disorders, that recognize the special needs of underserved populations, including minorities, children, older adults, individuals with disabilities, and low-income persons. Access to mental health and substance use disorder services shall not be limited by a person's history of confinement in a state, federal, or local correctional facility. It is also the purpose of this chapter to promote the early identification of children with mental illness and to ensure that they receive the mental health care and treatment which is appropriate to their developmental level. This care should improve home, school, and community functioning, maintain children in a safe and nurturing home environment, and should enable treatment decisions to be made in response to clinical needs in accordance with sound professional judgment while also recognizing parents' rights to participate in treatment decisions for their children;

(2) The involvement of persons with mental illness or substance use disorder, their family members, and advocates in designing and implementing ~~((mental))~~ behavioral health services that reduce unnecessary hospitalization and incarceration and promote ~~((the))~~ recovery and employment ~~((of persons with mental illness))~~. To improve the quality of services available and promote the rehabilitation, recovery, and reintegration of persons with mental illness or substance use disorder, consumer and advocate participation in ~~((mental))~~ behavioral health services is an integral part of the community ~~((mental))~~ behavioral health system and shall be supported;

(3) Accountability of efficient and effective services through state-of-the-art outcome and performance measures and statewide standards for monitoring client and system outcomes, performance, and reporting of client and system outcome information. These processes shall be designed so as to maximize the use of available resources for direct care of people with a mental illness and to assure uniform data collection across the state;

(4) Minimum service delivery standards;

(5) Priorities for the use of available resources for the care of individuals with mental illness or substance use disorder consistent with the priorities defined in the statute;

(6) Coordination of services within the department of social and health services, ~~((including those divisions within the department of social and health services that provide services to children, between))~~ the authority, the department, the department of ((social and health services)) children, youth, and families, and the office of the superintendent of public instruction, and among state mental hospitals, tribes, residential treatment facilities, county authorities, behavioral health administrative services organizations, managed care organizations, community ~~((mental))~~ behavioral health services, and other support services, which shall to the maximum extent feasible also include the families of individuals with mental illness or

substance use disorder, and other service providers, including Indian health care providers; and

(7) Coordination of services aimed at reducing duplication in service delivery and promoting complementary services among all entities that provide ~~((mental))~~ behavioral health services to adults and children.

It is the policy of the state to encourage the provision of a full range of treatment and rehabilitation services in the state for mental disorders, or substance use disorders, including services operated by consumers and advocates. The legislature intends to encourage the development of regional ~~((mental))~~ behavioral health services with adequate local flexibility to assure eligible people in need of care access to the least-restrictive treatment alternative appropriate to their needs, and the availability of treatment components to assure continuity of care. ~~((To this end, counties must enter into joint operating agreements with other counties to form regional systems of care that are consistent with the regional service areas established under RCW 74.09.870. Regional systems of care, whether operated by a county, group of counties, or another entity shall integrate planning, administration, and service delivery duties under chapter 71.05 RCW and this chapter to consolidate administration, reduce administrative layering, and reduce administrative costs.))~~ The legislature hereby finds and declares that sound fiscal management requires vigilance to ensure that funds appropriated by the legislature for the provision of needed community ~~((mental))~~ behavioral health ~~((programs and))~~ system services are ultimately expended solely for the purpose for which they were appropriated, and not for any other purpose.

It is further the intent of the legislature to integrate the provision of services to provide continuity of care through all phases of treatment. To this end, the legislature intends to promote active engagement with persons with mental illness and collaboration between families and service providers.

**Sec. 1003.** RCW 71.24.016 and 2014 c 225 s 7 are each amended to read as follows:

(1) The legislature intends that eastern and western state hospitals shall operate as clinical centers for handling the most complicated long-term care needs of patients with a primary diagnosis of mental disorder. It is further the intent of the legislature that the community ~~((mental))~~ behavioral health service delivery system focus on maintaining individuals with mental illness in the community. The program shall be evaluated and managed through a limited number of outcome and performance measures, as provided in RCW 43.20A.895 (as recodified by this act), 70.320.020, and 71.36.025.

(2) The legislature intends to address the needs of people with mental disorders with a targeted, coordinated, and comprehensive set of evidence-based practices that are effective in serving individuals in their community and will reduce the need for placements in state mental hospitals. The legislature further intends to explicitly hold behavioral health administrative services organizations, within

available resources, and managed care organizations accountable for serving people with mental disorders within the boundaries of their regional service area ~~((and for not exceeding their allocation of state hospital beds))~~.

(3) The authority shall establish a work group to determine: (a) How to appropriately manage access to adult long-term inpatient involuntary care and the children's long-term inpatient program in the community and at eastern and western state hospitals, until such a time as the risk for long-term involuntary inpatient care may be fully integrated into managed care organization contracts, and provide advice to guide the integration process; and (b) how to expand bidirectional integration through increased support for co-occurring disorder services, including recommendations related to purchasing and rates. The work group shall include representation from the department of social and health services, the department of health, behavioral health administrative services organizations, at least two managed care organizations, the Washington state association of counties, community behavioral health providers, including providers with experience providing co-occurring disorder services, and the Washington state hospital association. Managed care representation on the work group must include at least one member with financial expertise and at least one member with clinical expertise. The managed care organizations on the work group shall represent the entire managed care sector and shall collaborate with the nonrepresented managed care organizations. The work group shall provide recommendations to the office of financial management and appropriate committees of the legislature by December 15, 2019.

**Sec. 1004.** RCW 71.24.025 and 2018 c 201 s 4002 are each 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 ~~((mental))~~ 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 ~~((mental))~~ 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 ~~((any county authority or group of county authorities or other entity recognized by the director in contract in a defined region))~~ an entity contracted with the authority to administer behavioral health services and programs under section 1046 of this act, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(7) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat ~~((chemical dependency and))~~ substance use disorder, mental illness, or both in the community behavioral health system.

(8) "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.

(9) "Child" means a person under the age of eighteen years.

(10) "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.

(11) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(12) "Community ~~((mental))~~ 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.

(13) "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.

(14) "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.

(15) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a ~~((community mental))~~ behavioral health ((program)) administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to ~~((provide a community mental))~~ establish a behavioral health ((program)) administrative services organization.

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

(17) "Designated crisis responder" ~~((means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter))~~ has the same meaning as in RCW 71.05.020.

(18) "Director" means the director of the authority.

(19) "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.

(20) "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).

(21) "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 (22) of this section.

(22) "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.

(23) "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).

(24) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

~~((24))~~ (25) "Licensed or certified ~~((service provider))~~ behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW ~~((or))~~;

(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~~((s))~~; or

(c) An entity with a tribal attestation that it meets state minimum standards~~((, or persons licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners))~~ for a licensed or certified behavioral health agency.

~~((25))~~ (26) "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.

~~((26))~~ "Mental health services" means ~~all services provided by behavioral health organizations and other services provided by the state for persons who are mentally ill.~~

(27) "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.

(28) 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 ~~((department of social and health services, behavioral health organizations))~~ entities listed in this subsection, or a treatment facility if the notes or records are not available to others.

~~((28))~~ (29) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (10), (36), and (37) of this section.

~~((29))~~ (30) "Recovery" means the process in which people are able to live, work, learn, and participate fully in their communities.

~~((30))~~ "Registration records" include ~~all the records of the department of social and health services, the authority, behavioral health organizations, treatment facilities, and other persons providing services for the department of social and health services, the authority, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.~~

(31) "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 (22) of this section but does not meet the full criteria for evidence-based.

(32) "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.

(33) "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.

(34) "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 (~~solely~~) 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.

(35) "Secretary" means the secretary of the department of health.

(36) "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.

(37) "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.

(38) "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 (~~service providers~~) behavioral health agencies for the (~~provision of~~) purpose of providing mental health (~~and~~) or substance use disorder programs and services, or both; (and)

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

(39) "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.

(40) "~~(Tribal authority)~~ Tribe," for the purposes of this section (~~and RCW 71.24.300 only~~), means (~~The~~) a federally recognized Indian tribe (~~s and the major Indian organizations recognized by the director insofar as these organizations do not have a financial relationship with any~~

behavioral health organization that would present a conflict of interest)).

(41) "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.

**Sec. 1005.** RCW 71.24.030 and 2018 c 201 s 4003 are each amended to read as follows:

The director is authorized to make grants and/or purchase services from counties, combinations of counties, or other entities, to establish and operate community ~~((mental))~~ behavioral health programs.

**Sec. 1006.** RCW 71.24.035 and 2018 c 201 s 4004 are each amended to read as follows:

(1) The authority is designated as the state behavioral health authority which includes recognition as the single state authority for substance use disorders and state mental health authority.

(2) The director shall provide for public, client, tribal, and licensed or certified ~~((service provider))~~ behavioral health agency participation in developing the state behavioral health program, developing related contracts ~~((with behavioral health organizations)),~~ and any waiver request to the federal government under medicaid.

(3) The director shall provide for participation in developing the state behavioral health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state behavioral health program.

~~(4) ((The director shall be designated as the behavioral health organization if the behavioral health organization fails to meet state minimum standards or refuses to exercise responsibilities under its contract or RCW 71.24.045, until such time as a new behavioral health organization is designated.))~~ The authority shall be designated as the behavioral health administrative services organization for a regional service area if a behavioral health administrative services organization fails to meet the authority's contracting requirements or refuses to exercise the responsibilities under its contract or state law, until such time as a new behavioral health administrative services organization is designated.

(5) The director shall:

~~(a) ((Develop a biennial state behavioral health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for adults and children with mental disorders or substance use disorders or both;~~

~~(b))~~ Assure that any behavioral health administrative services organization, managed care organization, or ((county)) community behavioral health program provides medically necessary services to medicaid recipients consistent with the state's medicaid state plan or

federal waiver authorities, and nonmedicaid services consistent with priorities established by the authority;

~~((e) Develop and adopt rules establishing state minimum standards for the delivery of behavioral health services pursuant to RCW 71.24.037 including, but not limited to:~~

~~(i) Licensed or certified service providers. These rules shall permit a county operated behavioral health program to be licensed as a service provider subject to compliance with applicable statutes and rules.~~

~~(ii) Inpatient services, an adequate network of evaluation and treatment services and facilities under chapter 71.05 RCW to ensure access to treatment, resource management services, and community support services;~~

~~(d) Assure that the special needs of persons who are minorities, elderly, disabled, children, low income, and parents who are respondents in dependency cases are met within the priorities established in this section;~~

~~(e) Establish a standard contract or contracts, consistent with state minimum standards which shall be used in contracting with behavioral health organizations. The standard contract shall include a maximum fund balance, which shall be consistent with that required by federal regulations or waiver stipulations;~~

~~(f))~~ (b) Develop contracts in a manner to ensure an adequate network of inpatient services, evaluation and treatment services, and facilities under chapter 71.05 RCW to ensure access to treatment, resource management services, and community support services;

~~(c) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including managed care contracts for behavioral health services, contracts entered into under RCW 74.09.522, and contracts with public and private agencies, organizations, and individuals to pay them for behavioral health services;~~

~~((g))~~ (d) Define administrative costs and ensure that the behavioral health administrative services organization does not exceed an administrative cost of ten percent of available funds;

~~(e) Establish, to the extent possible, a standardized auditing procedure which is designed to assure compliance with contractual agreements authorized by this chapter and minimizes paperwork requirements ((of behavioral health organizations and licensed or certified service providers)). The audit procedure shall focus on the outcomes of service as provided in RCW 43.20A.895 (as recodified by this act), 70.320.020, and 71.36.025;~~

~~((h))~~ (f) Develop and maintain an information system to be used by the state and behavioral health administrative services organizations and managed care organizations that includes a tracking method which allows the authority ((and behavioral health organizations)) to identify behavioral health clients' participation in any behavioral health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client

information and records shall be maintained as provided in this chapter and chapter 70.02 RCW;

~~((i)) Periodically monitor the compliance of behavioral health organizations and their network of licensed or certified service providers for compliance with the contract between the authority, the behavioral health organization, and federal and state rules at reasonable times and in a reasonable manner;~~

~~((j))~~ (g) Monitor and audit behavioral health administrative services organizations as needed to assure compliance with contractual agreements authorized by this chapter;

~~((k))~~ (h) Monitor and audit access to behavioral health services for individuals eligible for medicaid who are not enrolled in a managed care organization;

(i) Adopt such rules as are necessary to implement the authority's responsibilities under this chapter; ~~(and~~

~~((h))~~ (j) Administer or supervise the administration of the provisions relating to persons with substance use disorders and intoxicated persons of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation;

(k) Require the behavioral health administrative services organizations and the managed care organizations to develop agreements with tribal, city, and county jails and the department of corrections to accept referrals for enrollment on behalf of a confined person, prior to the person's release; and

(l) Require behavioral health administrative services organizations and managed care organizations, as applicable, to provide services as identified in RCW 71.05.585 to individuals committed for involuntary commitment under less restrictive alternative court orders when:

(i) The individual is enrolled in the medicaid program; or

(ii) The individual is not enrolled in medicaid, does not have other insurance which can pay for the services, and the behavioral health administrative services organization has adequate available resources to provide the services.

(6) The director shall use available resources only for behavioral health administrative services organizations and managed care organizations, except:

(a) To the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act; or

(b) To incentivize improved performance with respect to the client outcomes established in RCW 43.20A.895 (as recodified by this act), 70.320.020, and 71.36.025, integration of behavioral health and medical services at the clinical level, and improved care coordination for individuals with complex care needs.

(7) Each behavioral health administrative services organization, managed care organization, and licensed or certified ((service provider)) behavioral health agency shall

file with the secretary of the department of health or the director, on request, such data, statistics, schedules, and information as the secretary of the department of health or the director reasonably requires. A behavioral health administrative services organization, managed care organization, or licensed or certified ((service provider)) behavioral health agency which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may be subject to the ~~((behavioral health organization))~~ contractual remedies in RCW 74.09.871 or may have its service provider certification or license revoked or suspended.

(8) The superior court may restrain any behavioral health administrative services organization, managed care organization, or service provider from operating without a contract, certification, or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(9) Upon petition by the secretary of the department of health or the director, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary of the department of health or the director authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any behavioral health administrative services organization, managed care organization, or service provider refusing to consent to inspection or examination by the authority.

(10) Notwithstanding the existence or pursuit of any other remedy, the secretary of the department of health or the director may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a behavioral health administrative services organization, managed care organization, or service provider without a contract, certification, or a license under this chapter.

(11) The authority shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

~~((12) The director shall assume all duties assigned to the nonparticipating behavioral health organizations under chapters 71.05 and 71.34 RCW and this chapter. Such responsibilities shall include those which would have been assigned to the nonparticipating counties in regions where there are not participating behavioral health organizations.~~

~~The behavioral health organizations, or the director's assumption of all responsibilities under chapters 71.05 and 71.34 RCW and this chapter, shall be included in all state and federal plans affecting the state behavioral health program including at least those required by this chapter, the medicaid program, and P.L. 99 660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.~~

~~(13) The director shall:~~

~~(a) Disburse funds for the behavioral health organizations within sixty days of approval of the biennial contract. The authority must either approve or reject the biennial contract within sixty days of receipt.~~

~~(b) Enter into biennial contracts with behavioral health organizations. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short term commitments; (ii) residential care; and (iii) emergency response systems.~~

~~(c) Notify behavioral health organizations of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.~~

~~(d) Deny all or part of the funding allocations to behavioral health organizations based solely upon formal findings of noncompliance with the terms of the behavioral health organization's contract with the authority. Behavioral health organizations disputing the decision of the director to withhold funding allocations are limited to the remedies provided in the authority's contracts with the behavioral health organizations.~~

~~(14)) (12)~~ The authority, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by freestanding evaluation and treatment facilities licensed under chapter 71.12 RCW or certified under chapter 71.05 RCW. The authority shall periodically ~~(report)~~ share the results of its efforts ~~(to)~~ with the appropriate committees of the senate and the house of representatives.

~~((15)) (13)~~ The authority may:

(a) Plan, establish, and maintain substance use disorder prevention and substance use disorder treatment programs as necessary or desirable;

(b) Coordinate its activities and cooperate with behavioral programs in this and other states, and make contracts and other joint or cooperative arrangements with state, tribal, local, or private agencies in this and other states for behavioral health services and for the common advancement of substance use disorder programs;

(c) Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(d) Keep records and engage in research and the gathering of relevant statistics; and

(e) Acquire, hold, or dispose of real property or any interest therein, and construct, lease, or otherwise provide substance use disorder treatment programs.

**Sec. 1007.** RCW 71.24.037 and 2018 c 201 s 4005 are each amended to read as follows:

(1) The secretary shall ~~((by rule establish state minimum standards for licensed or certified behavioral health service providers and services, whether those service providers and services are licensed or certified to provide solely mental health services, substance use disorder treatment services, or services to persons with co-occurring disorders))~~ license or certify any agency or facility that: (a) Submits payment of the fee established under RCW 43.70.110 and 43.70.250; (b) submits a complete application that demonstrates the ability to comply with requirements for operating and maintaining an agency or facility in statute or rule; and (c) successfully completes the preclosure inspection requirement.

(2) The secretary shall establish by rule minimum standards for licensed or certified behavioral health ~~((service providers shall))~~ agencies that must, at a minimum, establish: (a) Qualifications for staff providing services directly to persons with mental disorders, substance use disorders, or both((s)); (b) the intended result of each service((s)); and (c) the rights and responsibilities of persons receiving behavioral health services pursuant to this chapter and chapter 71.05 RCW. The secretary shall provide for deeming of licensed or certified behavioral health ~~((service providers))~~ agencies as meeting state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department.

(3) ~~((Minimum standards for community support services and resource management services shall include at least qualifications for resource management services, client tracking systems, and the transfer of patient information between behavioral health service providers.~~

~~(4) The department may suspend, revoke, limit, restrict, or modify an approval, or refuse to grant approval, for failure to meet the provisions of this chapter, or the standards adopted under this chapter. RCW 43.70.115 governs notice of a license or certification denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.))~~ The department shall review reports or other information alleging a failure to comply with this chapter or the standards and rules adopted under this chapter and may initiate investigations and enforcement actions based on those reports.

(4) The department shall conduct inspections of agencies and facilities, including reviews of records and documents required to be maintained under this chapter or rules adopted under this chapter.

(5) The department may suspend, revoke, limit, restrict, or modify an approval, or refuse to grant approval, for failure to meet the provisions of this chapter, or the standards adopted under this chapter. RCW 43.70.115 governs notice of a license or certification denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(6) No licensed or certified behavioral health service provider may advertise or represent itself as a licensed or

certified behavioral health service provider if approval has not been granted~~((7))~~ or has been denied, suspended, revoked, or canceled.

~~((6))~~ (7) Licensure or certification as a behavioral health service provider is effective for one calendar year from the date of issuance of the license or certification. The license or certification must specify the types of services provided by the behavioral health service provider that meet the standards adopted under this chapter. Renewal of a license or certification must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

~~((7))~~ (8) Licensure or certification as a licensed or certified behavioral health service provider must specify the types of services provided that meet the standards adopted under this chapter. Renewal of a license or certification must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

~~((8))~~ (9) Licensed or certified behavioral health service providers may not provide types of services for which the licensed or certified behavioral health service provider has not been certified. Licensed or certified behavioral health service providers may provide services for which approval has been sought and is pending, if approval for the services has not been previously revoked or denied.

~~((9))~~ (10) The department periodically shall inspect licensed or certified behavioral health service providers at reasonable times and in a reasonable manner.

~~((10))~~ (11) Upon petition of the department and after a hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the department authorizing him or her to enter and inspect at reasonable times, and examine the books and accounts of, any licensed or certified behavioral health service provider refusing to consent to inspection or examination by the department or which the department has reasonable cause to believe is operating in violation of this chapter.

~~((11))~~ (12) The department shall maintain and periodically publish a current list of licensed or certified behavioral health service providers.

~~((12))~~ (13) Each licensed or certified behavioral health service provider shall file with the department or the authority upon request, data, statistics, schedules, and information the department or the authority reasonably requires. A licensed or certified behavioral health service provider that without good cause fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent returns thereof, may have its license or certification revoked or suspended.

~~((13))~~ (14) The authority shall use the data provided in subsection ~~((12))~~ (13) of this section to evaluate each program that admits children to inpatient substance use disorder treatment upon application of their parents. The evaluation must be done at least once every twelve months. In addition, the authority shall randomly select and review the information on individual children who

are admitted on application of the child's parent for the purpose of determining whether the child was appropriately placed into substance use disorder treatment based on an objective evaluation of the child's condition and the outcome of the child's treatment.

~~((14))~~ (15) Any settlement agreement entered into between the department and licensed or certified behavioral health service providers to resolve administrative complaints, license or certification violations, license or certification suspensions, or license or certification revocations may not reduce the number of violations reported by the department unless the department concludes, based on evidence gathered by inspectors, that the licensed or certified behavioral health service provider did not commit one or more of the violations.

~~((15))~~ (16) In cases in which a behavioral health service provider that is in violation of licensing or certification standards attempts to transfer or sell the behavioral health service provider to a family member, the transfer or sale may only be made for the purpose of remedying license or certification violations and achieving full compliance with the terms of the license or certification. Transfers or sales to family members are prohibited in cases in which the purpose of the transfer or sale is to avoid liability or reset the number of license or certification violations found before the transfer or sale. If the department finds that the owner intends to transfer or sell, or has completed the transfer or sale of, ownership of the behavioral health service provider to a family member solely for the purpose of resetting the number of violations found before the transfer or sale, the department may not renew the behavioral health service provider's license or certification or issue a new license or certification to the behavioral health service provider.

**Sec. 1008.** RCW 71.24.045 and 2018 c 201 s 4006 and 2018 c 175 s 7 are each reenacted and amended to read as follows:

~~((The behavioral health organization shall:~~

~~(1) Contract as needed with licensed or certified service providers. The behavioral health organization may, in the absence of a licensed or certified service provider entity, become a licensed or certified service provider entity pursuant to minimum standards required for licensing or certification by the department for the purpose of providing services not available from licensed or certified service providers;~~

~~(2) Operate as a licensed or certified service provider if it deems that doing so is more efficient and cost effective than contracting for services. When doing so, the behavioral health organization shall comply with rules adopted by the director that shall provide measurements to determine when a behavioral health organization provided service is more efficient and cost effective;~~

~~(3) Monitor and perform biennial fiscal audits of licensed or certified service providers who have contracted with the behavioral health organization to provide services required by this chapter. The monitoring and audits shall be~~

performed by means of a formal process which insures that the licensed or certified service providers and professionals designated in this subsection meet the terms of their contracts;

~~(4) Establish reasonable limitations on administrative costs for agencies that contract with the behavioral health organization;~~

~~(5) Assure that the special needs of minorities, older adults, individuals with disabilities, children, and low-income persons are met within the priorities established in this chapter;~~

~~(6) Maintain patient tracking information in a central location as required for resource management services and the authority's information system;~~

~~(7) Collaborate to ensure that policies do not result in an adverse shift of persons with mental illness into state and local correctional facilities;~~

~~(8) Work with the authority to expedite the enrollment or reenrollment of eligible persons leaving state or local correctional facilities and institutions for mental diseases;~~

~~(9) Work closely with the designated crisis responder to maximize appropriate placement of persons into community services;~~

~~(10) Coordinate services for individuals who have received services through the community mental health system and who become patients at a state psychiatric hospital to ensure they are transitioned into the community in accordance with mutually agreed upon discharge plans and upon determination by the medical director of the state psychiatric hospital that they no longer need intensive inpatient care; and~~

~~(11) Allow reimbursement for time spent supervising persons working toward satisfying supervision requirements established for the relevant practice areas pursuant to RCW 18.225.090.) (1) The behavioral health administrative services organization contracted with the authority pursuant to section 1046 of this act shall:~~

~~(a) Administer crisis services for the assigned regional service area. Such services must include:~~

~~(i) A behavioral health crisis hotline for its assigned regional service area;~~

~~(ii) Crisis response services twenty-four hours a day, seven days a week, three hundred sixty-five days a year;~~

~~(iii) Services related to involuntary commitments under chapters 71.05 and 71.34 RCW;~~

~~(iv) Additional noncrisis behavioral health services, within available resources, to individuals who meet certain criteria set by the authority in its contracts with the behavioral health administrative services organization. These services may include services provided through federal grant funds, provisos, and general fund state appropriations;~~

(v) Care coordination, diversion services, and discharge planning for nonmedicaid individuals transitioning from state hospitals or inpatient settings to reduce rehospitalization and utilization of crisis services, as required by the authority in contract; and

(vi) Regional coordination, cross-system and cross-jurisdiction coordination with tribal governments, and capacity building efforts, such as supporting the behavioral health advisory board, the behavioral health ombuds, and efforts to support access to services or to improve the behavioral health system;

(b) Administer and provide for the availability of an adequate network of evaluation and treatment services to ensure access to treatment, investigation, transportation, court-related, and other services provided as required under chapter 71.05 RCW;

(c) Coordinate services for individuals under RCW 71.05.365;

(d) Administer and provide for the availability of resource management services, residential services, and community support services as required under its contract with the authority;

(e) Contract with a sufficient number, as determined by the authority, of licensed or certified providers for crisis services and other behavioral health services required by the authority;

(f) Maintain adequate reserves or secure a bond as required by its contract with the authority;

(g) Establish and maintain quality assurance processes;

(h) Meet established limitations on administrative costs for agencies that contract with the behavioral health administrative services organization; and

(i) Maintain patient tracking information as required by the authority.

(2) The behavioral health administrative services organization must collaborate with the authority and its contracted managed care organizations to develop and implement strategies to coordinate care with tribes and community behavioral health providers for individuals with a history of frequent crisis system utilization.

(3) The behavioral health administrative services organization shall:

(a) Assure that the special needs of minorities, older adults, individuals with disabilities, children, and low-income persons are met;

(b) Collaborate with local government entities to ensure that policies do not result in an adverse shift of persons with mental illness into state and local correctional facilities; and

(c) Work with the authority to expedite the enrollment or reenrollment of eligible persons leaving state or local correctional facilities and institutions for mental diseases.

**Sec. 1009.** RCW 71.24.061 and 2018 c 288 s 2 and 2018 c 201 s 4007 are each reenacted and amended to read as follows:

(1) The authority shall provide flexibility (~~in provider contracting to behavioral health organizations for children's mental health services. Behavioral health organization contracts shall authorize behavioral health organizations to allow and encourage licensed or certified community mental health centers to subcontract with individual licensed mental health professionals when necessary to meet the need for~~) to encourage licensed or certified community behavioral health agencies to subcontract with an adequate, culturally competent, and qualified children's mental health provider network.

(2) To the extent that funds are specifically appropriated for this purpose or that nonstate funds are available, a children's mental health evidence-based practice institute shall be established at the University of Washington division of public behavioral health and justice policy. The institute shall closely collaborate with entities currently engaged in evaluating and promoting the use of evidence-based, research-based, promising, or consensus-based practices in children's mental health treatment, including but not limited to the University of Washington department of psychiatry and behavioral sciences, Seattle children's hospital, the University of Washington school of nursing, the University of Washington school of social work, and the Washington state institute for public policy. To ensure that funds appropriated are used to the greatest extent possible for their intended purpose, the University of Washington's indirect costs of administration shall not exceed ten percent of appropriated funding. The institute shall:

(a) Improve the implementation of evidence-based and research-based practices by providing sustained and effective training and consultation to licensed children's mental health providers and child-serving agencies who are implementing evidence-based or researched-based practices for treatment of children's emotional or behavioral disorders, or who are interested in adapting these practices to better serve ethnically or culturally diverse children. Efforts under this subsection should include a focus on appropriate oversight of implementation of evidence-based practices to ensure fidelity to these practices and thereby achieve positive outcomes;

(b) Continue the successful implementation of the "partnerships for success" model by consulting with communities so they may select, implement, and continually evaluate the success of evidence-based practices that are relevant to the needs of children, youth, and families in their community;

(c) Partner with youth, family members, family advocacy, and culturally competent provider organizations to develop a series of information sessions, literature, and online resources for families to become informed and engaged in evidence-based and research-based practices;

(d) Participate in the identification of outcome-based performance measures under RCW 71.36.025(2) and partner in a statewide effort to implement statewide outcomes monitoring and quality improvement processes; and

(e) Serve as a statewide resource to the authority and other entities on child and adolescent evidence-based, research-based, promising, or consensus-based practices for children's mental health treatment, maintaining a working knowledge through ongoing review of academic and professional literature, and knowledge of other evidence-based practice implementation efforts in Washington and other states.

(3)(a) To the extent that funds are specifically appropriated for this purpose, the (~~health care~~) authority in collaboration with the University of Washington department of psychiatry and behavioral sciences and Seattle children's hospital shall:

~~((+))~~ (i) Implement a program to support primary care providers in the assessment and provision of appropriate diagnosis and treatment of children with mental and behavioral health disorders and track outcomes of this program;

~~((+))~~ (ii) Beginning January 1, 2019, implement a two-year pilot program called the partnership access line for moms and kids to:

~~((+))~~ (A) Support obstetricians, pediatricians, primary care providers, mental health professionals, and other health care professionals providing care to pregnant women and new mothers through same-day telephone consultations in the assessment and provision of appropriate diagnosis and treatment of depression in pregnant women and new mothers; and

~~((+))~~ (B) Facilitate referrals to children's mental health services and other resources for parents and guardians with concerns related to the mental health of the parent or guardian's child. Facilitation activities include assessing the level of services needed by the child; within seven days of receiving a call from a parent or guardian, identifying mental health professionals who are in-network with the child's health care coverage who are accepting new patients and taking appointments; coordinating contact between the parent or guardian and the mental health professional; and providing postreferral reviews to determine if the child has outstanding needs. In conducting its referral activities, the program shall collaborate with existing databases and resources to identify in-network mental health professionals.

~~((+))~~ (b) The program activities described in (a)(i) and ~~((+))~~ (a)(ii)(A) of this subsection shall be designed to promote more accurate diagnoses and treatment through timely case consultation between primary care providers and child psychiatric specialists, and focused educational learning collaboratives with primary care providers.

(4) The (~~health care~~) authority, in collaboration with the University of Washington department of psychiatry and behavioral sciences and Seattle children's hospital, shall report on the following:

(a) The number of individuals who have accessed the resources described in subsection (3) of this section;

(b) The number of providers, by type, who have accessed the resources described in subsection (3) of this section;

(c) Demographic information, as available, for the individuals described in (a) of this subsection. Demographic information may not include any personally identifiable information and must be limited to the individual's age, gender, and city and county of residence;

(d) A description of resources provided;

(e) Average time frames from receipt of call to referral for services or resources provided; and

(f) Systemic barriers to services, as determined and defined by the health care authority, the University of Washington department of psychiatry and behavioral sciences, and Seattle children's hospital.

(5) Beginning December 30, 2019, and annually thereafter, the ~~((health care))~~ authority must submit, in compliance with RCW 43.01.036, a report to the governor and appropriate committees of the legislature with findings and recommendations for improving services and service delivery from subsection (4) of this section.

(6) The ~~((health care))~~ authority shall enforce requirements in managed care contracts to ensure care coordination and network adequacy issues are addressed in order to remove barriers to access to mental health services identified in the report described in subsection (4) of this section.

**Sec. 1010.** RCW 71.24.100 and 2018 c 201 s 4008 are each amended to read as follows:

(1) A county authority or a group of county authorities may enter into a joint operating agreement to ~~((respond to a request for a detailed plan and))~~ submit a request to contract with the ~~((state))~~ authority to operate a behavioral health administrative services organization whose boundaries are consistent with the regional service areas established under RCW 74.09.870. ~~((Any agreement between two or more county authorities shall provide:~~

(1) That each county shall bear a share of the cost of mental health services; and

~~(2) That the treasurer of one participating county shall be the custodian of funds made available for the purposes of such mental health services, and that the treasurer may make payments from such funds upon audit by the appropriate auditing officer of the county for which he or she is treasurer.)~~

(2) All counties within the regional service area must mutually agree to enter into a contract with the authority to become a behavioral health administrative services organization and appoint a single fiscal agent for the regional service area. Similarly, in order to terminate such contract, all counties that are contracted with the authority as a behavioral health administrative services organization must mutually agree to terminate the contract with the authority.

(3) Once the authority receives a request from a county or a group of counties within a regional service area to be the designated behavioral health administrative services organization, the authority must promptly

collaborate with the county or group of counties within that regional service area to determine the most feasible implementation date and coordinate readiness reviews.

(4) No behavioral health administrative services organization may contract with itself as a behavioral health agency, or contract with a behavioral health agency that has administrative linkages to the behavioral health administrative services organization in any manner that would give the agency a competitive advantage in obtaining or competing for contracts, except that a county or group of counties may provide designated crisis responder services, initial crisis services, criminal diversion services, hospital reentry services, and criminal reentry services. The county-administered service must have a clear separation of powers and duties separate from a county-run behavioral health administrative services organization and suitable accounting procedures must be followed to ensure the funding is traceable and accounted for separately from other funds.

(5) Nothing in this section limits the authority's ability to take remedial actions up to and including termination of a contract in order to enforce contract terms or to remedy nonperformance of contractual duties.

**Sec. 1011.** RCW 71.24.155 and 2018 c 201 s 4009 are each amended to read as follows:

Grants shall be made by the authority to behavioral health administrative services organizations and managed care organizations for community ~~((mental))~~ behavioral health programs totaling not less than ninety-five percent of available resources. The authority may use up to forty percent of the remaining five percent to provide community demonstration projects, including early intervention or primary prevention programs for children, and the remainder shall be for emergency needs and technical assistance under this chapter.

**Sec. 1012.** RCW 71.24.160 and 2018 c 201 s 4010 are each amended to read as follows:

The behavioral health administrative services organizations shall make satisfactory showing to the director that state funds shall in no case be used to replace local funds from any source being used to finance mental health services prior to January 1, 1990. Maintenance of effort funds devoted to judicial services related to involuntary commitment reimbursed under RCW 71.05.730 must be expended for other purposes that further treatment for mental health and ~~((chemical dependency))~~ substance use disorders.

**Sec. 1013.** RCW 71.24.215 and 2018 c 201 s 4011 are each amended to read as follows:

Clients receiving ~~((mental))~~ behavioral health services funded by available resources shall be charged a fee under sliding-scale fee schedules, based on ability to pay, approved by the authority ~~((or the department of social and health services, as appropriate))~~. Fees shall not exceed the actual cost of care.

**Sec. 1014.** RCW 71.24.220 and 2018 c 201 s 4012 are each amended to read as follows:

The director may withhold state grants in whole or in part for any community (~~(mental)~~) behavioral health program in the event of a failure to comply with this chapter or the related rules adopted by the authority.

**Sec. 1015.** RCW 71.24.240 and 2018 c 201 s 4013 are each amended to read as follows:

In order to establish eligibility for funding under this chapter, any behavioral health administrative services organization seeking to obtain federal funds for the support of any aspect of a community (~~(mental)~~) behavioral health program as defined in this chapter shall submit program plans to the director for prior review and approval before such plans are submitted to any federal agency.

**Sec. 1016.** RCW 71.24.250 and 2014 c 225 s 38 are each amended to read as follows:

The behavioral health administrative services organization may accept and expend gifts and grants received from private, county, state, and federal sources.

**Sec. 1017.** RCW 71.24.260 and 1986 c 274 s 10 are each amended to read as follows:

The department shall waive postgraduate educational requirements applicable to mental health professionals under this chapter for those persons who have a bachelor's degree and on June 11, 1986:

(1) Are employed by an agency subject to licensure under this chapter, the community (~~(mental)~~) behavioral health services act, in a capacity involving the treatment of mental illness; and

(2) Have at least ten years of full-time experience in the treatment of mental illness.

**Sec. 1018.** RCW 71.24.300 and 2018 c 201 s 4014 are each amended to read as follows:

(1) (~~Upon the request of a tribal authority or authorities within a behavioral health organization the joint operating agreement or the county authority shall allow for the inclusion of the tribal authority to be represented as a party to the behavioral health organization.~~

(2) ~~The roles and responsibilities of the county and tribal authorities shall be determined by the terms of that agreement including a determination of membership on the governing board and advisory committees, the number of tribal representatives to be party to the agreement, and the provisions of law and shall assure the provision of culturally competent services to the tribes served.~~

(3) ~~The state behavioral health authority may not determine the roles and responsibilities of county authorities as to each other under behavioral health organizations by~~

~~rule, except to assure that all duties required of behavioral health organizations are assigned and that counties and the behavioral health organization do not duplicate functions and that a single authority has final responsibility for all available resources and performance under the behavioral health organization's contract with the director.~~

(4) ~~If a behavioral health organization is a private entity, the authority shall allow for the inclusion of the tribal authority to be represented as a party to the behavioral health organization.~~

(5) ~~The roles and responsibilities of the private entity and the tribal authorities shall be determined by the authority, through negotiation with the tribal authority.~~

(6) ~~Behavioral health organizations shall submit an overall six year operating and capital plan, timeline, and budget and submit progress reports and an updated two year plan biennially thereafter, to assume within available resources all of the following duties:~~

(a) ~~Administer and provide for the availability of all resource management services, residential services, and community support services.~~

(b) ~~Administer and provide for the availability of an adequate network of evaluation and treatment services to ensure access to treatment, all investigation, transportation, court related, and other services provided by the state or counties pursuant to chapter 71.05 RCW.~~

(c) ~~Provide within the boundaries of each behavioral health organization evaluation and treatment services for at least ninety percent of persons detained or committed for periods up to seventeen days according to chapter 71.05 RCW. Behavioral health organizations may contract to purchase evaluation and treatment services from other organizations if they are unable to provide for appropriate resources within their boundaries. Insofar as the original intent of serving persons in the community is maintained, the director is authorized to approve exceptions on a case-by-case basis to the requirement to provide evaluation and treatment services within the boundaries of each behavioral health organization. Such exceptions are limited to:~~

(i) ~~Contracts with neighboring or contiguous regions; or~~

(ii) ~~Individuals detained or committed for periods up to seventeen days at the state hospitals at the discretion of the director.~~

(d) ~~Administer and provide for the availability of all other mental health services, which shall include patient counseling, day treatment, consultation, education services, employment services as described in RCW 71.24.035, and mental health services to children.~~

(e) ~~Establish standards and procedures for reviewing individual service plans and determining when that person may be discharged from resource management services.~~

(7) ~~A behavioral health organization may request that any state owned land, building, facility, or other capital asset which was ever purchased, deeded, given, or placed in trust for the care of the persons with mental illness and which~~

~~is within the boundaries of a behavioral health organization be made available to support the operations of the behavioral health organization. State agencies managing such capital assets shall give first priority to requests for their use pursuant to this chapter.~~

~~(8))~~ Each behavioral health administrative services organization shall appoint a behavioral health advisory board which shall review and provide comments on plans and policies developed under this chapter, provide local oversight regarding the activities of the behavioral health administrative services organization, and work with the behavioral health administrative services organization to resolve significant concerns regarding service delivery and outcomes. The authority shall establish statewide procedures for the operation of regional advisory committees including mechanisms for advisory board feedback to the authority regarding behavioral health administrative services organization performance. The composition of the board shall be broadly representative of the demographic character of the region and shall include, but not be limited to, representatives of consumers of substance use disorder and mental health services and their families, law enforcement, and, where the county is not the behavioral health administrative services organization, county elected officials. Composition and length of terms of board members may differ between behavioral health administrative services organizations but shall be included in each behavioral health administrative services organization's contract and approved by the director.

~~((9) Behavioral health organizations shall assume all duties specified in their plans and joint operating agreements through biennial contractual agreements with the director.~~

~~(10) Behavioral health organizations may receive technical assistance from the housing trust fund and may identify and submit projects for housing and housing support services to the housing trust fund established under chapter 43.185 RCW. Projects identified or submitted under this subsection must be fully integrated with the behavioral health organization six year operating and capital plan, timeline, and budget required by subsection (6) of this section.)~~ (2) The authority must allow for the inclusion of tribes in any interlocal leadership structure or committees formed under RCW 71.24.880, when requested by a tribe.

(3) If an interlocal leadership structure is not formed under RCW 71.24.880, the roles and responsibilities of the behavioral health administrative services organizations, managed care organizations, counties, and each tribe shall be determined by the authority through negotiation with the tribes.

**Sec. 1019.** RCW 71.24.335 and 2017 c 202 s 7 are each amended to read as follows:

(1) Upon initiation or renewal of a contract with the ~~((department))~~ authority, ~~((a))~~ behavioral health administrative services organizations and managed care organizations shall reimburse a provider for a behavioral health service provided to a covered person who is under

eighteen years old through telemedicine or store and forward technology if:

(a) The behavioral health administrative services organization or managed care organization in which the covered person is enrolled provides coverage of the behavioral health service when provided in person by the provider; and

(b) The behavioral health service is medically necessary.

(2)(a) If the service is provided through store and forward technology there must be an associated visit between the covered person and the referring provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.

(b) For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the behavioral health administrative services organization, or managed care organization, and the provider.

(3) An originating site for a telemedicine behavioral health service subject to subsection (1) of this section means an originating site as defined in rule by the department or the health care authority.

(4) Any originating site, other than a home, under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement must be subject to a negotiated agreement between the originating site and the behavioral health administrative services organization, or managed care organization, as applicable. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) ~~((A))~~ Behavioral health administrative services organizations and managed care organizations may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) ~~((A))~~ Behavioral health administrative services organizations and managed care organizations may subject coverage of a telemedicine or store and forward technology behavioral health service under subsection (1) of this section to all terms and conditions of the behavioral health administrative services organization or managed care organization in which the covered person is enrolled, including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable behavioral health care service provided in person.

(7) This section does not require a behavioral health administrative services organization or a managed care organization to reimburse:

(a) An originating site for professional fees;

(b) A provider for a behavioral health service that is not a covered benefit ~~((under the behavioral health organization))~~; or

(c) An originating site or provider when the site or provider is not a contracted provider (~~(with the behavioral health organization)~~).

(8) For purposes of this section:

(a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(b) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(c) "Originating site" means the physical location of a patient receiving behavioral health services through telemedicine;

(d) "Provider" has the same meaning as in RCW 48.43.005;

(e) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical or behavioral health information from an originating site to the provider at a distant site which results in medical or behavioral health diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(f) "Telemedicine" means the delivery of health care or behavioral health services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

(9) The (~~department must, in consultation with the health care~~) authority(~~s~~) must adopt rules as necessary to implement the provisions of this section.

**Sec. 1020.** RCW 71.24.350 and 2018 c 201 s 4019 are each amended to read as follows:

The authority shall require each behavioral health administrative services organization to provide for a separately funded behavioral health ombuds office (~~(in each behavioral health organization)~~) that is independent of the behavioral health administrative services organization and managed care organizations for the assigned regional service area. The ombuds office shall maximize the use of consumer advocates.

**Sec. 1021.** RCW 71.24.370 and 2018 c 201 s 4021 are each amended to read as follows:

(1) Except for monetary damage claims which have been reduced to final judgment by a superior court, this section applies to all claims against the state, state agencies, state officials, or state employees that exist on or arise after March 29, 2006.

(2) Except as expressly provided in contracts entered into (~~(between)~~) by the authority (~~(and the behavioral health~~

~~organizations after March 29, 2006)~~), the entities identified in subsection (3) of this section shall have no claim for declaratory relief, injunctive relief, judicial review under chapter 34.05 RCW, or civil liability against the state (~~(or)~~) state agencies, state officials, or state employees for actions or inactions performed pursuant to the administration of this chapter with regard to the following: (a) The allocation or payment of federal or state funds; (b) the use or allocation of state hospital beds; or (c) financial responsibility for the provision of inpatient mental health care.

(3) This section applies to counties, behavioral health administrative services organizations, managed care organizations, and entities which contract to provide behavioral health (~~(organization)~~) services and their subcontractors, agents, or employees.

**Sec. 1022.** RCW 71.24.380 and 2018 c 201 s 4022 are each amended to read as follows:

(1) The director shall purchase (~~(mental health and chemical dependency treatment)~~) behavioral health services primarily through managed care contracting, but may continue to purchase behavioral health services directly from (~~(tribal clinics and other tribal providers)~~) providers serving medicaid clients who are not enrolled in a managed care organization.

(2)(~~(a)~~) The director shall request a detailed plan from the entities identified in (b) of this subsection that ~~demonstrates compliance with the contractual elements of RCW 74.09.871 and federal regulations related to medicaid managed care contracting including, but not limited to: Having a sufficient network of providers to provide adequate access to mental health and chemical dependency services for residents of the regional service area that meet eligibility criteria for services, ability to maintain and manage adequate reserves, and maintenance of quality assurance processes. Any responding entity that submits a detailed plan that demonstrates that it can meet the requirements of this section must be awarded the contract to serve as the behavioral health organization.~~

(b)(i) For purposes of responding to the request for a detailed plan under (a) of this subsection, the entities from which a plan will be requested are:

(A) A county in a single county regional service area that currently serves as the regional support network for that area;

(B) In the event that a county has made a decision prior to January 1, 2014, not to contract as a regional support network, any private entity that serves as the regional support network for that area;

(C) All counties within a regional service area that includes more than one county, which shall form a responding entity through the adoption of an interlocal agreement. The interlocal agreement must specify the terms by which the responding entity shall serve as the behavioral health organization within the regional service area.

(ii) In the event that a regional service area is comprised of multiple counties including one that has made

a decision prior to January 1, 2014, not to contract as a regional support network the counties shall adopt an interlocal agreement and may respond to the request for a detailed plan under (a) of this subsection and the private entity may also respond to the request for a detailed plan. If both responding entities meet the requirements of this section, the responding entities shall follow the authority's procurement process established in subsection (3) of this section.

(3) If an entity that has received a request under this section to submit a detailed plan does not respond to the request, a responding entity under subsection (1) of this section is unable to substantially meet the requirements of the request for a detailed plan, or more than one responding entity substantially meets the requirements for the request for a detailed plan, the authority shall use a procurement process in which other entities recognized by the director may bid to serve as the behavioral health organization in that regional service area.

(4) Contracts for behavioral health organizations must begin on April 1, 2016.

(5) Upon request of all of the county authorities in a regional service area, the authority may purchase behavioral health services through an integrated medical and behavioral health services contract with a behavioral health organization or a managed health care system as defined in RCW 74.09.522, pursuant to standards to be developed by the authority. Any contract for such a purchase must comply with all federal medicaid and state law requirements related to managed health care contracting.) The director shall require that contracted managed care organizations have a sufficient network of providers to provide adequate access to behavioral health services for residents of the regional service area that meet eligibility criteria for services, and for maintenance of quality assurance processes. Contracts with managed care organizations must comply with all federal medicaid and state law requirements related to managed health care contracting, including RCW 74.09.522.

(3) A managed care organization must contract with the authority's selected behavioral health administrative services organization for the assigned regional service area for the administration of crisis services. The contract shall require the managed care organization to reimburse the behavioral health administrative services organization for behavioral health crisis services delivered to individuals enrolled in the managed care organization.

(4) A managed care organization must collaborate with the authority and its contracted behavioral health administrative services organization to develop and implement strategies to coordinate care with tribes and community behavioral health providers for individuals with a history of frequent crisis system utilization.

(5) A managed care organization must work closely with designated crisis responders, behavioral health administrative services organizations, and behavioral health providers to maximize appropriate placement of persons into community services, ensuring the client receives the least restrictive level of care appropriate for their condition. Additionally, the managed care organization shall work with

the authority to expedite the enrollment or reenrollment of eligible persons leaving state or local correctional facilities and institutions for mental diseases.

(6) As an incentive to county authorities to become early adopters of fully integrated purchasing of medical and behavioral health services, the standards adopted by the authority (~~under subsection (5) of this section~~) shall provide for an incentive payment to counties which elect to move to full integration by January 1, 2016. Subject to federal approval, the incentive payment shall be targeted at ten percent of savings realized by the state within the regional service area in which the fully integrated purchasing takes place. Savings shall be calculated in alignment with the outcome and performance measures established in RCW 43.20A.895 (as recodified by this act), 70.320.020, and 71.36.025, and incentive payments for early adopter counties shall be made available for up to a six-year period, or until full integration of medical and behavioral health services is accomplished statewide, whichever comes sooner, according to rules to be developed by the authority.

**Sec. 1023.** RCW 71.24.385 and 2018 c 201 s 4023 and 2018 c 175 s 6 are each reenacted and amended to read as follows:

(1) Within funds appropriated by the legislature for this purpose, behavioral health administrative services organizations and managed care organizations, as applicable, shall develop the means to serve the needs of people:

(a) With mental disorders residing within the boundaries of their regional service area. Elements of the program may include:

(i) Crisis diversion services;

(ii) Evaluation and treatment and community hospital beds;

(iii) Residential treatment;

(iv) Programs for intensive community treatment;

(v) Outpatient services, including family support;

(vi) Peer support services;

(vii) Community support services;

(viii) Resource management services; and

(ix) Supported housing and supported employment services.

(b) With substance use disorders and their families, people incapacitated by alcohol or other psychoactive chemicals, and intoxicated people.

(i) Elements of the program shall include, but not necessarily be limited to, a continuum of substance use disorder treatment services that includes:

(A) Withdrawal management;

(B) Residential treatment; and

## (C) Outpatient treatment.

(ii) The program may include peer support, supported housing, supported employment, crisis diversion, or recovery support services.

(iii) The authority may contract for the use of an approved substance use disorder treatment program or other individual or organization if the director considers this to be an effective and economical course to follow.

(2)(a) The ~~((behavioral health))~~ managed care organization and the behavioral health administrative services organization shall have the flexibility, within the funds appropriated by the legislature for this purpose and the terms of their contract, to design the mix of services that will be most effective within their service area of meeting the needs of people with behavioral health disorders and avoiding placement of such individuals at the state mental hospital. ~~((Behavioral health))~~ Managed care organizations and behavioral health administrative services organizations are encouraged to maximize the use of evidence-based practices and alternative resources with the goal of substantially reducing and potentially eliminating the use of institutions for mental diseases.

(b) ~~((The behavioral health))~~ Managed care organizations and behavioral health administrative services organizations may allow reimbursement to providers for services delivered through a partial hospitalization or intensive outpatient program. Such payment and services are distinct from the state's delivery of wraparound with intensive services under the *T.R. v. Strange and ((McDermott, formerly the T.R. v. Dreyfus and Porter;)) Birch* settlement agreement.

(3)(a) Treatment provided under this chapter must be purchased primarily through managed care contracts.

(b) Consistent with RCW 71.24.580, services and funding provided through the criminal justice treatment account are intended to be exempted from managed care contracting.

**Sec. 1024.** RCW 71.24.405 and 2018 c 201 s 4025 are each amended to read as follows:

The authority shall ~~((establish a))~~ work comprehensively and collaboratively ((effort within)) with behavioral health administrative services organizations and with local ((mental)) behavioral health service providers ((aimed at creating)) to create innovative and streamlined community ((mental)) behavioral health service delivery systems((, in order to carry out the purposes set forth in RCW 71.24.400)) and to capture the diversity of the community ((mental)) behavioral health service delivery system. The authority ((must accomplish the following)) shall periodically:

(1) ~~((Identification))~~ Identify, review, and ~~((cataloging of))~~ catalog all rules, regulations, duplicative administrative and monitoring functions, and other requirements that ~~((currently))~~ lead to inefficiencies in the community ~~((mental))~~ behavioral health service delivery system and, if possible, eliminate the requirements;

~~((The systematic and incremental development of a single system of accountability for all federal, state, and local funds provided to the community mental health service delivery system. Systematic efforts should be made to include federal and local funds into the single system of accountability;~~

~~((3) The elimination of process))~~ Review regulations ((and related)), contracts, and reporting requirements((. In place of the regulations and requirements, a set)) to ensure achievement of outcomes for ((mental)) behavioral health adult and children clients ((according to this chapter must be used to measure the performance of mental health service providers and behavioral health organizations. Such outcomes shall focus on stabilizing out-of-home and hospital care, increasing stable community living, increasing age-appropriate activities, achieving family and consumer satisfaction with services, and system efficiencies)) under RCW 43.20A.895 (as recodified by this act);

~~((4) Evaluation of the feasibility of contractual agreements between the authority and behavioral health organizations and mental health service providers that link financial incentives to the success or failure of mental health service providers and behavioral health organizations to meet outcomes established for mental health service clients;~~

~~((5) The involvement of mental))~~ (3) Involve behavioral health consumers and their representatives((. Mental health consumers and their representatives will be involved in the development of outcome standards for mental health clients under section 5 of this act; and

~~((6) An independent evaluation component to measure the success of the authority in fully implementing the provisions of RCW 71.24.400 and this section)); and~~

(4) Provide for an independent evaluation component to measure the success of the authority in fully implementing the provisions of RCW 71.24.400 and this section.

**Sec. 1025.** RCW 71.24.420 and 2018 c 201 s 4027 are each amended to read as follows:

The authority shall operate the community ~~((mental))~~ behavioral health service delivery system authorized under this chapter within the following constraints:

(1) The full amount of federal funds for ~~((mental))~~ community behavioral health system services, plus qualifying state expenditures as appropriated in the biennial operating budget, shall be appropriated to the authority each year in the biennial appropriations act to carry out the provisions of the community ~~((mental))~~ behavioral health service delivery system authorized in this chapter.

(2) The authority may expend funds defined in subsection (1) of this section in any manner that will effectively accomplish the outcome measures established in RCW 43.20A.895 (as recodified by this act) and 71.36.025 and performance measures linked to those outcomes.

(3) The authority shall implement strategies that accomplish the outcome measures established in RCW 43.20A.895 (as recodified by this act), 70.320.020, and 71.36.025 and performance measures linked to those outcomes.

(4) The authority shall monitor expenditures against the appropriation levels provided for in subsection (1) of this section and report to the governor's office and the appropriate committees of the legislature once every two years, on or about December 1st, on each even-numbered year.

**Sec. 1026.** RCW 71.24.430 and 2018 c 201 s 4028 are each amended to read as follows:

(1) The authority shall ensure the coordination of allied services for ~~((mental))~~ behavioral health clients. The authority shall implement strategies for resolving organizational, regulatory, and funding issues at all levels of the system, including the state, the behavioral health administrative services organizations, managed care organizations, and local service providers.

(2) The authority shall propose, in operating budget requests, transfers of funding among programs to support collaborative service delivery to persons who require services from multiple department of social and health services and authority programs. ~~((The authority shall report annually to the appropriate committees of the senate and house of representatives on actions and projects it has taken to promote collaborative service delivery))~~ The authority shall provide status reports as requested by the legislature.

**Sec. 1027.** RCW 71.24.450 and 1997 c 342 s 1 are each amended to read as follows:

(1) Many ~~((acute and chronically mentally ill))~~ offenders with acute and chronic mental illness are delayed in their release from Washington correctional facilities due to their inability to access reasonable treatment and living accommodations prior to the maximum expiration of their sentences. Often the offender reaches the end of his or her sentence and is released without any follow-up care, funds, or housing. These delays are costly to the state, often lead to psychiatric relapse, and result in unnecessary risk to the public.

Many of these offenders ~~((rarely possess))~~ lack the skills or emotional stability to maintain employment or even complete applications to receive entitlement funding. ~~((Nationwide only five percent of diagnosed schizophrenics are able to maintain part-time or full-time employment.))~~ Housing and appropriate treatment are difficult to obtain.

This lack of resources, funding, treatment, and housing creates additional stress for the ~~((mentally ill))~~ offender with mental illness, impairing self-control and judgment. When the mental illness is instrumental in the offender's patterns of crime, such stresses may lead to a worsening of his or her illness, reoffending, and a threat to public safety.

(2) It is the intent of the legislature to create a ~~((pilot))~~ program to provide for postrelease mental health care and housing for a select group of ~~((mentally ill))~~ offenders with mental illness entering community living, in order to reduce incarceration costs, increase public safety, and enhance the offender's quality of life.

**Sec. 1028.** RCW 71.24.455 and 2018 c 201 s 4029 are each amended to read as follows:

(1) The director shall select and contract with a behavioral health administrative services organization, managed care organization, behavioral health agency, or private provider to provide specialized access and services to offenders with mental illness upon release from total confinement within the department of corrections who have been identified by the department of corrections and selected by the behavioral health administrative services organization, managed care organization, behavioral health agency, or private provider as high-priority clients for services and who meet service program entrance criteria. The program shall enroll no more than twenty-five offenders at any one time, or a number of offenders that can be accommodated within the appropriated funding level, and shall seek to fill any vacancies that occur.

(2) Criteria shall include a determination by department of corrections staff that:

(a) The offender suffers from a major mental illness and needs continued mental health treatment;

(b) The offender's previous crime or crimes have been determined by either the court or department of corrections staff to have been substantially influenced by the offender's mental illness;

(c) It is believed the offender will be less likely to commit further criminal acts if provided ongoing mental health care;

(d) The offender is unable or unlikely to obtain housing and/or treatment from other sources for any reason; and

(e) The offender has at least one year remaining before his or her sentence expires but is within six months of release to community housing and is currently housed within a work release facility or any department of corrections' division of prisons facility.

(3) The behavioral health administrative services organization, managed care organization, behavioral health agency, or private provider shall provide specialized access and services to the selected offenders. The services shall be aimed at lowering the risk of recidivism. An oversight committee composed of a representative of the authority, a representative of the selected managed care organization, behavioral health administrative services organization, or private provider, and a representative of the department of corrections shall develop policies to guide the pilot program, provide dispute resolution including making determinations as to when entrance criteria or required services may be waived in individual cases, advise the department of corrections and the managed care organization, behavioral

health administrative services organization, or private provider on the selection of eligible offenders, and set minimum requirements for service contracts. The selected managed care organization, behavioral health administrative services organization, or private provider shall implement the policies and service contracts. The following services shall be provided:

(a) Intensive case management to include a full range of intensive community support and treatment in client-to-staff ratios of not more than ten offenders per case manager including: (i) A minimum of weekly group and weekly individual counseling; (ii) home visits by the program manager at least two times per month; and (iii) counseling focusing on maintaining and promoting ongoing stability, relapse prevention, and ~~((past, current, or future behavior of the offender))~~ recovery.

(b) The case manager shall attempt to locate and procure housing appropriate to the living and clinical needs of the offender and as needed to maintain the psychiatric stability of the offender. The entire range of emergency, transitional, and permanent housing and involuntary hospitalization must be considered as available housing options. A housing subsidy may be provided to offenders to defray housing costs up to a maximum of six thousand six hundred dollars per offender per year and be administered by the case manager. Additional funding sources may be used to offset these costs when available.

(c) The case manager shall collaborate with the assigned prison, work release, or community corrections staff during release planning, prior to discharge, and in ongoing supervision of the offender while under the authority of the department of corrections.

(d) Medications including the full range of psychotropic medications including atypical antipsychotic medications may be required as a condition of the program. Medication prescription, medication monitoring, and counseling to support offender understanding, acceptance, and compliance with prescribed medication regimens must be included.

(e) A systematic effort to engage offenders to continuously involve themselves in current and long-term treatment and appropriate rehabilitative activities shall be made.

(f) Classes appropriate to the clinical and living needs of the offender and appropriate to his or her level of understanding.

(g) The case manager shall assist the offender in the application and qualification for entitlement funding, including medicaid, state assistance, and other available government and private assistance at any point that the offender is qualified and resources are available.

(h) The offender shall be provided access to daily activities such as drop-in centers, prevocational and vocational training and jobs, and volunteer activities.

(4) Once an offender has been selected into the pilot program, the offender shall remain in the program until the end of his or her sentence or unless the offender is released

from the pilot program earlier by the department of corrections.

(5) Specialized training in the management and supervision of high-crime risk offenders with mental illness shall be provided to all participating mental health providers by the authority and the department of corrections prior to their participation in the program and as requested thereafter.

~~((6) The pilot program provided for in this section must be providing services by July 1, 1998.))~~

**Sec. 1029.** RCW 71.24.460 and 2018 c 201 s 4030 are each amended to read as follows:

The authority, in collaboration with the department of corrections and the oversight committee created in RCW 71.24.455, shall track outcomes and submit to the legislature annual reports regarding services and outcomes. The reports shall include the following: (1) A statistical analysis regarding the reoffense and reinstitutionalization rate by the enrollees in the program set forth in RCW 71.24.455; (2) a quantitative description of the services provided in the program set forth in RCW 71.24.455; and (3) recommendations for any needed modifications in the services and funding levels to increase the effectiveness of the program set forth in RCW 71.24.455. ~~((By December 1, 2003, the department shall certify the reoffense rate for enrollees in the program authorized by RCW 71.24.455 to the office of financial management and the appropriate legislative committees. If the reoffense rate exceeds fifteen percent, the authorization for the department to conduct the program under RCW 71.24.455 is terminated on January 1, 2004.))~~

**Sec. 1030.** RCW 71.24.470 and 2018 c 201 s 4031 are each amended to read as follows:

(1) The director shall contract, to the extent that funds are appropriated for this purpose, for case management services and such other services as the director deems necessary to assist offenders identified under RCW 72.09.370 for participation in the offender reentry community safety program. The contracts may be with ~~((behavioral health organizations or))~~ any ~~((other))~~ qualified and appropriate entities.

(2) The case manager has the authority to assist these offenders in obtaining the services, as set forth in the plan created under RCW 72.09.370(2), for up to five years. The services may include coordination of mental health services, assistance with unfunded medical expenses, obtaining ~~((chemical dependency))~~ substance use disorder treatment, housing, employment services, educational or vocational training, independent living skills, parenting education, anger management services, and such other services as the case manager deems necessary.

(3) The legislature intends that funds appropriated for the purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section ~~((and distributed to the behavioral health organizations))~~ are to supplement and not to supplant general funding. Funds appropriated to

implement RCW 72.09.370, 71.05.145, and 71.05.212, and this section are not to be considered available resources as defined in RCW 71.24.025 and are not subject to the priorities, terms, or conditions in the appropriations act established pursuant to RCW 71.24.035.

(4) The offender reentry community safety program was formerly known as the community integration assistance program.

**Sec. 1031.** RCW 71.24.480 and 2018 c 201 s 4032 are each amended to read as follows:

(1) A licensed or certified (~~(service provider or behavioral health organization,))~~ behavioral health agency acting in the course of the provider's (~~(or organization's))~~ duties under this chapter, is not liable for civil damages resulting from the injury or death of another caused by a participant in the offender reentry community safety program who is a client of the provider or organization, unless the act or omission of the provider or organization constitutes:

- (a) Gross negligence;
- (b) Willful or wanton misconduct; or

(c) A breach of the duty to warn of and protect from a client's threatened violent behavior if the client has communicated a serious threat of physical violence against a reasonably ascertainable victim or victims.

(2) In addition to any other requirements to report violations, the licensed or certified (~~(service provider and behavioral health organization))~~ behavioral health agency shall report an offender's expressions of intent to harm or other predatory behavior, regardless of whether there is an ascertainable victim, in progress reports and other established processes that enable courts and supervising entities to assess and address the progress and appropriateness of treatment.

(3) A licensed or certified (~~(service provider's or behavioral health organization's))~~ behavioral health agency's mere act of treating a participant in the offender reentry community safety program is not negligence. Nothing in this subsection alters the licensed or certified (~~(service provider's or behavioral health organization's))~~ behavioral health agency's normal duty of care with regard to the client.

(4) The limited liability provided by this section applies only to the conduct of licensed or certified (~~(service providers and behavioral health organizations))~~ behavioral health agencies and does not apply to conduct of the state.

(5) For purposes of this section, "participant in the offender reentry community safety program" means a person who has been identified under RCW 72.09.370 as an offender who: (a) Is reasonably believed to be dangerous to himself or herself or others; and (b) has a mental disorder.

**Sec. 1032.** RCW 71.24.490 and 2018 c 201 s 4033 are each amended to read as follows:

The authority must collaborate with (~~(regional support networks or))~~ behavioral health administrative services organizations, managed care organizations, and the Washington state institute for public policy to estimate the capacity needs for evaluation and treatment services within each regional service area. Estimated capacity needs shall include consideration of the average occupancy rates needed to provide an adequate network of evaluation and treatment services to ensure access to treatment. (~~(A regional service network or))~~ Behavioral health administrative services organizations and managed care organizations must develop and maintain an adequate plan to provide for evaluation and treatment needs.

**Sec. 1033.** RCW 71.24.500 and 2018 c 201 s 4034 are each amended to read as follows:

The (~~(department of social and health services and the))~~ authority shall periodically publish written guidance and provide trainings to behavioral health administrative services organizations, managed care organizations, and behavioral health providers related to how these organizations may provide outreach, assistance, transition planning, and rehabilitation case management reimbursable under federal law to persons who are incarcerated, involuntarily hospitalized, or in the process of transitioning out of one of these services. The guidance and trainings may also highlight preventive activities not reimbursable under federal law which may be cost-effective in a managed care environment. The purpose of this written guidance and trainings is to champion best clinical practices including, where appropriate, use of care coordination and long-acting injectable psychotropic medication, and to assist the health community to leverage federal funds and standardize payment and reporting procedures. (~~(The authority and the department of social and health services shall construe governing laws liberally to effectuate the broad remedial purposes of chapter 154, Laws of 2016, and provide a status update to the legislature by December 31, 2016.))~~)

**Sec. 1034.** RCW 71.24.520 and 2018 c 201 s 4036 are each amended to read as follows:

The authority, in the operation of the (~~(chemical dependency))~~ substance use disorder program(~~(f,3))~~, may:

(1) Plan, establish, and maintain prevention and treatment programs as necessary or desirable;

(2) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including managed care contracts for behavioral health services, contracts entered into under RCW 74.09.522, and contracts with public and private agencies, organizations, and individuals to pay them for services rendered or furnished to persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, or intoxicated persons;

(3) Enter into agreements for monitoring of verification of qualifications of counselors employed by approved treatment programs;

(4) Adopt rules under chapter 34.05 RCW to carry out the provisions and purposes of this chapter and contract, cooperate, and coordinate with other public or private agencies or individuals for those purposes;

(5) Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(6) Administer or supervise the administration of the provisions relating to persons with substance use disorders and intoxicated persons of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation;

(7) Coordinate its activities and cooperate with ~~((chemical dependency))~~ substance use disorder programs in this and other states, and make contracts and other joint or cooperative arrangements with state, local, or private agencies in this and other states for the treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons and for the common advancement of ~~((chemical dependency))~~ substance use disorder programs;

(8) Keep records and engage in research and the gathering of relevant statistics;

(9) Do other acts and things necessary or convenient to execute the authority expressly granted to it;

(10) Acquire, hold, or dispose of real property or any interest therein, and construct, lease, or otherwise provide treatment programs.

**Sec. 1035.** RCW 71.24.535 and 2018 c 201 s 4039 are each amended to read as follows:

The authority shall:

(1) Develop, encourage, and foster statewide, regional, and local plans and programs for the prevention of alcoholism and other drug addiction, treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons in cooperation with public and private agencies, organizations, and individuals and provide technical assistance and consultation services for these purposes;

(2) Assure that any ~~((behavioral health organization managed care contract, or))~~ contract with a managed care ~~((contract under RCW 74.09.522))~~ organization for behavioral health services or programs for the treatment of persons with substance use disorders and their families ~~((persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons))~~ provides medically necessary services to medicaid recipients. This must include a continuum of mental health and substance use disorder services consistent with the state's medicaid plan or federal

waiver authorities, and nonmedicaid services consistent with priorities established by the authority;

(3) Coordinate the efforts and enlist the assistance of all public and private agencies, organizations, and individuals interested in prevention of alcoholism and drug addiction, and treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons;

(4) Cooperate with public and private agencies in establishing and conducting programs to provide treatment for persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons who are clients of the correctional system;

(5) Cooperate with the superintendent of public instruction, state board of education, schools, police departments, courts, and other public and private agencies, organizations and individuals in establishing programs for the prevention of substance use disorders, treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons, and preparing curriculum materials thereon for use at all levels of school education;

(6) Prepare, publish, evaluate, and disseminate educational material dealing with the nature and effects of alcohol and other psychoactive chemicals and the consequences of their use;

(7) Develop and implement, as an integral part of substance use disorder treatment programs, an educational program for use in the treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of alcohol and other psychoactive chemicals, the consequences of their use, the principles of recovery, and HIV and AIDS;

(8) Organize and foster training programs for persons engaged in treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons;

(9) Sponsor and encourage research into the causes and nature of substance use disorders, treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons, and serve as a clearinghouse for information relating to substance use disorders;

(10) Specify uniform methods for keeping statistical information by public and private agencies, organizations, and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment;

(11) Advise the governor in the preparation of a comprehensive plan for treatment of persons with substance use disorders, persons incapacitated by alcohol or other

psychoactive chemicals, and intoxicated persons for inclusion in the state's comprehensive health plan;

(12) Review all state health, welfare, and treatment plans to be submitted for federal funding under federal legislation, and advise the governor on provisions to be included relating to substance use disorders;

(13) Assist in the development of, and cooperate with, programs for ~~((alcohol and other psychoactive chemical))~~ substance use disorder education and treatment for employees of state and local governments and businesses and industries in the state;

(14) Use the support and assistance of interested persons in the community to encourage persons with substance use disorders voluntarily to undergo treatment;

(15) Cooperate with public and private agencies in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated;

(16) Encourage general hospitals and other appropriate health facilities to admit without discrimination persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons and to provide them with adequate and appropriate treatment;

(17) Encourage all health and disability insurance programs to include substance use disorders as a covered illness; and

(18) Organize and sponsor a statewide program to help court personnel, including judges, better understand substance use disorders and the uses of substance use disorder treatment programs and medications.

**Sec. 1036.** RCW 71.24.540 and 2018 c 201 s 4040 are each amended to read as follows:

The authority shall contract with behavioral health administrative services organizations, managed care organizations, or counties ~~((operating drug courts and counties in the process of implementing new drug courts))~~, as applicable, for the provision of substance use disorder treatment services ordered by a county-operated drug court.

**Sec. 1037.** RCW 71.24.545 and 2018 c 201 s 4041 are each amended to read as follows:

(1) The authority shall establish by appropriate means a comprehensive and coordinated program for the treatment of persons with substance use disorders and their families, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons.

(2)(a) The program shall include, but not necessarily be limited to, a continuum of ~~((chemical dependency))~~ substance use disorder treatment services that includes:

- (i) Withdrawal management;
- (ii) Residential treatment; and

(iii) Outpatient treatment.

(b) The program may include peer support, supported housing, supported employment, crisis diversion, or recovery support services.

(3) All appropriate public and private resources shall be coordinated with and used in the program when possible.

(4) The authority may contract for the use of an approved treatment program or other individual or organization if the director considers this to be an effective and economical course to follow.

(5) ~~((By April 1, 2016,))~~ Treatment provided under this chapter must be purchased primarily through managed care contracts. Consistent with RCW 71.24.580, services and funding provided through the criminal justice treatment account are intended to be exempted from managed care contracting.

**Sec. 1038.** RCW 71.24.555 and 2018 c 201 s 4042 are each amended to read as follows:

To be eligible to receive its share of liquor taxes and profits, each city and county shall devote no less than two percent of its share of liquor taxes and profits to the support of a substance use disorder program ~~((approved by the behavioral health organization and the director, and))~~ licensed or certified by the department of health.

**Sec. 1039.** RCW 71.24.565 and 2018 c 201 s 4043 are each amended to read as follows:

The director shall adopt and may amend and repeal rules for acceptance of persons into the approved treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of persons with substance use disorders, persons incapacitated by alcohol or other psychoactive chemicals, and intoxicated persons. In establishing the rules, the ~~((secretary))~~ director shall be guided by the following standards:

(1) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(2) A patient shall be initially assigned or transferred to outpatient treatment, unless he or she is found to require residential treatment.

(3) A person shall not be denied treatment solely because he or she has withdrawn from treatment against medical advice on a prior occasion or because he or she has relapsed after earlier treatment.

(4) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and use other appropriate treatment.

**Sec. 1040.** RCW 71.24.580 and 2018 c 205 s 2 and 2018 c 201 s 4044 are each reenacted and amended to read as follows:

(1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance use disorder treatment and treatment support services for offenders with a substance use disorder that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; (b) the provision of substance use disorder treatment services and treatment support services for nonviolent offenders within a drug court program; and (c) the administrative and overhead costs associated with the operation of a drug court. Amounts provided in this subsection must be used for treatment and recovery support services for criminally involved offenders and authorization of these services shall not be subject to determinations of medical necessity. During the 2017-2019 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the criminal justice treatment account to the state general fund. It is the intent of the legislature to continue in the 2019-2021 biennium the policy of transferring to the state general fund such amounts as reflect the excess fund balance of the account. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means services that are critical to a participant's successful completion of his or her substance use disorder treatment program, including but not limited to the recovery support and other programmatic elements outlined in RCW 2.30.030 authorizing therapeutic courts; and

(b) "Treatment support" includes transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) Funds transferred to the account pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

(4)(a) For the fiscal year beginning July 1, 2005, and each subsequent fiscal year, the state treasurer shall transfer eight million two hundred fifty thousand dollars from the general fund to the criminal justice treatment account, divided into four equal quarterly payments. For the fiscal year beginning July 1, 2006, and each subsequent fiscal year, the amount transferred shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.

(b) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in (a) of this subsection to the department for the purposes of subsection (5) of this section.

(5) Moneys appropriated to the authority from the criminal justice treatment account shall be distributed as specified in this subsection. The authority may retain up to

three percent of the amount appropriated under subsection (4)(b) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the authority from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The authority, in consultation with the department of corrections, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance use disorder treatment providers, and any other person deemed by the authority to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the authority from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The authority shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, and substance use disorder treatment providers. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a plan, approved by the county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The funds shall be used solely to provide approved alcohol and substance abuse treatment pursuant to RCW 71.24.560 and treatment support services. No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) Counties must meet the criteria established in RCW 2.30.030(3).

(10) The authority shall annually review and monitor the expenditures made by any county or group of counties that receives appropriated funds distributed under this section. Counties shall repay any funds that are not spent in accordance with the requirements of its contract with the authority.

**Sec. 1041.** RCW 71.24.600 and 2018 c 201 s 4047 are each amended to read as follows:

The authority shall not refuse admission for diagnosis, evaluation, guidance or treatment to any applicant because it is determined that the applicant is financially unable to contribute fully or in part to the cost of any services or facilities available under the community behavioral health program ~~((on alcoholism))~~.

For nonmedicaid clients, through its contracts with the behavioral health administrative services organizations, the authority may limit admissions of such applicants or modify its programs in order to ensure that expenditures for services or programs do not exceed amounts appropriated by the legislature and are allocated by the authority for such services or programs. For nonmedicaid clients, the authority may establish admission priorities in the event that the number of eligible applicants exceeds the limits set by the authority.

**Sec. 1042.** RCW 71.24.625 and 2018 c 201 s 4052 are each amended to read as follows:

The authority shall ensure that the provisions of this chapter are applied by ~~((the))~~ behavioral health administrative services organizations and managed care organizations in a consistent and uniform manner. The authority shall also ensure that, to the extent possible within available funds, the ~~((behavioral health organization))~~ designated ~~((chemical dependency specialists))~~ crisis responders are specifically trained in adolescent ~~((chemical dependency))~~ substance use disorder issues, the ~~((chemical dependency))~~ substance use disorder commitment laws, and the criteria for commitment ~~((as specified in this chapter and chapter 70.96A RCW))~~.

**Sec. 1043.** RCW 71.24.630 and 2018 c 201 s 4053 are each amended to read as follows:

(1) The authority shall maintain an integrated and comprehensive screening and assessment process for substance use and mental disorders and co-occurring substance use and mental disorders.

(a) The process adopted shall include, at a minimum:

(i) An initial screening tool that can be used by intake personnel system-wide and which will identify the most common types of co-occurring disorders;

(ii) An assessment process for those cases in which assessment is indicated that provides an appropriate degree

of assessment for most situations, which can be expanded for complex situations;

(iii) Identification of triggers in the screening that indicate the need to begin an assessment;

(iv) Identification of triggers after or outside the screening that indicate a need to begin or resume an assessment;

(v) The components of an assessment process and a protocol for determining whether part or all of the assessment is necessary, and at what point; and

(vi) Emphasis that the process adopted under this section is to replace and not to duplicate existing intake, screening, and assessment tools and processes.

(b) The authority shall consider existing models, including those already adopted by other states, and to the extent possible, adopt an established, proven model.

(c) The integrated, comprehensive screening and assessment process shall be implemented statewide by all substance use disorder and mental health treatment providers ~~((as well as all designated mental health professionals, designated chemical dependency specialists,))~~ and designated crisis responders.

(2) The authority shall provide for adequate training to effect statewide implementation ~~((by the dates designated in this section))~~ and, upon request, shall report the rates of co-occurring disorders the stage of screening or assessment at which the co-occurring disorder was identified to the appropriate committees of the legislature.

(3) The authority shall establish ~~((contractual penalties to contracted treatment providers, the behavioral health organizations, and their contracted providers for failure to))~~ performance-based contracts with managed care organizations and behavioral health administrative services organizations and implement the integrated screening and assessment process.

**Sec. 1044.** RCW 71.24.845 and 2014 c 225 s 46 are each amended to read as follows:

The ~~((behavioral health organizations shall jointly))~~ authority, in consultation with the established behavioral health administrative services organizations, shall develop a uniform transfer agreement to govern the transfer of clients between behavioral health administrative services organizations, taking into account the needs of the regional service area. ((By September 1, 2013, the behavioral health organizations shall submit the uniform transfer agreement to the department. By December 1, 2013, the department shall establish guidelines to implement the uniform transfer agreement and may modify the uniform transfer agreement as necessary to avoid impacts on state administrative systems.))

**Sec. 1045.** RCW 71.24.870 and 2017 c 207 s 2 are each amended to read as follows:

~~(1) ((Subject to the availability of amounts appropriated for this specific purpose, the department must immediately perform a review of its rules, policies, and procedures related to the documentation requirements for behavioral health services.))~~ Rules adopted by the department relating to the provision of behavioral health services must:

(a) Identify areas in which duplicative or inefficient documentation requirements can be eliminated or streamlined for providers;

(b) Limit prescriptive requirements for individual initial assessments to allow clinicians to exercise professional judgment to conduct age-appropriate, strength-based psychosocial assessments, including current needs and relevant history according to current best practices;

~~(c) ((By April 1, 2018, provide a single set of regulations for agencies to follow that provide mental health, substance use disorder, and co-occurring treatment services;~~

~~(d))~~ Exempt providers from duplicative state documentation requirements when the provider is following documentation requirements of an evidence-based, research-based, or state-mandated program that provides adequate protection for patient safety; and

~~((e))~~ (d) Be clear and not unduly burdensome in order to maximize the time available for the provision of care.

(2) Subject to the availability of amounts appropriated for this specific purpose, audits conducted by the department relating to provision of behavioral health services must:

(a) Rely on a sampling methodology to conduct reviews of personnel files and clinical records based on written guidelines established by the department that are consistent with the standards of other licensing and accrediting bodies;

(b) Treat organizations with multiple locations as a single entity. The department must not require annual visits at all locations operated by a single entity when a sample of records may be reviewed from a centralized location;

(c) Share audit results with behavioral health administrative services organizations and managed care organizations to assist with their review process and, when appropriate, take steps to coordinate and combine audit activities;

~~(d) ((Coordinate audit functions between the department and the department of health to combine audit activities into a single site visit and eliminate redundancies;~~

~~(e))~~ Not require information to be provided in particular documents or locations when the same information is included or demonstrated elsewhere in the clinical file, except where required by federal law; and

~~((f))~~ (e) Ensure that audits involving manualized programs such as wraparound with intensive services or other evidence or research-based programs are conducted to the extent practicable by personnel familiar with the program

model and in a manner consistent with the documentation requirements of the program.

NEW SECTION. Sec. 1046. A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority shall contract with one or more behavioral health administrative services organizations to carry out the duties and responsibilities set forth in this chapter and chapter 71.05 RCW to provide crisis services to assigned regional service areas.

(2) For clients eligible for medical assistance under chapter 74.09 RCW, the authority shall contract with one or more managed care organizations as set forth in RCW 71.24.380 and 74.09.871 to provide medically necessary physical and behavioral health services.

NEW SECTION. Sec. 1047. A new section is added to chapter 71.24 RCW to read as follows:

(1) The legislature finds that ongoing coordination between state agencies, the counties, and the behavioral health administrative services organizations is necessary to coordinate the behavioral health system. To this end, the authority shall establish a committee to meet quarterly to address systemic issues.

(2) The committee established in subsection (1) of this section must be convened by the authority, meet quarterly, and include representatives from:

(a) The authority;

(b) The department of social and health services;

(c) The department;

(d) The office of the governor;

(e) One representative from the behavioral health administrative services organization per regional service area; and

(f) One county representative per regional service area.

## **PART 2**

**Sec. 2001.** RCW 71.34.020 and 2018 c 201 s 5002 are each amended to read as follows:

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

(1) "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.

(2) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or

certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(3) "Authority" means the Washington state health care authority.

(4) ~~("Chemical dependency" means:~~

~~(a) Alcoholism;~~

~~(b) Drug addiction; or~~

~~(c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.~~

~~(5))~~ (5) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

~~((6))~~ (5) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

~~((7))~~ (6) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

~~((8))~~ (7) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

~~((9))~~ (8) "Department" means the department of social and health services.

~~((10))~~ (9) "Designated crisis responder" ~~((means a person designated by a behavioral health organization to perform the duties specified in this chapter))~~ has the same meaning as provided in RCW 71.05.020.

~~((11))~~ (10) "Director" means the director of the authority.

~~((12) "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))~~ (11) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

~~((13))~~ (12) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency,

inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

~~((14))~~ (13) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

~~((15))~~ (14) "Gravely disabled minor" means a minor who, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals, is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

~~((16))~~ (15) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure detoxification facility for minors, or approved substance use disorder treatment program for minors.

~~((17))~~ (16) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

~~((18))~~ (17) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

~~((19))~~ (18) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others.

~~((20))~~ (19) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a mental disorder or substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a handicap, or causes

physical deformity or malfunction, and there is no adequate less restrictive alternative available.

~~((21))~~ (20) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

~~((22))~~ (21) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary of the department of health under this chapter.

~~((23))~~ (22) "Minor" means any person under the age of eighteen years.

~~((24))~~ (23) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified ~~((service providers))~~ behavioral health agencies as identified by RCW 71.24.025.

~~((25))~~ (24) "Parent" means:

(a) A biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under a joint custody agreement; or

(b) A person or agency judicially appointed as legal guardian or custodian of the child.

~~((26))~~ (25) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

~~((27))~~ (26) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW.

~~((28))~~ (27) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

~~((29))~~ (28) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

~~((30))~~ (29) "Psychiatrist" means a person having a license as a physician in this state who has completed

residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

~~((31))~~ (30) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

~~((32))~~ (31) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

~~((33))~~ (32) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

~~((34))~~ (33) "Secretary" means the secretary of the department or secretary's designee.

~~((35))~~ (34) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that:

(a) Provides for intoxicated minors:

(i) Evaluation and assessment, provided by certified chemical dependency professionals;

(ii) Acute or subacute detoxification services; and

(iii) Discharge assistance provided by certified chemical dependency professionals, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the minor;

(b) Includes security measures sufficient to protect the patients, staff, and community; and

(c) Is licensed or certified as such by the department of health.

~~((36))~~ (35) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

~~((37))~~ (36) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

~~((38))~~ (37) "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.

(38) "Managed care organization" has the same meaning as provided in RCW 71.24.025.

**Sec. 2002.** RCW 71.34.300 and 2018 c 201 s 5003 are each amended to read as follows:

~~((1)) The ((county or combination of counties)) authority is responsible for development and coordination of the evaluation and treatment program for minors ((for incorporating the program into the mental health plan,)) and for coordination of evaluation and treatment services and resources with the community ((mental)) behavioral health program required under chapter 71.24 RCW.~~

~~((2) The county shall be responsible for maintaining its support of involuntary treatment services for minors at its 1984 level, adjusted for inflation, with the authority responsible for additional costs to the county resulting from this chapter. Maintenance of effort funds devoted to judicial services related to involuntary commitment reimbursed under RCW 71.05.730 must be expended for other purposes that further treatment for mental health and chemical dependency disorders.)~~

**Sec. 2003.** RCW 71.34.330 and 2014 c 225 s 89 are each amended to read as follows:

Attorneys appointed for minors under this chapter shall be compensated for their services as follows:

(1) Responsible others shall bear the costs of such legal services if financially able according to standards set by the court of the county in which the proceeding is held.

(2) If all responsible others are indigent as determined by these standards, the behavioral health administrative services organization shall reimburse the county in which the proceeding is held for the direct costs of such legal services, as provided in RCW 71.05.730.

**Sec. 2004.** RCW 71.34.379 and 2011 c 302 s 5 are each amended to read as follows:

~~((1) By December 1, 2011,) Facilities licensed under chapter 70.41, 71.12, or 72.23 RCW are required to adopt policies and protocols regarding the notice requirements described in RCW 71.34.375((and~~

~~(2) By December 1, 2012, the department, in collaboration with the department of health, shall provide a detailed report to the legislature regarding the facilities' compliance with RCW 71.34.375 and subsection (1) of this section)).~~

**Sec. 2005.** RCW 71.34.385 and 2018 c 201 s 5007 are each amended to read as follows:

The authority shall ensure that the provisions of this chapter are applied ((by the counties)) in a consistent and

uniform manner. The authority shall also ensure that, to the extent possible within available funds, the designated crisis responders are specifically trained in adolescent mental health issues, the mental health and substance use disorder civil commitment laws, and the criteria for civil commitment.

**Sec. 2006.** RCW 71.34.415 and 2014 c 225 s 90 are each amended to read as follows:

A county may apply to its behavioral health administrative services organization for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter, as provided in RCW 71.05.730.

**Sec. 2007.** RCW 71.34.670 and 2018 c 201 s 2001 are each amended to read as follows:

The authority shall adopt rules defining "appropriately trained professional person" operating within their scope of practice within Title 18 RCW for the purposes of conducting mental health and ((chemical dependency)) substance use disorder evaluations under RCW 71.34.600(3) and 71.34.650(1).

**Sec. 2008.** RCW 71.34.750 and 2016 sp.s. c 29 s 276 and 2016 c 155 s 21 are each reenacted and amended to read as follows:

(1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

(a) The name and address of the petitioner or petitioners;

(b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;

(c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program responsible for the treatment of the minor;

(d) The date of the fourteen-day commitment order; and

(e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by: (a) Two examining physicians, one of whom shall be a child psychiatrist, or two psychiatric advanced registered nurse practitioners, one of whom shall

be a child and adolescent or family psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by a child psychiatrist; (b) one children's mental health specialist and either an examining physician, physician assistant, or a psychiatric advanced registered nurse practitioner; or (c) two among an examining physician, physician assistant, and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist~~((-))~~, a physician assistant supervised by a child psychiatrist, or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the minor's attorney and the minor's parent. A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment:

(a) The court must find by clear, cogent, and convincing evidence that the minor:

(i) Is suffering from a mental disorder or substance use disorder;

(ii) Presents a likelihood of serious harm or is gravely disabled; and

(iii) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(b) If commitment is for a substance use disorder, the court must find that there is an available approved substance use disorder treatment program that has adequate space for the minor.

(7) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court shall order the minor committed to the custody of the ~~((secretary))~~ director for further inpatient mental health treatment, to an approved substance use disorder treatment program for further substance use disorder treatment, or to a private treatment and evaluation facility for inpatient mental health or substance use disorder treatment if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

(8) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least five days prior to the expiration of the previous one hundred eighty-day commitment order.

**Sec. 2009.** RCW 71.34.750 and 2016 sp.s. c 29 s 277 are each amended to read as follows:

(1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

(a) The name and address of the petitioner or petitioners;

(b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;

(c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program responsible for the treatment of the minor;

(d) The date of the fourteen-day commitment order; and

(e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by: (a) Two examining physicians, one of whom shall be a child psychiatrist, or two psychiatric advanced registered nurse practitioners, one of whom shall be a child and adolescent or family psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by a child psychiatrist; (b) one children's mental health specialist and either an examining physician, physician assistant, or a psychiatric advanced registered nurse practitioner; or (c) two among an examining physician, physician assistant, and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist~~((-))~~, a physician assistant supervised by a child psychiatrist, or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least

three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the minor's attorney and the minor's parent. A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment, the court must find by clear, cogent, and convincing evidence that the minor:

(a) Is suffering from a mental disorder or substance use disorder;

(b) Presents a likelihood of serious harm or is gravely disabled; and

(c) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(7) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court shall order the minor committed to the custody of the ~~((secretary))~~ director for further inpatient mental health treatment, to an approved substance use disorder treatment program for further substance use disorder treatment, or to a private treatment and evaluation facility for inpatient mental health or substance use disorder treatment if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

(8) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least five days prior to the expiration of the previous one hundred eighty-day commitment order.

**Sec. 2010.** RCW 71.36.010 and 2018 c 201 s 5023 are each amended to read as follows:

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

(1) "Agency" means a state, tribal, or local governmental entity or a private not-for-profit organization.

(2) "Behavioral health administrative services organization" means ~~((a county authority or group of county authorities or other nonprofit entity that has entered into~~

~~contracts with the health care authority pursuant to)) an entity contracted with the health care authority to administer behavioral health services and programs under section 1046 of this act, including crisis services and administration of the involuntary treatment act, chapter 71.05 RCW, for all individuals in a defined regional service area under chapter 71.24 RCW.~~

(3) "Child" means a person under eighteen years of age, except as expressly provided otherwise in state or federal law.

(4) "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.

(5) "County authority" means the board of county commissioners or county executive.

(6) "Early periodic screening, diagnosis, and treatment" means the component of the federal medicaid program established pursuant to 42 U.S.C. Sec. 1396d(r), as amended.

(7) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

(8) "Family" means a child's biological parents, adoptive parents, foster parents, guardian, legal custodian authorized pursuant to Title 26 RCW, a relative with whom a child has been placed by the department of social and health services, or a tribe.

(9) "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 health care 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.

(10) "Promising practice" or "emerging best practice" means a practice that presents, based upon preliminary information, potential for becoming a research-based or consensus-based practice.

~~((+0))~~ (11) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

~~((+1))~~ (12) "Wraparound process" means a family driven planning process designed to address the needs of children and youth by the formation of a team that empowers families to make key decisions regarding the care of the child or youth in partnership with professionals and the family's natural community supports. The team produces a community-based and culturally competent intervention plan which identifies the strengths and needs of the child or youth and family and defines goals that the team collaborates on achieving with respect for the unique cultural values of

the family. The "wraparound process" shall emphasize principles of persistence and outcome-based measurements of success.

**Sec. 2011.** RCW 71.36.025 and 2018 c 201 s 5024 are each amended to read as follows:

(1) It is the goal of the legislature that ~~((, by 2012,))~~ the children's mental health system in Washington state include the following elements:

(a) A continuum of services from early identification, intervention, and prevention through crisis intervention and inpatient treatment, including peer support and parent mentoring services;

(b) Equity in access to services for similarly situated children, including children with co-occurring disorders;

(c) Developmentally appropriate, high quality, and culturally competent services available statewide;

(d) Treatment of each child in the context of his or her family and other persons that are a source of support and stability in his or her life;

(e) A sufficient supply of qualified and culturally competent children's mental health providers;

(f) Use of developmentally appropriate evidence-based and research-based practices;

(g) Integrated and flexible services to meet the needs of children who, due to mental illness or emotional or behavioral disturbance, are at risk of out-of-home placement or involved with multiple child-serving systems.

(2) The effectiveness of the children's mental health system shall be determined through the use of outcome-based performance measures. The health care authority and the evidence-based practice institute established in RCW 71.24.061, in consultation with parents, caregivers, youth, behavioral health administrative services organizations, managed care organizations contracted with the authority under chapter 74.09 RCW, mental health services providers, health plans, primary care providers, tribes, and others, shall develop outcome-based performance measures such as:

(a) Decreased emergency room utilization;

(b) Decreased psychiatric hospitalization;

(c) Lessening of symptoms, as measured by commonly used assessment tools;

(d) Decreased out-of-home placement, including residential, group, and foster care, and increased stability of such placements, when necessary;

(e) Decreased runaways from home or residential placements;

(f) Decreased rates of ~~((chemical dependency))~~ substance use disorder;

(g) Decreased involvement with the juvenile justice system;

(h) Improved school attendance and performance;

(i) Reductions in school or child care suspensions or expulsions;

(j) Reductions in use of prescribed medication where cognitive behavioral therapies are indicated;

(k) Improved rates of high school graduation and employment; and

(l) Decreased use of mental health services upon reaching adulthood for mental disorders other than those that require ongoing treatment to maintain stability.

Performance measure reporting for children's mental health services should be integrated into existing performance measurement and reporting systems developed and implemented under chapter 71.24 RCW.

**Sec. 2012.** RCW 71.36.040 and 2018 c 201 s 5025 are each amended to read as follows:

(1) ~~((The legislature supports recommendations made in the August 2002 study of the public mental health system for children conducted by the joint legislative audit and review committee.~~

~~((2))~~ (2) The health care authority shall, within available funds:

(a) Identify internal business operation issues that limit the ~~((agency's))~~ authority's ability to meet legislative intent to coordinate existing categorical children's mental health programs and funding;

(b) Collect reliable mental health cost, service, and outcome data specific to children. This information must be used to identify best practices and methods of improving fiscal management;

(c) Revise the early and periodic screening diagnosis and treatment plan to reflect the mental health system structure in place ~~((on July 27, 2003, and thereafter revise the plan))~~ as necessary to conform to ~~((subsequent))~~ changes in the structure.

~~((3))~~ (2) The health care authority and the office of the superintendent of public instruction shall jointly identify school districts where mental health and education systems coordinate services and resources to provide public mental health care for children. The health care authority and the office of the superintendent of public instruction shall work together to share information about these approaches with other school districts, managed care organizations, behavioral health administrative services organizations, and state agencies.

### PART 3

**Sec. 3001.** RCW 71.05.020 and 2018 c 305 s 1, 2018 c 291 s 1, and 2018 c 201 s 3001 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(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) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) (~~"Chemical dependency" means:~~

~~(a) Alcoholism;~~

~~(b) Drug addiction; or~~

~~(c) Dependence on alcohol and one or more psychoactive chemicals, as the context requires;~~

~~(8)) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department under chapter 18.205 RCW;~~

~~((9)) (8) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;~~

~~((10)) (9) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;~~

~~((11)) (10) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department (~~under RCW 71.24.035~~), such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;~~

~~((12)) (11) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from~~

commitment from a facility providing involuntary care and treatment;

~~((13)) (12) "Department" means the department of health;~~

~~((14)) (13) "Designated crisis responder" means a mental health professional appointed by the county~~(s)~~ or an entity appointed by the county, (~~or the behavioral health organization~~) to perform the duties specified in this chapter;~~

~~((15)) (14) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;~~

~~((16)) (15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;~~

~~((17)) (16) "Developmental disability" means that condition defined in RCW 71A.10.020(5);~~

~~((18)) (17) "Director" means the director of the authority;~~

~~((19)) (18) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;~~

~~((20)) (19) "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;~~

~~((21)) (20) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;~~

~~((22)) (21) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals:~~  
~~(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of~~

health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

~~((23))~~ (22) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

~~((24))~~ (23) "Hearing" means any proceeding conducted in open court. For purposes of this chapter, at any hearing the petitioner, the respondent, the witnesses, and the presiding judicial officer may be present and participate either in person or by video, as determined by the court. The term "video" as used herein shall include any functional equivalent. At any hearing conducted by video, the technology used must permit the judicial officer, counsel, all parties, and the witnesses to be able to see, hear, and speak, when authorized, during the hearing; to allow attorneys to use exhibits or other materials during the hearing; and to allow respondent's counsel to be in the same location as the respondent unless otherwise requested by the respondent or the respondent's counsel. Witnesses in a proceeding may also appear in court through other means, including telephonically, pursuant to the requirements of superior court civil rule 43. Notwithstanding the foregoing, the court, upon its own motion or upon a motion for good cause by any party, may require all parties and witnesses to participate in the hearing in person rather than by video. In ruling on any such motion, the court may allow in-person or video testimony; and the court may consider, among other things, whether the respondent's alleged mental illness affects the respondent's ability to perceive or participate in the proceeding by video;

~~((25))~~ (24) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction;

~~((26))~~ (25) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

~~((27))~~ (26) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

~~((28))~~ (27) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

~~((29))~~ (28) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

~~((30))~~ (29) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a mental disorder or substance use disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

~~((31))~~ (30) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

~~((32))~~ (31) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health and substance use disorder service providers under RCW 71.05.130;

~~((33))~~ (32) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

~~((34))~~ (33) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

~~((35))~~ (34) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

~~((36))~~ (35) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

~~((37))~~ (36) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

~~((38))~~ (37) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

~~((39))~~ (38) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders or substance use disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure detoxification facilities as defined in this section, and correctional facilities operated by state and local governments;

~~((40))~~ (39) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

~~((41))~~ (40) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW;

~~((42))~~ (41) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and

treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders;

~~((43))~~ (42) "Professional person" means a mental health professional, chemical dependency professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

~~((44))~~ (43) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

~~((45))~~ (44) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

~~((46))~~ (45) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

~~((47))~~ (46) "Public agency" means any evaluation and treatment facility or institution, secure detoxification facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

~~((48))~~ (47) "Release" means legal termination of the commitment under the provisions of this chapter;

~~((49))~~ (48) "Resource management services" has the meaning given in chapter 71.24 RCW;

~~((50))~~ (49) "Secretary" means the secretary of the department of health, or his or her designee;

~~((51))~~ (50) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that:

(a) Provides for intoxicated persons:

(i) Evaluation and assessment, provided by certified chemical dependency professionals;

(ii) Acute or subacute detoxification services; and

(iii) Discharge assistance provided by certified chemical dependency professionals, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Includes security measures sufficient to protect the patients, staff, and community; and

(c) Is licensed or certified as such by the department of health;

~~((52))~~ (51) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

~~((53))~~ (52) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

~~((54))~~ (53) "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;

~~((55))~~ (54) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

~~((56))~~ (55) "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, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

~~((57))~~ (56) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department (~~under RCW 71.24.035~~), which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

~~((58))~~ (57) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

**Sec. 3002.** RCW 71.05.025 and 2016 sp.s. c 29 s 205 are each amended to read as follows:

The legislature intends that the procedures and services authorized in this chapter be integrated with those in chapter 71.24 RCW to the maximum extent necessary to

assure a continuum of care to persons with mental illness or who have mental disorders or substance use disorders, as defined in either or both this chapter and chapter 71.24 RCW. To this end, behavioral health administrative services organizations established in accordance with chapter 71.24 RCW shall institute procedures which require timely consultation with resource management services by designated crisis responders, managed care organizations, evaluation and treatment facilities, secure detoxification facilities, and approved substance use disorder treatment programs to assure that determinations to admit, detain, commit, treat, discharge, or release persons with mental disorders or substance use disorders under this chapter are made only after appropriate information regarding such person's treatment history and current treatment plan has been sought from resource management services.

**Sec. 3003.** RCW 71.05.026 and 2018 c 201 s 3002 are each amended to read as follows:

(1) Except for monetary damage claims which have been reduced to final judgment by a superior court, this section applies to all claims against the state, state agencies, state officials, or state employees that exist on or arise after March 29, 2006.

(2) Except as expressly provided in contracts entered into by ~~((between))~~ the authority (~~and the behavioral health organizations after March 29, 2006~~), the entities identified in subsection (3) of this section shall have no claim for declaratory relief, injunctive relief, judicial review under chapter 34.05 RCW, or civil liability against the state or state agencies for actions or inactions performed pursuant to the administration of this chapter with regard to the following: (a) The allocation or payment of federal or state funds; (b) the use or allocation of state hospital beds; or (c) financial responsibility for the provision of inpatient mental health care or inpatient substance use disorder treatment.

(3) This section applies to counties, behavioral health administrative services organizations, managed care organizations, and entities which contract to provide behavioral health (~~organization~~) services and their subcontractors, agents, or employees.

**Sec. 3004.** RCW 71.05.027 and 2018 c 201 s 3003 are each amended to read as follows:

~~((1) Not later than January 1, 2007,))~~ All persons providing treatment under this chapter shall also ~~((implement the))~~ provide an integrated comprehensive screening and assessment process for ~~((chemical dependency))~~ substance use disorders and mental disorders adopted pursuant to RCW 71.24.630 (~~and shall document the numbers of clients with co-occurring mental and substance abuse disorders based on a quadrant system of low and high needs~~).

~~((2) Treatment providers and behavioral health organizations who fail to implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders by July 1, 2007,~~

~~shall be subject to contractual penalties established under RCW 71.24.630.)~~

**Sec. 3005.** RCW 71.05.110 and 2014 c 225 s 83 are each amended to read as follows:

Attorneys appointed for persons pursuant to this chapter shall be compensated for their services as follows: (1) The person for whom an attorney is appointed shall, if he or she is financially able pursuant to standards as to financial capability and indigency set by the superior court of the county in which the proceeding is held, bear the costs of such legal services; (2) if such person is indigent pursuant to such standards, the behavioral health administrative services organization shall reimburse the county in which the proceeding is held for the direct costs of such legal services, as provided in RCW 71.05.730.

**Sec. 3006.** RCW 71.05.203 and 2018 c 201 s 3006 are each amended to read as follows:

(1) The authority and each behavioral health administrative services organization or agency employing designated crisis responders shall publish information in an easily accessible format describing the process for an immediate family member, guardian, or conservator to petition for court review of a detention decision under RCW 71.05.201.

(2) A designated crisis responder or designated crisis responder agency that receives a request for investigation for possible detention under this chapter must inquire whether the request comes from an immediate family member, guardian, or conservator who would be eligible to petition under RCW 71.05.201. If the designated crisis responder decides not to detain the person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since the request for investigation was received and the designated crisis responder has not taken action to have the person detained, the designated crisis responder or designated crisis responder agency must inform the immediate family member, guardian, or conservator who made the request for investigation about the process to petition for court review under RCW 71.05.201 and, to the extent feasible, provide the immediate family member, guardian, or conservator with written or electronic information about the petition process. If provision of written or electronic information is not feasible, the designated crisis responder or designated crisis responder agency must refer the immediate family member, guardian, or conservator to a web site where published information on the petition process may be accessed. The designated crisis responder or designated crisis responder agency must document the manner and date on which the information required under this subsection was provided to the immediate family member, guardian, or conservator.

(3) A designated crisis responder or designated crisis responder agency must, upon request, disclose the date of a designated crisis responder investigation under this chapter to an immediate family member, guardian, or conservator of

a person to assist in the preparation of a petition under RCW 71.05.201.

**Sec. 3007.** RCW 71.05.300 and 2017 3rd sp.s. c 14 s 19 are each amended to read as follows:

(1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall notify the designated crisis responder. The designated crisis responder shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, the prosecuting attorney, and the behavioral health administrative services organization administrator, and provide a copy of the petition to such persons as soon as possible. The behavioral health administrative services organization administrator or designee may review the petition and may appear and testify at the full hearing on the petition.

(2) At the time set for appearance the detained person shall be brought before the court, unless such appearance has been waived and the court shall advise him or her of his or her right to be represented by an attorney, his or her right to a jury trial, and, if the petition is for commitment for mental health treatment, his or her loss of firearm rights if involuntarily committed. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, physician assistant, psychiatric advanced registered nurse practitioner, psychologist, psychiatrist, or other professional person, designated by the detained person to examine and testify on behalf of the detained person.

(3) The court may, if requested, also appoint a professional person as defined in RCW 71.05.020 to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a person with a developmental disability who has been determined to be incompetent pursuant to RCW 10.77.086(4), then the appointed professional person under this section shall be a developmental disabilities professional.

(4) The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310.

**Sec. 3008.** RCW 71.05.365 and 2016 sp.s. c 37 s 15 are each amended to read as follows:

When a person has been involuntarily committed for treatment to a hospital for a period of ninety or one hundred eighty days, and the superintendent or professional person in charge of the hospital determines that the person no longer requires active psychiatric treatment at an inpatient level of care, the behavioral health administrative services organization, ~~((full integration entity under RCW~~

71.24.380)) managed care organization, or agency providing oversight of long-term care or developmental disability services that is responsible for resource management services for the person must work with the hospital to develop an individualized discharge plan and arrange for a transition to the community in accordance with the person's individualized discharge plan within fourteen days of the determination.

**Sec. 3009.** RCW 71.05.445 and 2018 c 201 s 3021 are each amended to read as follows:

(1)(a) When a mental health service provider conducts its initial assessment for a person receiving court-ordered treatment, the service provider shall inquire and shall be told by the offender whether he or she is subject to supervision by the department of corrections.

(b) When a person receiving court-ordered treatment or treatment ordered by the department of corrections discloses to his or her mental health service provider that he or she is subject to supervision by the department of corrections, the mental health service provider shall notify the department of corrections that he or she is treating the offender and shall notify the offender that his or her community corrections officer will be notified of the treatment, provided that if the offender has received relief from disclosure pursuant to RCW 9.94A.562 or 71.05.132 and the offender has provided the mental health service provider with a copy of the order granting relief from disclosure pursuant to RCW 9.94A.562 or 71.05.132, the mental health service provider is not required to notify the department of corrections that the mental health service provider is treating the offender. The notification may be written or oral and shall not require the consent of the offender. If an oral notification is made, it must be confirmed by a written notification. For purposes of this section, a written notification includes notification by email or facsimile, so long as the notifying mental health service provider is clearly identified.

(2) The information to be released to the department of corrections shall include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties.

(3) The authority and the department of corrections, in consultation with behavioral health administrative services organizations, managed care organizations, mental health service providers as defined in RCW 71.05.020, mental health consumers, and advocates for persons with mental illness, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules shall:

(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received mental health services as a minor; and

(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.

(4) The information received by the department of corrections under this section shall remain confidential and subject to the limitations on disclosure outlined in this chapter, except as provided in RCW 72.09.585.

(5) No mental health service provider or individual employed by a mental health service provider shall be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section.

(6) Whenever federal law or federal regulations restrict the release of information and records related to mental health services for any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(7) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under chapter 70.24 RCW.

(8) The authority shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific behavioral health administrative services organizations, managed care organizations, and mental health service providers that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the authority and the department of corrections.

**Sec. 3010.** RCW 71.05.458 and 2016 c 158 s 5 are each amended to read as follows:

As soon as possible, but no later than twenty-four hours from receiving a referral from a law enforcement officer or law enforcement agency, excluding Saturdays, Sundays, and holidays, a mental health professional contacted by the designated (~~(mental health professional)~~) crisis responder agency must attempt to contact the referred person to determine whether additional mental health intervention is necessary, including, if needed, an assessment by a designated (~~(mental health professional)~~) crisis responder for initial detention under RCW 71.05.150 or 71.05.153. Documentation of the mental health professional's attempt to contact and assess the person must be maintained by the designated (~~(mental health professional)~~) crisis responder agency.

**Sec. 3011.** RCW 71.05.730 and 2015 c 250 s 15 are each amended to read as follows:

(1) A county may apply to its behavioral health administrative services organization on a quarterly basis for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter and chapter 71.34 RCW. The behavioral health administrative

services organization shall in turn be entitled to reimbursement from the behavioral health administrative services organization that serves the county of residence of the individual who is the subject of the civil commitment case. (~~Reimbursements under this section shall be paid out of the behavioral health organization's nonmedicaid appropriation.~~)

(2) Reimbursement for judicial services shall be provided per civil commitment case at a rate to be determined based on an independent assessment of the county's actual direct costs. This assessment must be based on an average of the expenditures for judicial services within the county over the past three years. In the event that a baseline cannot be established because there is no significant history of similar cases within the county, the reimbursement rate shall be equal to eighty percent of the median reimbursement rate of counties included in the independent assessment.

(3) For the purposes of this section:

(a) "Civil commitment case" includes all judicial hearings related to a single episode of hospitalization or less restrictive alternative treatment, except that the filing of a petition for a one hundred eighty-day commitment under this chapter or a petition for a successive one hundred eighty-day commitment under chapter 71.34 RCW shall be considered to be a new case regardless of whether there has been a break in detention. "Civil commitment case" does not include the filing of a petition for a one hundred eighty-day commitment under this chapter on behalf of a patient at a state psychiatric hospital.

(b) "Judicial services" means a county's reasonable direct costs in providing prosecutor services, assigned counsel and defense services, court services, and court clerk services for civil commitment cases under this chapter and chapter 71.34 RCW.

(4) To the extent that resources have a shared purpose, the behavioral health administrative services organization may only reimburse counties to the extent such resources are necessary for and devoted to judicial services as described in this section.

(5) No filing fee may be charged or collected for any civil commitment case subject to reimbursement under this section.

**Sec. 3012.** RCW 71.05.740 and 2018 c 201 s 3031 are each amended to read as follows:

All behavioral health administrative services organizations in the state of Washington must forward historical mental health involuntary commitment information retained by the organization, including identifying information and dates of commitment to the authority. As soon as feasible, the behavioral health administrative services organizations must arrange to report new commitment data to the authority within twenty-four hours. Commitment information under this section does not need to be resent if it is already in the possession of the authority. Behavioral health administrative services

organizations and the authority shall be immune from liability related to the sharing of commitment information under this section.

**Sec. 3013.** RCW 71.05.750 and 2018 c 201 s 3033 are each amended to read as follows:

(1) A designated crisis responder shall make a report to the authority when he or she determines a person meets detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or 71.34.710 and there are not any beds available at an evaluation and treatment facility, the person has not been provisionally accepted for admission by a facility, and the person cannot be served on a single bed certification or less restrictive alternative. Starting at the time when the designated crisis responder determines a person meets detention criteria and the investigation has been completed, the designated crisis responder has twenty-four hours to submit a completed report to the authority.

(2) The report required under subsection (1) of this section must contain at a minimum:

(a) The date and time that the investigation was completed;

(b) The identity of the responsible behavioral health administrative services organization and managed care organization, if applicable;

(c) The county in which the person met detention criteria;

(d) A list of facilities which refused to admit the person; and

(e) Identifying information for the person, including age or date of birth.

(3) The authority shall develop a standardized reporting form or modify the current form used for single bed certifications for the report required under subsection (2) of this section and may require additional reporting elements as it determines are necessary or supportive. The authority shall also determine the method for the transmission of the completed report from the designated crisis responder to the authority.

(4) The authority shall create quarterly reports displayed on its web site that summarize the information reported under subsection (2) of this section. At a minimum, the reports must display data by county and by month. The reports must also include the number of single bed certifications granted by category. The categories must include all of the reasons that the authority recognizes for issuing a single bed certification, as identified in rule.

(5) The reports provided according to this section may not display "protected health information" as that term is used in the federal health insurance portability and accountability act of 1996, nor information contained in "mental health treatment records" as that term is used in chapter 70.02 RCW or elsewhere in state law, and must otherwise be compliant with state and federal privacy laws.

(6) For purposes of this section, the term "single bed certification" means a situation in which an adult on a seventy-two hour detention, fourteen-day commitment, ninety-day commitment, or one hundred eighty-day commitment is detained to a facility that is:

(a) Not licensed or certified as an inpatient evaluation and treatment facility; or

(b) A licensed or certified inpatient evaluation and treatment facility that is already at capacity.

**Sec. 3014.** RCW 71.05.755 and 2018 c 201 s 3034 are each amended to read as follows:

(1) The authority shall promptly share reports it receives under RCW 71.05.750 with the responsible ~~((regional support network or))~~ behavioral health administrative services organization or managed care organization, if applicable. The ~~((regional support network or))~~ behavioral health administrative services organization or managed care organization, if applicable. receiving this notification must attempt to engage the person in appropriate services for which the person is eligible and report back within seven days to the authority.

(2) The authority shall track and analyze reports submitted under RCW 71.05.750. The authority must initiate corrective action when appropriate to ensure that each ~~((regional support network or))~~ behavioral health administrative services organization or managed care organization, if applicable, has implemented an adequate plan to provide evaluation and treatment services. Corrective actions may include remedies under ~~((RCW 71.24.330 and 74.09.871, including requiring expenditure of reserve funds))~~ the authority's contract with such entity. An adequate plan may include development of less restrictive alternatives to involuntary commitment such as crisis triage, crisis diversion, voluntary treatment, or prevention programs reasonably calculated to reduce demand for evaluation and treatment under this chapter.

**Sec. 3015.** RCW 71.05.760 and 2018 c 201 s 3035 are each amended to read as follows:

(1)(a) ~~((By April 1, 2018, the authority, by rule, must combine the functions of a designated mental health professional and designated chemical dependency specialist by establishing a designated crisis responder who is authorized to conduct investigations, detain persons up to seventy two hours to the proper facility, and carry out the other functions identified in this chapter and chapter 71.34 RCW-))~~ The ~~((behavioral health organizations))~~ authority or its designee shall provide training to the designated crisis responders ~~((as required by the authority)).~~

(b)(i) To qualify as a designated crisis responder, a person must have received ~~((chemical dependency))~~ substance use disorder training as determined by the ~~((department))~~ authority and be a:

(A) Psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or social worker;

(B) Person who is licensed by the department as a mental health counselor or mental health counselor associate, or marriage and family therapist or marriage and family therapist associate;

(C) Person with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university and who have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the direction of a mental health professional;

(D) Person who meets the waiver criteria of RCW 71.24.260, which waiver was granted before 1986;

(E) Person who had an approved waiver to perform the duties of a mental health professional that was requested by the regional support network and granted by the department of social and health services before July 1, 2001; or

(F) Person who has been granted an exception of the minimum requirements of a mental health professional by the department consistent with rules adopted by the secretary.

(ii) Training must include ~~((chemical dependency))~~ training specific to the duties of a designated crisis responder, including diagnosis of substance abuse and dependence and assessment of risk associated with substance use.

~~((The authority must develop a transition process for any person who has been designated as a designated mental health professional or a designated chemical dependency specialist before April 1, 2018, to be converted to a designated crisis responder. The behavioral health organizations shall provide training, as required by the authority, to persons converting to designated crisis responders, which must include both mental health and chemical dependency training applicable to the designated crisis responder role.))~~

(2)(a) The authority must ensure that at least one sixteen-bed secure detoxification facility is operational by April 1, 2018, and that at least two sixteen-bed secure detoxification facilities are operational by April 1, 2019.

(b) If, at any time during the implementation of secure detoxification facility capacity, federal funding becomes unavailable for federal match for services provided in secure detoxification facilities, then the authority must cease any expansion of secure detoxification facilities until further direction is provided by the legislature.

#### PART 4

**Sec. 4001.** RCW 74.09.337 and 2017 c 226 s 4 are each amended to read as follows:

(1) For children who are eligible for medical assistance and who have been identified as requiring mental health treatment, the authority must oversee the coordination of resources and services through (a) the managed health care system as defined in RCW 74.09.325 and (b) tribal organizations providing health care services. The authority must ensure the child receives treatment and appropriate care based on their assessed needs, regardless of whether the referral occurred through primary care, school-based services, or another practitioner.

(2) The authority must require each managed health care system as defined in RCW 74.09.325 (~~and each behavioral health organization~~) to develop and maintain adequate capacity to facilitate child mental health treatment services in the community (~~or transfers to a behavioral health organization, depending on the level of required care~~). Managed health care systems (~~and behavioral health organizations~~) must:

(a) Follow up with individuals to ensure an appointment has been secured;

(b) Coordinate with and report back to primary care provider offices on individual treatment plans and medication management, in accordance with patient confidentiality laws;

(c) Provide information to health plan members and primary care providers about the behavioral health resource line available twenty-four hours a day, seven days a week; and

(d) Maintain an accurate list of providers contracted to provide mental health services to children and youth. The list must contain current information regarding the providers' availability to provide services. The current list must be made available to health plan members and primary care providers.

(3) This section expires June 30, 2020.

**Sec. 4002.** RCW 74.09.495 and 2018 c 175 s 3 are each amended to read as follows:

(1) To better assure and understand issues related to network adequacy and access to services, the authority (~~and the department~~) shall report to the appropriate committees of the legislature by December 1, 2017, and annually thereafter, on the status of access to behavioral health services for children (~~from~~) from birth through age seventeen using data collected pursuant to RCW 70.320.050.

(2) At a minimum, the report must include the following components broken down by age, gender, and race and ethnicity:

(a) The percentage of discharges for patients ages six through seventeen who had a visit to the emergency room with a primary diagnosis of mental health or alcohol or other drug dependence during the measuring year and who had a follow-up visit with any provider with a corresponding primary diagnosis of mental health or alcohol or other drug dependence within thirty days of discharge;

(b) The percentage of health plan members with an identified mental health need who received mental health services during the reporting period;

(c) The percentage of children served by behavioral health administrative services organizations and managed care organizations, including the types of services provided;

(d) The number of children's mental health providers available in the previous year, the languages spoken by those providers, and the overall percentage of children's mental health providers who were actively accepting new patients; and

(e) Data related to mental health and medical services for eating disorder treatment in children and youth by county, including the number of:

(i) Eating disorder diagnoses;

(ii) Patients treated in outpatient, residential, emergency, and inpatient care settings; and

(iii) Contracted providers specializing in eating disorder treatment and the overall percentage of those providers who were actively accepting new patients during the reporting period.

**Sec. 4003.** RCW 74.09.515 and 2014 c 225 s 100 are each amended to read as follows:

(1) The authority shall adopt rules and policies providing that when youth who were enrolled in a medical assistance program immediately prior to confinement are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law.

(2) The authority, in collaboration with the department, county juvenile court administrators, managed care organizations, the department of children, youth, and families, and behavioral health administrative services organizations, shall establish procedures for coordination (~~between department~~) among field offices, juvenile rehabilitation (~~administration~~) institutions, and county juvenile courts that result in prompt reinstatement of eligibility and speedy eligibility determinations for youth who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services' applications on behalf of confined youth in anticipation of their release from confinement;

(b) Expedient review of applications filed by or on behalf of confined youth and, to the extent practicable, completion of the review before the youth is released; and

(c) Mechanisms for providing medical assistance services' identity cards to youth eligible for medical assistance services immediately upon their release from confinement.

(3) For purposes of this section, "confined" or "confinement" means detained in a juvenile rehabilitation facility operated by or under contract with the department of ~~((social and health services, juvenile rehabilitation administration))~~ children, youth, and families, or detained in a juvenile detention facility operated under chapter 13.04 RCW.

(4) The authority shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined youth who is likely to be eligible for a medical assistance program.

**Sec. 4004.** RCW 74.09.522 and 2018 c 201 s 7017 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under this chapter or other applicable law and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(b) "Nonparticipating provider" means a person, health care provider, practitioner, facility, or entity, acting within their scope of practice, that does not have a written contract to participate in a managed health care system's provider network, but provides health care services to enrollees of programs authorized under this chapter or other applicable law whose health care services are provided by the managed health care system.

(2) The authority shall enter into agreements with managed health care systems to provide health care services to recipients of ~~((temporary assistance for needy families))~~ medicaid under the following conditions:

(a) Agreements shall be made for at least thirty thousand recipients statewide;

(b) Agreements in at least one county shall include enrollment of all recipients of ~~((temporary assistance for needy families))~~ programs as allowed for in the approved state plan amendment or federal waiver for Washington state's medicaid program;

(c) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act, recipients shall have a choice of systems in which to enroll and shall have the right to terminate their enrollment in a system: PROVIDED, That the authority may limit recipient termination of enrollment without cause to the first month of a period of enrollment, which period shall not exceed twelve months: AND PROVIDED FURTHER, That the authority shall not restrict a recipient's right to terminate enrollment in

a system for good cause as established by the authority by rule;

(d) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act, participating managed health care systems shall not enroll a disproportionate number of medical assistance recipients within the total numbers of persons served by the managed health care systems, except as authorized by the authority under federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(e)(i) In negotiating with managed health care systems the authority shall adopt a uniform procedure to enter into contractual arrangements ~~((, to be included in contracts issued or renewed on or after January 1, 2015))~~, including:

(A) Standards regarding the quality of services to be provided;

(B) The financial integrity of the responding system;

(C) Provider reimbursement methods that incentivize chronic care management within health homes, including comprehensive medication management services for patients with multiple chronic conditions consistent with the findings and goals established in RCW 74.09.5223;

(D) Provider reimbursement methods that reward health homes that, by using chronic care management, reduce emergency department and inpatient use;

(E) Promoting provider participation in the program of training and technical assistance regarding care of people with chronic conditions described in RCW 43.70.533, including allocation of funds to support provider participation in the training, unless the managed care system is an integrated health delivery system that has programs in place for chronic care management;

(F) Provider reimbursement methods within the medical billing processes that incentivize pharmacists or other qualified providers licensed in Washington state to provide comprehensive medication management services consistent with the findings and goals established in RCW 74.09.5223;

(G) Evaluation and reporting on the impact of comprehensive medication management services on patient clinical outcomes and total health care costs, including reductions in emergency department utilization, hospitalization, and drug costs; and

(H) Established consistent processes to incentivize integration of behavioral health services in the primary care setting, promoting care that is integrated, collaborative, colocated, and preventive.

(ii)(A) Health home services contracted for under this subsection may be prioritized to enrollees with complex, high cost, or multiple chronic conditions.

(B) Contracts that include the items in (e)(i)(C) through (G) of this subsection must not exceed the rates that would be paid in the absence of these provisions;

(f) The authority shall seek waivers from federal requirements as necessary to implement this chapter;

(g) The authority shall, wherever possible, enter into prepaid capitation contracts that include inpatient care. However, if this is not possible or feasible, the authority may enter into prepaid capitation contracts that do not include inpatient care;

(h) The authority shall define those circumstances under which a managed health care system is responsible for out-of-plan services and assure that recipients shall not be charged for such services;

(i) Nothing in this section prevents the authority from entering into similar agreements for other groups of people eligible to receive services under this chapter; and

(j) The authority must consult with the federal center for medicare and medicaid innovation and seek funding opportunities to support health homes.

(3) The authority shall ensure that publicly supported community health centers and providers in rural areas, who show serious intent and apparent capability to participate as managed health care systems are seriously considered as contractors. The authority shall coordinate its managed care activities with activities under chapter 70.47 RCW.

(4) The authority shall work jointly with the state of Oregon and other states in this geographical region in order to develop recommendations to be presented to the appropriate federal agencies and the United States congress for improving health care of the poor, while controlling related costs.

(5) The legislature finds that competition in the managed health care marketplace is enhanced, in the long term, by the existence of a large number of managed health care system options for medicaid clients. In a managed care delivery system, whose goal is to focus on prevention, primary care, and improved enrollee health status, continuity in care relationships is of substantial importance, and disruption to clients and health care providers should be minimized. To help ensure these goals are met, the following principles shall guide the authority in its healthy options managed health care purchasing efforts:

(a) All managed health care systems should have an opportunity to contract with the authority to the extent that minimum contracting requirements defined by the authority are met, at payment rates that enable the authority to operate as far below appropriated spending levels as possible, consistent with the principles established in this section.

(b) Managed health care systems should compete for the award of contracts and assignment of medicaid beneficiaries who do not voluntarily select a contracting system, based upon:

(i) Demonstrated commitment to or experience in serving low-income populations;

(ii) Quality of services provided to enrollees;

(iii) Accessibility, including appropriate utilization, of services offered to enrollees;

(iv) Demonstrated capability to perform contracted services, including ability to supply an adequate provider network;

(v) Payment rates; and

(vi) The ability to meet other specifically defined contract requirements established by the authority, including consideration of past and current performance and participation in other state or federal health programs as a contractor.

(c) Consideration should be given to using multiple year contracting periods.

(d) Quality, accessibility, and demonstrated commitment to serving low-income populations shall be given significant weight in the contracting, evaluation, and assignment process.

(e) All contractors that are regulated health carriers must meet state minimum net worth requirements as defined in applicable state laws. The authority shall adopt rules establishing the minimum net worth requirements for contractors that are not regulated health carriers. This subsection does not limit the authority of the Washington state health care authority to take action under a contract upon finding that a contractor's financial status seriously jeopardizes the contractor's ability to meet its contract obligations.

(f) Procedures for resolution of disputes between the authority and contract bidders or the authority and contracting carriers related to the award of, or failure to award, a managed care contract must be clearly set out in the procurement document.

(6) The authority may apply the principles set forth in subsection (5) of this section to its managed health care purchasing efforts on behalf of clients receiving supplemental security income benefits to the extent appropriate.

(7) ~~((By April 1, 2016,))~~ Any contract with a managed health care system to provide services to medical assistance enrollees shall require that managed health care systems offer contracts to ~~((behavioral health organizations,))~~ mental health providers ~~((, or chemical dependency))~~ and substance use disorder treatment providers to provide access to primary care services integrated into behavioral health clinical settings, for individuals with behavioral health and medical comorbidities.

(8) Managed health care system contracts effective on or after April 1, 2016, shall serve geographic areas that correspond to the regional service areas established in RCW 74.09.870.

(9) A managed health care system shall pay a nonparticipating provider that provides a service covered under this chapter or other applicable law to the system's enrollee no more than the lowest amount paid for that service under the managed health care system's contracts with

similar providers in the state if the managed health care system has made good faith efforts to contract with the nonparticipating provider.

(10) For services covered under this chapter or other applicable law to medical assistance or medical care services enrollees (~~and provided on or after August 24, 2011~~), nonparticipating providers must accept as payment in full the amount paid by the managed health care system under subsection (9) of this section in addition to any deductible, coinsurance, or copayment that is due from the enrollee for the service provided. An enrollee is not liable to any nonparticipating provider for covered services, except for amounts due for any deductible, coinsurance, or copayment under the terms and conditions set forth in the managed health care system contract to provide services under this section.

(11) Pursuant to federal managed care access standards, 42 C.F.R. Sec. 438, managed health care systems must maintain a network of appropriate providers that is supported by written agreements sufficient to provide adequate access to all services covered under the contract with the authority, including hospital-based physician services. The authority will monitor and periodically report on the proportion of services provided by contracted providers and nonparticipating providers, by county, for each managed health care system to ensure that managed health care systems are meeting network adequacy requirements. No later than January 1st of each year, the authority will review and report its findings to the appropriate policy and fiscal committees of the legislature for the preceding state fiscal year.

(12) Payments under RCW 74.60.130 are exempt from this section.

(13) Subsections (9) through (11) of this section expire July 1, 2021.

**Sec. 4005.** RCW 74.09.555 and 2014 c 225 s 102 are each amended to read as follows:

(1) The authority shall adopt rules and policies providing that when persons with a mental disorder, who were enrolled in medical assistance immediately prior to confinement, are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law.

(2) The authority, in collaboration with the Washington association of sheriffs and police chiefs, the department of corrections, managed care organizations, and ~~(the)~~ behavioral health administrative services organizations, shall establish procedures for coordination between the authority and department field offices, institutions for mental disease, and correctional institutions, as defined in RCW 9.94.049, that result in prompt reinstatement of eligibility and speedy eligibility determinations for persons who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services applications on behalf of confined persons in anticipation of their release from confinement;

(b) Expedient review of applications filed by or on behalf of confined persons and, to the extent practicable, completion of the review before the person is released;

(c) Mechanisms for providing medical assistance services identity cards to persons eligible for medical assistance services immediately upon their release from confinement; and

(d) Coordination with the federal social security administration, through interagency agreements or otherwise, to expedite processing of applications for federal supplemental security income or social security disability benefits, including federal acceptance of applications on behalf of confined persons.

(3) Where medical or psychiatric examinations during a person's confinement indicate that the person is disabled, the correctional institution or institution for mental diseases shall provide the authority with that information for purposes of making medical assistance eligibility and enrollment determinations prior to the person's release from confinement. The authority shall, to the maximum extent permitted by federal law, use the examination in making its determination whether the person is disabled and eligible for medical assistance.

(4) For purposes of this section, "confined" or "confinement" means incarcerated in a correctional institution, as defined in RCW 9.94.049, or admitted to an institute for mental disease, as defined in 42 C.F.R. part 435, Sec. 1009 on July 24, 2005.

(5) For purposes of this section, "likely to be eligible" means that a person:

(a) Was enrolled in medicaid or supplemental security income or the medical care services program immediately before he or she was confined and his or her enrollment was terminated during his or her confinement; or

(b) Was enrolled in medicaid or supplemental security income or the medical care services program at any time during the five years before his or her confinement, and medical or psychiatric examinations during the person's confinement indicate that the person continues to be disabled and the disability is likely to last at least twelve months following release.

(6) The economic services administration within the department shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined person who is likely to be eligible for medicaid.

**Sec. 4006.** RCW 74.09.871 and 2018 c 201 s 2007 are each amended to read as follows:

(1) Any agreement or contract by the authority to provide behavioral health services as defined under RCW 71.24.025 to persons eligible for benefits under medicaid,

Title XIX of the social security act, and to persons not eligible for medicaid must include the following:

(a) Contractual provisions consistent with the intent expressed in RCW 71.24.015~~(7)~~ and 71.36.005~~(7-and 70.96A.011)~~);

(b) Standards regarding the quality of services to be provided, including increased use of evidence-based, research-based, and promising practices, as defined in RCW 71.24.025;

(c) Accountability for the client outcomes established in RCW 43.20A.895 (as recodified by this act), 70.320.020, and 71.36.025 and performance measures linked to those outcomes;

(d) Standards requiring behavioral health administrative services organizations and managed care organizations to maintain a network of appropriate providers that is supported by written agreements sufficient to provide adequate access to all services covered under the contract with the authority and to protect essential ~~((existing))~~ behavioral health system infrastructure and capacity, including a continuum of ~~((chemical-dependency))~~ substance use disorder services;

(e) Provisions to require that medically necessary ~~((chemical-dependency))~~ substance use disorder and mental health treatment services be available to clients;

(f) Standards requiring the use of behavioral health service provider reimbursement methods that incentivize improved performance with respect to the client outcomes established in RCW 43.20A.895 (as recodified by this act) and 71.36.025, integration of behavioral health and primary care services at the clinical level, and improved care coordination for individuals with complex care needs;

(g) Standards related to the financial integrity of the ~~((responding organization. The authority shall adopt rules establishing the solvency requirements and other financial integrity standards for behavioral health organizations))~~ contracting entity. This subsection does not limit the authority of the authority to take action under a contract upon finding that a ~~((behavioral health organization's))~~ contracting entity's financial status jeopardizes the ~~((organization's))~~ contracting entity's ability to meet its contractual obligations;

(h) Mechanisms for monitoring performance under the contract and remedies for failure to substantially comply with the requirements of the contract including, but not limited to, financial deductions, termination of the contract, receivership, reprocurement of the contract, and injunctive remedies;

(i) Provisions to maintain the decision-making independence of designated ~~((mental health professionals or designated chemical-dependency specialists))~~ crisis responders; and

(j) Provisions stating that public funds appropriated by the legislature may not be used to promote or deter, encourage, or discourage employees from exercising their

rights under Title 29, chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

(2) The following factors must be given significant weight in any ~~((purchasing))~~ procurement process under this section:

(a) Demonstrated commitment and experience in serving low-income populations;

(b) Demonstrated commitment and experience serving persons who have mental illness, ~~((chemical-dependency))~~ substance use disorders, or co-occurring disorders;

(c) Demonstrated commitment to and experience with partnerships with county and municipal criminal justice systems, housing services, and other critical support services necessary to achieve the outcomes established in RCW 43.20A.895 (as recodified by this act), 70.320.020, and 71.36.025;

(d) Recognition that meeting enrollees' physical and behavioral health care needs is a shared responsibility of contracted behavioral health administrative services organizations, managed ~~((health))~~ care ~~((systems))~~ organizations, service providers, the state, and communities;

(e) Consideration of past and current performance and participation in other state or federal behavioral health programs as a contractor; and

(f) The ability to meet requirements established by the authority.

(3) For purposes of purchasing behavioral health services and medical care services for persons eligible for benefits under medicaid, Title XIX of the social security act and for persons not eligible for medicaid, the authority must use regional service areas. The regional service areas must be established by the authority as provided in RCW 74.09.870.

(4) Consideration must be given to using multiple-biennia contracting periods.

(5) Each behavioral health administrative services organization operating pursuant to a contract issued under this section shall ~~((enroll))~~ serve clients within its regional service area who meet the authority's eligibility criteria for mental health and ~~((chemical-dependency))~~ substance use disorder services within available resources.

## PART 5

**Sec. 5001.** RCW 9.41.280 and 2016 sp.s. c 29 s 403 are each amended to read as follows:

(1) It is unlawful for a person to carry onto, or to possess on, public or private elementary or secondary school premises, school-provided transportation, or areas of facilities while being used exclusively by public or private schools:

(a) Any firearm;

(b) Any other dangerous weapon as defined in RCW 9.41.250;

(c) Any device commonly known as "nun-chu-ka sticks," consisting of two or more lengths of wood, metal, plastic, or similar substance connected with wire, rope, or other means;

(d) Any device, commonly known as "throwing stars," which are multipointed, metal objects designed to embed upon impact from any aspect;

(e) Any air gun, including any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide, or other gas; or

(f)(i) Any portable device manufactured to function as a weapon and which is commonly known as a stun gun, including a projectile stun gun which projects wired probes that are attached to the device that emit an electrical charge designed to administer to a person or an animal an electric shock, charge, or impulse; or

(ii) Any device, object, or instrument which is used or intended to be used as a weapon with the intent to injure a person by an electric shock, charge, or impulse.

(2) Any such person violating subsection (1) of this section is guilty of a gross misdemeanor. If any person is convicted of a violation of subsection (1)(a) of this section, the person shall have his or her concealed pistol license, if any revoked for a period of three years. Anyone convicted under this subsection is prohibited from applying for a concealed pistol license for a period of three years. The court shall send notice of the revocation to the department of licensing, and the city, town, or county which issued the license.

Any violation of subsection (1) of this section by elementary or secondary school students constitutes grounds for expulsion from the state's public schools in accordance with RCW 28A.600.010. An appropriate school authority shall promptly notify law enforcement and the student's parent or guardian regarding any allegation or indication of such violation.

Upon the arrest of a person at least twelve years of age and not more than twenty-one years of age for violating subsection (1)(a) of this section, the person shall be detained or confined in a juvenile or adult facility for up to seventy-two hours. The person shall not be released within the seventy-two hours until after the person has been examined and evaluated by the designated crisis responder unless the court in its discretion releases the person sooner after a determination regarding probable cause or on probation bond or bail.

Within twenty-four hours of the arrest, the arresting law enforcement agency shall refer the person to the designated crisis responder for examination and evaluation under chapter 71.05 or 71.34 RCW and inform a parent or guardian of the person of the arrest, detention, and examination. The designated crisis responder shall examine and evaluate the person subject to the provisions of chapter 71.05 or 71.34 RCW. The examination shall occur at the facility in which the person is detained or confined. If the

person has been released on probation, bond, or bail, the examination shall occur wherever is appropriate.

Upon completion of any examination by the designated crisis responder, the results of the examination shall be sent to the court, and the court shall consider those results in making any determination about the person.

The designated crisis responder shall, to the extent permitted by law, notify a parent or guardian of the person that an examination and evaluation has taken place and the results of the examination. Nothing in this subsection prohibits the delivery of additional, appropriate mental health examinations to the person while the person is detained or confined.

If the designated crisis responder determines it is appropriate, the designated crisis responder may refer the person to the local behavioral health administrative services organization for follow-up services (~~or the department of social and health services~~) or other community providers for other services to the family and individual.

(3) Subsection (1) of this section does not apply to:

(a) Any student or employee of a private military academy when on the property of the academy;

(b) Any person engaged in military, law enforcement, or school district security activities. However, a person who is not a commissioned law enforcement officer and who provides school security services under the direction of a school administrator may not possess a device listed in subsection (1)(f) of this section unless he or she has successfully completed training in the use of such devices that is equivalent to the training received by commissioned law enforcement officers;

(c) Any person who is involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the firearms of collectors or instructors are handled or displayed;

(d) Any person while the person is participating in a firearms or air gun competition approved by the school or school district;

(e) Any person in possession of a pistol who has been issued a license under RCW 9.41.070, or is exempt from the licensing requirement by RCW 9.41.060, while picking up or dropping off a student;

(f) Any nonstudent at least eighteen years of age legally in possession of a firearm or dangerous weapon that is secured within an attended vehicle or concealed from view within a locked unattended vehicle while conducting legitimate business at the school;

(g) Any nonstudent at least eighteen years of age who is in lawful possession of an unloaded firearm, secured in a vehicle while conducting legitimate business at the school; or

(h) Any law enforcement officer of the federal, state, or local government agency.

(4) Subsections (1)(c) and (d) of this section do not apply to any person who possesses nun-chu-ka sticks,

throwing stars, or other dangerous weapons to be used in martial arts classes authorized to be conducted on the school premises.

(5) Subsection (1)(f)(i) of this section does not apply to any person who possesses a device listed in subsection (1)(f)(i) of this section, if the device is possessed and used solely for the purpose approved by a school for use in a school authorized event, lecture, or activity conducted on the school premises.

(6) Except as provided in subsection (3)(b), (c), (f), and (h) of this section, firearms are not permitted in a public or private school building.

(7) "GUN-FREE ZONE" signs shall be posted around school facilities giving warning of the prohibition of the possession of firearms on school grounds.

**Sec. 5002.** RCW 9.94A.660 and 2016 sp.s. c 29 s 524 are each amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender is convicted of a felony that is not a felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6);

(c) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(d) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(e) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(f) The end of the standard sentence range for the current offense is greater than one year; and

(g) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a special drug offender sentencing alternative may be made by the court, the offender, or the state.

(3) If the sentencing court determines that the offender is eligible for an alternative sentence under this section and that the alternative sentence is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under RCW 9.94A.662 or a residential (~~chemical dependency~~) substance use disorder treatment-based alternative under RCW 9.94A.664. The residential (~~chemical dependency~~) substance use disorder treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(4) To assist the court in making its determination, the court may order the department to complete either or both a risk assessment report and a (~~chemical dependency~~) substance use disorder screening report as provided in RCW 9.94A.500.

(5)(a) If the court is considering imposing a sentence under the residential (~~chemical dependency~~) substance use disorder treatment-based alternative, the court may order an examination of the offender by the department. The examination shall, at a minimum, address the following issues:

(i) Whether the offender suffers from drug addiction;

(ii) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

(iii) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the department of (~~social and~~) health (~~services~~); and

(iv) Whether the offender and the community will benefit from the use of the alternative.

(b) The examination report must contain:

(i) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

(ii) Recommended crime-related prohibitions and affirmative conditions.

(6) When a court imposes a sentence of community custody under this section:

(a) The court may impose conditions as provided in RCW 9.94A.703 and may impose other affirmative conditions as the court considers appropriate. In addition, an offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring for alcohol or controlled substances.

(b) The department may impose conditions and sanctions as authorized in RCW 9.94A.704 and 9.94A.737.

(7)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the conditions of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

(8) In serving a term of community custody imposed upon failure to complete, or administrative termination from, the special drug offender sentencing alternative program, the offender shall receive no credit for time served in community custody prior to termination of the offender's participation in the program.

(9) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.

(10) Costs of examinations and preparing treatment plans under a special drug offender sentencing alternative may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 71.24.580.

**Sec. 5003.** RCW 9.94A.664 and 2009 c 389 s 5 are each amended to read as follows:

(1) A sentence for a residential ~~((chemical dependency))~~ substance use disorder treatment-based alternative shall include a term of community custody equal to one-half the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential ~~((chemical dependency))~~ substance use disorder treatment certified ~~((under chapter 70.96A RCW))~~ by the department of health for a period set by the court between three and six months.

(2)(a) The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the examination report completed pursuant to RCW 9.94A.660.

(b) If the court imposes a term of community custody, the department shall, within available resources, make ~~((chemical dependency))~~ substance use disorder assessment and treatment services available to the offender during the term of community custody.

(3)(a) If the court imposes a sentence under this section, the treatment provider must send the treatment plan to the court within thirty days of the offender's arrival to the residential ~~((chemical dependency))~~ substance use disorder treatment program.

(b) Upon receipt of the plan, the court shall schedule a progress hearing during the period of residential ~~((chemical dependency))~~ substance use disorder treatment, and

schedule a treatment termination hearing for three months before the expiration of the term of community custody.

(c) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment.

(4) At a progress hearing or treatment termination hearing, the court may:

(a) Authorize the department to terminate the offender's community custody status on the expiration date determined under subsection (1) of this section;

(b) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(c) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701.

(5) If the court imposes a term of total confinement, the department shall, within available resources, make ~~((chemical dependency))~~ substance use disorder assessment and treatment services available to the offender during the term of total confinement and subsequent term of community custody.

**Sec. 5004.** RCW 10.31.110 and 2014 c 225 s 57 are each amended to read as follows:

(1) When a police officer has reasonable cause to believe that the individual has committed acts constituting a nonfelony crime that is not a serious offense as identified in RCW 10.77.092 and the individual is known by history or consultation with the behavioral health administrative services organization to suffer from a mental disorder, the arresting officer may:

(a) Take the individual to a crisis stabilization unit as defined in RCW 71.05.020~~((6))~~. Individuals delivered to a crisis stabilization unit pursuant to this section may be held by the facility for a period of up to twelve hours. The individual must be examined by a mental health professional within three hours of arrival;

(b) Take the individual to a triage facility as defined in RCW 71.05.020. An individual delivered to a triage facility which has elected to operate as an involuntary facility may be held up to a period of twelve hours. The individual must be examined by a mental health professional within three hours of arrival;

(c) Refer the individual to a mental health professional for evaluation for initial detention and proceeding under chapter 71.05 RCW; or

(d) Release the individual upon agreement to voluntary participation in outpatient treatment.

(2) If the individual is released to the community, the mental health provider shall inform the arresting officer of

the release within a reasonable period of time after the release if the arresting officer has specifically requested notification and provided contact information to the provider.

(3) In deciding whether to refer the individual to treatment under this section, the police officer shall be guided by standards mutually agreed upon with the prosecuting authority, which address, at a minimum, the length, seriousness, and recency of the known criminal history of the individual, the mental health history of the individual, where available, and the circumstances surrounding the commission of the alleged offense.

(4) Any agreement to participate in treatment shall not require individuals to stipulate to any of the alleged facts regarding the criminal activity as a prerequisite to participation in a mental health treatment alternative. The agreement is inadmissible in any criminal or civil proceeding. The agreement does not create immunity from prosecution for the alleged criminal activity.

(5) If an individual violates such agreement and the mental health treatment alternative is no longer appropriate:

(a) The mental health provider shall inform the referring law enforcement agency of the violation; and

(b) The original charges may be filed or referred to the prosecutor, as appropriate, and the matter may proceed accordingly.

(6) The police officer is immune from liability for any good faith conduct under this section.

**Sec. 5005.** RCW 10.77.010 and 2016 sp.s. c 29 s 405 are each amended to read as follows:

As used in this chapter:

(1) "Admission" means acceptance based on medical necessity, of a person as a patient.

(2) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less-restrictive setting.

(3) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms.

(4) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

(5) "Department" means the state department of social and health services.

(6) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(7) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter, pending evaluation.

(8) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(9) "Developmental disability" means the condition as defined in RCW 71A.10.020(5).

(10) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(11) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

(12) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct.

(13) "History of one or more violent acts" means violent acts committed during: (a) The ten-year period of time prior to the filing of criminal charges; plus (b) the amount of time equal to time spent during the ten-year period in a mental health facility or in confinement as a result of a criminal conviction.

(14) "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, sibling, or domestic partner.

(15) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

(16) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

(17) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual release, and a projected possible date for release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

(18) "Professional person" means:

(a) A psychiatrist licensed as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology or the American osteopathic board of neurology and psychiatry;

(b) A psychologist licensed as a psychologist pursuant to chapter 18.83 RCW; or

(c) A social worker with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(19) (~~"Registration records" include all the records of the department, behavioral health organizations, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.~~

~~(20))~~ "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

~~((21))~~ (20) "Secretary" means the secretary of the department of social and health services or his or her designee.

~~((22))~~ (21) "Treatment" means any currently standardized medical or mental health procedure including medication.

~~((23))~~ (22) "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, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health administrative services organizations, managed care

organizations, or a treatment facility if the notes or records are not available to others.

~~((24))~~ (23) "Violent act" means behavior that: (a)(i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal injuries" means physical pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110.

**Sec. 5006.** RCW 10.77.065 and 2016 sp.s. c 29 s 409 are each amended to read as follows:

(1)(a)(i) The expert conducting the evaluation shall provide his or her report and recommendation to the court in which the criminal proceeding is pending. For a competency evaluation of a defendant who is released from custody, if the evaluation cannot be completed within twenty-one days due to a lack of cooperation by the defendant, the evaluator shall notify the court that he or she is unable to complete the evaluation because of such lack of cooperation.

(ii) A copy of the report and recommendation shall be provided to the designated crisis responder, the prosecuting attorney, the defense attorney, and the professional person at the local correctional facility where the defendant is being held, or if there is no professional person, to the person designated under (a)(iv) of this subsection. Upon request, the evaluator shall also provide copies of any source documents relevant to the evaluation to the designated crisis responder.

(iii) Any facility providing inpatient services related to competency shall discharge the defendant as soon as the facility determines that the defendant is competent to stand trial. Discharge shall not be postponed during the writing and distribution of the evaluation report. Distribution of an evaluation report by a facility providing inpatient services shall ordinarily be accomplished within two working days or less following the final evaluation of the defendant. If the defendant is discharged to the custody of a local correctional facility, the local correctional facility must continue the medication regimen prescribed by the facility, when clinically appropriate, unless the defendant refuses to cooperate with medication and an involuntary medication order by the court has not been entered.

(iv) If there is no professional person at the local correctional facility, the local correctional facility shall designate a professional person as defined in RCW 71.05.020 or, in cooperation with the behavioral health administrative services organization, a professional person at the behavioral health administrative services organization to receive the report and recommendation.

(v) Upon commencement of a defendant's evaluation in the local correctional facility, the local correctional facility must notify the evaluator of the name of the

professional person, or person designated under (a)(iv) of this subsection, to receive the report and recommendation.

(b) If the evaluator concludes, under RCW 10.77.060(3)(f), the person should be evaluated by a designated crisis responder under chapter 71.05 RCW, the court shall order such evaluation be conducted prior to release from confinement when the person is acquitted or convicted and sentenced to confinement for twenty-four months or less, or when charges are dismissed pursuant to a finding of incompetent to stand trial.

(2) The designated crisis responder shall provide written notification within twenty-four hours of the results of the determination whether to commence proceedings under chapter 71.05 RCW. The notification shall be provided to the persons identified in subsection (1)(a) of this section.

(3) The prosecuting attorney shall provide a copy of the results of any proceedings commenced by the designated crisis responder under subsection (2) of this section to the secretary.

(4) A facility conducting a civil commitment evaluation under RCW 10.77.086(4) or 10.77.088(1)(c)(ii) that makes a determination to release the person instead of filing a civil commitment petition must provide written notice to the prosecutor and defense attorney at least twenty-four hours prior to release. The notice may be given by email, facsimile, or other means reasonably likely to communicate the information immediately.

(5) The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services under this chapter may also be disclosed to the courts solely to prevent the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

**Sec. 5007.** RCW 13.40.165 and 2016 c 106 s 3 are each amended to read as follows:

(1) The purpose of this disposition alternative is to ensure that successful treatment options to reduce recidivism are available to eligible youth, pursuant to RCW ((70.96A.520)) 71.24.615. It is also the purpose of the disposition alternative to assure that minors in need of ((~~chemical dependency~~)) substance use disorder, mental health, and/or co-occurring disorder treatment receive an appropriate continuum of culturally relevant care and treatment, including prevention and early intervention, self-directed care, parent-directed care, and residential treatment. To facilitate the continuum of care and treatment to minors in out-of-home placements, all divisions of the department that provide these services to minors shall jointly plan and deliver these services. It is also the purpose of the disposition alternative to protect the rights of minors against needless hospitalization and deprivations of liberty and to enable treatment decisions to be made in response to clinical needs and in accordance with sound professional judgment. The mental health, substance abuse, and co-occurring disorder treatment providers shall, to the extent possible, offer services that involve minors' parents, guardians, and family.

(2) The court must consider eligibility for the ((~~chemical dependency~~)) substance use disorder or mental health disposition alternative when a juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, other than a first time B+ offense under chapter 69.50 RCW. The court, on its own motion or the motion of the state or the respondent if the evidence shows that the offender may be chemically dependent, substance abusing, or has significant mental health or co-occurring disorders may order an examination by a ((~~chemical dependency~~)) substance use disorder counselor from a ((~~chemical dependency~~)) substance use disorder treatment facility approved under chapter 70.96A RCW or a mental health professional as defined in chapter 71.34 RCW to determine if the youth is chemically dependent, substance abusing, or suffers from significant mental health or co-occurring disorders. The offender shall pay the cost of any examination ordered under this subsection unless the court finds that the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.

(3) The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of drug-alcohol problems, mental health diagnoses, previous treatment attempts, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the examiner's information.

(4) The examiner shall assess and report regarding the respondent's relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(a) Whether inpatient and/or outpatient treatment is recommended;

(b) Availability of appropriate treatment;

(c) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;

(d) Anticipated length of treatment; and

(e) Recommended crime-related prohibitions.

(5) The court on its own motion may order, or on a motion by the state or the respondent shall order, a second examination. The evaluator shall be selected by the party making the motion. The requesting party shall pay the cost of any examination ordered under this subsection unless the requesting party is the offender and the court finds that the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.

(6)(a) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section.

(b) If the court determines that this disposition alternative is appropriate, then the court shall impose the standard range for the offense, or if the court concludes, and enters reasons for its conclusion, that such disposition would effectuate a manifest injustice, the court shall impose a disposition above the standard range as indicated in option D of RCW 13.40.0357 if the disposition is an increase from the standard range and the confinement of the offender does not exceed a maximum of fifty-two weeks, suspend execution of the disposition, and place the offender on community supervision for up to one year. As a condition of the suspended disposition, the court shall require the offender to undergo available outpatient drug/alcohol, mental health, or co-occurring disorder treatment and/or inpatient mental health or drug/alcohol treatment. The court shall only order inpatient treatment under this section if a funded bed is available. If the inpatient treatment is longer than ninety days, the court shall hold a review hearing every thirty days beyond the initial ninety days. The respondent may appear telephonically at these review hearings if in compliance with treatment. As a condition of the suspended disposition, the court may impose conditions of community supervision and other sanctions, including up to thirty days of confinement, one hundred fifty hours of community restitution, and payment of legal financial obligations and restitution.

(7) The mental health/co-occurring disorder/drug/alcohol treatment provider shall submit monthly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may impose sanctions pursuant to RCW 13.40.200 or revoke the suspension and order execution of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

(8) For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the offense charged. "Victim" may also include a known parent or guardian of a victim who is a minor child or is not a minor child but is incapacitated, incompetent, disabled, or deceased.

(9) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(10) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

(11) A disposition under this section is not appealable under RCW 13.40.230.

(12) Subject to funds appropriated for this specific purpose, the costs incurred by the juvenile courts for the mental health, ~~((chemical dependency))~~ substance use disorder, and/or co-occurring disorder evaluations, treatment, and costs of supervision required under this section shall be paid by the ~~((department))~~ health care authority.

**Sec. 5008.** RCW 36.28A.440 and 2018 c 142 s 1 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the Washington association of sheriffs and police chiefs shall develop and implement a mental health field response grant program. The purpose of the program is to assist local law enforcement agencies to establish and expand mental health field response capabilities, utilizing mental health professionals to professionally, humanely, and safely respond to crises involving persons with behavioral health issues with treatment, diversion, and reduced incarceration time as primary goals. A portion of the grant funds may also be used to develop data management capability to support the program.

(2) Grants must be awarded to local law enforcement agencies based on locally developed proposals to incorporate mental health professionals into the agencies' mental health field response planning and response. Two or more agencies may submit a joint grant proposal to develop their mental health field response proposals. Proposals must provide a plan for improving mental health field response and diversion from incarceration through modifying or expanding law enforcement practices in partnership with mental health professionals. A peer review panel appointed by the Washington association of sheriffs and police chiefs in consultation with ~~((integrated))~~ managed care organizations and behavioral health administrative services organizations must review the grant applications. Once the Washington association of sheriffs and police chiefs certifies that the application satisfies the proposal criteria, the grant funds will be distributed. To the extent possible, at least one grant recipient agency should be from the east side of the state and one from the west side of the state with the crest of the Cascades being the dividing line. The Washington association of sheriffs and police chiefs shall make every effort to fund at least eight grants per fiscal year with funding provided for this purpose from all allowable sources under this section. The Washington association of sheriffs and police chiefs may prioritize grant applications that include local matching funds. Grant recipients must be selected and receiving funds no later than October 1, 2018.

(3) Grant recipients must include at least one mental health professional who will perform professional services under the plan. A mental health professional may assist patrolling officers in the field or in an on-call capacity, provide preventive, follow-up, training on mental health field response best practices, or other services at the direction of the local law enforcement agency. Nothing in

this subsection (3) limits the mental health professional's participation to field patrol. Grant recipients are encouraged to coordinate with local public safety answering points to maximize the goals of the program.

(4) Within existing resources, the Washington association of sheriffs and police chiefs shall:

(a) Consult with the department of social and health services research and data analysis unit to establish data collection and reporting guidelines for grant recipients. The data will be used to study and evaluate whether the use of mental health field response programs improves outcomes of interactions with persons experiencing behavioral health crises, including reducing rates of violence and harm, reduced arrests, and jail or emergency room usage;

(b) Consult with the ~~((department of social and health services behavioral health administration))~~ health care authority, the department of health, and the managed care system to develop requirements for participating mental health professionals; and

(c) Coordinate with public safety answering points, behavioral health, and the department of social and health services to develop and incorporate telephone triage criteria or dispatch protocols to assist with mental health, law enforcement, and emergency medical responses involving mental health situations.

(5) The Washington association of sheriffs and police chiefs shall submit an annual report to the governor and appropriate committees of the legislature on the program. The report must include information on grant recipients, use of funds, participation of mental health professionals, and feedback from the grant recipients by December 1st of each year the program is funded.

(6) Grant recipients shall develop and provide or arrange for training necessary for mental health professionals to operate successfully and competently in partnership with law enforcement agencies. The training must provide the professionals with a working knowledge of law enforcement procedures and tools sufficient to provide for the safety of the professionals, partnered law enforcement officers, and members of the public.

(7) Nothing in this section prohibits the Washington association of sheriffs and police chiefs from soliciting or accepting private funds to support the program created in this section.

**Sec. 5009.** RCW 41.05.690 and 2014 c 223 s 6 are each amended to read as follows:

(1) There is created a performance measures committee, the purpose of which is to identify and recommend standard statewide measures of health performance to inform public and private health care purchasers and to propose benchmarks to track costs and improvements in health outcomes.

(2) Members of the committee must include representation from state agencies, small and large employers, health plans, patient groups, federally recognized

tribes, consumers, academic experts on health care measurement, hospitals, physicians, and other providers. The governor shall appoint the members of the committee, except that a statewide association representing hospitals may appoint a member representing hospitals, and a statewide association representing physicians may appoint a member representing physicians. The governor shall ensure that members represent diverse geographic locations and both rural and urban communities. The chief executive officer of the lead organization must also serve on the committee. The committee must be chaired by the director of the authority.

(3) The committee shall develop a transparent process for selecting performance measures, and the process must include opportunities for public comment.

(4) By January 1, 2015, the committee shall submit the performance measures to the authority. The measures must include dimensions of:

(a) Prevention and screening;

(b) Effective management of chronic conditions;

(c) Key health outcomes;

(d) Care coordination and patient safety; and

(e) Use of the lowest cost, highest quality care for preventive care and acute and chronic conditions.

(5) The committee shall develop a measure set that:

(a) Is of manageable size;

(b) Is based on readily available claims and clinical data;

(c) Gives preference to nationally reported measures and, where nationally reported measures may not be appropriate, measures used by state agencies that purchase health care or commercial health plans;

(d) Focuses on the overall performance of the system, including outcomes and total cost;

(e) Is aligned with the governor's performance management system measures and common measure requirements specific to medicaid delivery systems under RCW 70.320.020 and 43.20A.895 (as recodified by this act);

(f) Considers the needs of different stakeholders and the populations served; and

(g) Is usable by multiple payers, providers, hospitals, purchasers, public health, and communities as part of health improvement, care improvement, provider payment systems, benefit design, and administrative simplification for providers and hospitals.

(6) State agencies shall use the measure set developed under this section to inform and set benchmarks for purchasing decisions.

(7) The committee shall establish a public process to periodically evaluate the measure set and make additions or changes to the measure set as needed.

**Sec. 5010.** RCW 43.20A.895 and 2014 c 225 s 64 are each amended to read as follows:

(1) The systems responsible for financing, administration, and delivery of publicly funded mental health and ~~((chemical dependency))~~ substance use disorder services to adults must be designed and administered to achieve improved outcomes for adult clients served by those systems through increased use and development of evidence-based, research-based, and promising practices, as defined in RCW 71.24.025. For purposes of this section, client outcomes include: Improved health status; increased participation in employment and education; reduced involvement with the criminal justice system; enhanced safety and access to treatment for forensic patients; reduction in avoidable utilization of and costs associated with hospital, emergency room, and crisis services; increased housing stability; improved quality of life, including measures of recovery and resilience; and decreased population level disparities in access to treatment and treatment outcomes.

(2) The ~~((department and the health care))~~ authority must implement a strategy for the improvement of the ~~((adult))~~ behavioral health system.

~~((a))~~ The department must establish a steering committee that includes at least the following members: Behavioral health service recipients and their families; local government; representatives of behavioral health organizations; representatives of county coordinators; law enforcement; city and county jails; tribal representatives; behavioral health service providers, including at least one chemical dependency provider and at least one psychiatric advanced registered nurse practitioner; housing providers; medicaid managed care plan representatives; long term care service providers; organizations representing health care professionals providing services in mental health settings; the Washington state hospital association; the Washington state medical association; individuals with expertise in evidence-based and research-based behavioral health service practices; and the health care authority.

(b) The adult behavioral health system improvement strategy must include:

(i) An assessment of the capacity of the current publicly funded behavioral health services system to provide evidence-based, research-based, and promising practices;

(ii) Identification, development, and increased use of evidence-based, research-based, and promising practices;

(iii) Design and implementation of a transparent quality management system, including analysis of current system capacity to implement outcomes reporting and development of baseline and improvement targets for each outcome measure provided in this section;

(iv) Identification and phased implementation of service delivery, financing, or other strategies that will promote improvement of the behavioral health system as described in this section and incentivize the medical care, behavioral health, and long term care service delivery systems to achieve the improvements described in this section and collaborate across systems. The strategies must

~~include phased implementation of public reporting of outcome and performance measures in a form that allows for comparison of performance and levels of improvement between geographic regions of Washington; and~~

~~(v) Identification of effective methods for promoting workforce capacity, efficiency, stability, diversity, and safety.~~

~~(e) The department must seek private foundation and federal grant funding to support the adult behavioral health system improvement strategy.~~

~~(d) By May 15, 2014, the Washington state institute for public policy, in consultation with the department, the University of Washington evidence based practice institute, the University of Washington alcohol and drug abuse institute, and the Washington institute for mental health research and training, shall prepare an inventory of evidence based, research based, and promising practices for prevention and intervention services pursuant to subsection (1) of this section. The department shall use the inventory in preparing the behavioral health improvement strategy. The department shall provide the institute with data necessary to complete the inventory.~~

~~(e) By August 1, 2014, the department must report to the governor and the relevant fiscal and policy committees of the legislature on the status of implementation of the behavioral health improvement strategy, including strategies developed or implemented to date, timelines, and costs to accomplish phased implementation of the adult behavioral health system improvement strategy.~~

(3) The department must contract for the services of an independent consultant to review the provision of forensic mental health services in Washington state and provide recommendations as to whether and how the state's forensic mental health system should be modified to provide an appropriate treatment environment for individuals with mental disorders who have been charged with a crime while enhancing the safety and security of the public and other patients and staff at forensic treatment facilities. By August 1, 2014, the department must submit a report regarding the recommendations of the independent consultant to the governor and the relevant fiscal and policy committees of the legislature.)

**Sec. 5011.** RCW 43.20C.030 and 2014 c 225 s 67 are each amended to read as follows:

The department of social and health services, in consultation with a university-based evidence-based practice institute entity in Washington, the Washington partnership council on juvenile justice, the child mental health systems of care planning committee, the children, youth, and family advisory committee, the health care authority, the Washington state racial disproportionality advisory committee, a university-based child welfare research entity in Washington state, behavioral health administrative services organizations established in chapter 71.24 RCW, managed care organizations contracted with the authority under chapter 74.09 RCW, the Washington association of

juvenile court administrators, and the Washington state institute for public policy, shall:

(1) Develop strategies to use unified and coordinated case plans for children, youth, and their families who are or are likely to be involved in multiple systems within the department;

(2) Use monitoring and quality control procedures designed to measure fidelity with evidence-based and research-based prevention and treatment programs; and

(3) Utilize any existing data reporting and system of quality management processes at the state and local level for monitoring the quality control and fidelity of the implementation of evidence-based and research-based practices.

**Sec. 5012.** RCW 43.185.060 and 2014 c 225 s 61 are each amended to read as follows:

Organizations that may receive assistance from the department under this chapter are local governments, local housing authorities, behavioral health administrative services organizations established under chapter 71.24 RCW, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or statewide nonprofit housing assistance organizations.

Eligibility for assistance from the department under this chapter also requires compliance with the revenue and taxation laws, as applicable to the recipient, at the time the grant is made.

**Sec. 5013.** RCW 43.185.070 and 2015 c 155 s 2 are each amended to read as follows:

(1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the housing assistance program, the department must announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement must be made as often as the director deems appropriate for proper utilization of resources. The department must then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department as provided in RCW 43.185.050.

(2) In awarding funds under this chapter, the department must:

(a) Provide for a geographic distribution on a statewide basis; and

(b) Until June 30, 2013, consider the total cost and per-unit cost of each project for which an application is submitted for funding under RCW 43.185.050(2) (a) and (j), as compared to similar housing projects constructed or renovated within the same geographic area.

(3) The department, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, or a subcommittee of the affordable housing advisory board, must report recommendations for awarding funds in a cost-effective manner. The report must include an implementation plan, timeline, and any other items the department identifies as important to consider to the legislature by December 1, 2012.

(4) The department must give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities must be evaluated under subsection (5) of this section. Second priority must be given to activities and projects which utilize existing publicly owned housing stock. All projects and activities must be evaluated by some or all of the criteria under subsection (5) of this section, and similar projects and activities shall be evaluated under the same criteria.

(5) The department must give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities must be evaluated under the same criteria:

(a) The degree of leveraging of other funds that will occur;

(b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;

(c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Local government project contributions in the form of infrastructure improvements, and others;

(e) Projects that encourage ownership, management, and other project-related responsibility opportunities;

(f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;

(g) The applicant has the demonstrated ability, stability and resources to implement the project;

(h) Projects which demonstrate serving the greatest need;

(i) Projects that provide housing for persons and families with the lowest incomes;

(j) Projects serving special needs populations which are under statutory mandate to develop community housing;

(k) Project location and access to employment centers in the region or area;

(l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in RCW 50.72.020;

(m) Project location and access to available public transportation services; and

(n) Projects involving collaborative partnerships between local school districts and either public housing authorities or nonprofit housing providers, that help children of low-income families succeed in school. To receive this preference, the local school district must provide an opportunity for community members to offer input on the proposed project at the first scheduled school board meeting following submission of the grant application to the department.

~~((6) The department may only approve applications for projects for persons with mental illness that are consistent with a behavioral health organization six year capital and operating plan.))~~

**Sec. 5014.** RCW 43.185.110 and 2014 c 225 s 3 are each amended to read as follows:

The affordable housing advisory board established in RCW 43.185B.020 shall advise the director on housing needs in this state, including housing needs for persons with mental illness or developmental disabilities or youth who are blind or deaf or otherwise disabled, operational aspects of the grant and loan program or revenue collection programs established by this chapter, and implementation of the policy and goals of this chapter. Such advice shall be consistent with policies and plans developed by behavioral health administrative services organizations according to chapter 71.24 RCW for individuals with mental illness and the developmental disabilities planning council for individuals with developmental disabilities.

**Sec. 5015.** RCW 43.185C.340 and 2016 c 157 s 3 are each amended to read as follows:

(1) Subject to funds appropriated for this specific purpose, the department, in consultation with the office of the superintendent of public instruction, shall administer a grant program that links homeless students and their families with stable housing located in the homeless student's school district. The goal of the program is to provide educational stability for homeless students by promoting housing stability.

(2) The department, working with the office of the superintendent of public instruction, shall develop a competitive grant process to make grant awards of no more than one hundred thousand dollars per school, not to exceed five hundred thousand dollars per school district, to school districts partnered with eligible organizations on implementation of the proposal. For the purposes of this subsection, "eligible organization" means any local government, local housing authority, ~~((regional support network))~~ behavioral health administrative services organization established under chapter 71.24 RCW, nonprofit community or neighborhood-based organization,

federally recognized Indian tribe in the state of Washington, or regional or statewide nonprofit housing assistance organization. Applications for the grant program must include contractual agreements between the housing providers and school districts defining the responsibilities and commitments of each party to identify, house, and support homeless students.

(3) The grants awarded to school districts shall not exceed fifteen school districts per school year. In determining which partnerships will receive grants, preference must be given to districts with a demonstrated commitment of partnership and history with eligible organizations.

(4) Activities eligible for assistance under this grant program include but are not limited to:

(a) Rental assistance, which includes utilities, security and utility deposits, first and last month's rent, rental application fees, moving expenses, and other eligible expenses to be determined by the department;

(b) Transportation assistance, including gasoline assistance for families with vehicles and bus passes;

(c) Emergency shelter; and

(d) Housing stability case management.

(5) All beneficiaries of funds from the grant program must be unaccompanied youth or from very low-income households. For the purposes of this subsection, "very low-income household" means an unaccompanied youth or family or unrelated persons living together whose adjusted income is less than fifty percent of the median family income, adjusted for household size, for the county where the grant recipient is located.

(6)(a) Grantee school districts must compile and report information to the department. The department shall report to the legislature the findings of the grantee, the housing stability of the homeless families, the academic performance of the grantee population, and any related policy recommendations.

(b) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180.

(7) In order to ensure that school districts are meeting the requirements of an approved program for homeless students, the office of the superintendent of public instruction shall monitor the programs at least once every two years. Monitoring shall begin during the 2016-17 school year.

(8) Any program review and monitoring under this section may be conducted concurrently with other program reviews and monitoring conducted by the department. In its review, the office of the superintendent of public instruction shall monitor program components that include but need not be limited to the process used by the district to identify and reach out to homeless students, assessment data and other indicators to determine how well the district is meeting the academic needs of homeless students, district expenditures

used to expand opportunities for these students, and the academic progress of students under the program.

**Sec. 5016.** RCW 43.380.050 and 2016 c 188 s 6 are each amended to read as follows:

(1) In addition to other powers and duties prescribed in this chapter, the council is empowered to:

(a) Meet at such times and places as necessary;

(b) Advise the legislature and the governor on issues relating to reentry and reintegration of offenders;

(c) Review, study, and make policy and funding recommendations on issues directly and indirectly related to reentry and reintegration of offenders in Washington state, including, but not limited to: Correctional programming and other issues in state and local correctional facilities; housing; employment; education; treatment; and other issues contributing to recidivism;

(d) Apply for, receive, use, and leverage public and private grants as well as specifically appropriated funds to establish, manage, and promote initiatives and programs related to successful reentry and reintegration of offenders;

(e) Contract for services as it deems necessary in order to carry out initiatives and programs;

(f) Adopt policies and procedures to facilitate the orderly administration of initiatives and programs;

(g) Create committees and subcommittees of the council as is necessary for the council to conduct its business; and

(h) Create and consult with advisory groups comprising nonmembers. Advisory groups are not eligible for reimbursement under RCW 43.380.060.

(2) Subject to the availability of amounts appropriated for this specific purpose, the council may select an executive director to administer the business of the council.

(a) The council may delegate to the executive director by resolution all duties necessary to efficiently carry on the business of the council. Approval by a majority vote of the council is required for any decisions regarding employment of the executive director.

(b) The executive director may not be a member of the council while serving as executive director.

(c) Employment of the executive director must be confirmed by the senate and terminates after a term of three years. At the end of a term, the council may consider hiring the executive director for an additional three-year term or an extension of a specified period less than three years. The council may fix the compensation of the executive director.

(d) Subject to the availability of amounts appropriated for this specific purpose, the executive director shall reside in and be funded by the department.

(3) In conducting its business, the council shall solicit input and participation from stakeholders interested in reducing recidivism, promoting public safety, and improving community conditions for people reentering the community from incarceration. The council shall consult: The two largest caucuses in the house of representatives; the two largest caucuses in the senate; the governor; local governments; educators; ~~((mental health and substance abuse))~~ behavioral health providers; behavioral health administrative services organizations; managed care organizations; city and county jails; the department of corrections; specialty courts; persons with expertise in evidence-based and research-based reentry practices; and persons with criminal histories and their families.

(4) The council shall submit to the governor and appropriate committees of the legislature a preliminary report of its activities and recommendations by December 1st of its first year of operation, and every two years thereafter.

**Sec. 5017.** RCW 48.01.220 and 2014 c 225 s 69 are each amended to read as follows:

The activities and operations of ~~((mental health))~~ behavioral health administrative services organizations, ~~((to the extent they pertain to the operation of a medical assistance managed care system in accordance with chapters 71.24 and 74.09 RCW))~~ as defined in RCW 71.24.025, are exempt from the requirements of this title.

**Sec. 5018.** RCW 66.08.180 and 2011 c 325 s 7 are each amended to read as follows:

Except as provided in RCW 66.24.290(1), moneys in the liquor revolving fund shall be distributed by the board at least once every three months in accordance with RCW 66.08.190, 66.08.200 and 66.08.210. However, the board shall reserve from distribution such amount not exceeding five hundred thousand dollars as may be necessary for the proper administration of this title.

(1) All license fees, penalties, and forfeitures derived under chapter 13, Laws of 1935 from spirits, beer, and wine restaurant; spirits, beer, and wine private club; hotel; spirits, beer, and wine nightclub; spirits, beer, and wine VIP airport lounge; and sports entertainment facility licenses shall every three months be disbursed by the board as follows:

(a) Three hundred thousand dollars per biennium, to the death investigations account for the state toxicology program pursuant to RCW 68.50.107; and

(b) Of the remaining funds:

(i) 6.06 percent to the University of Washington and 4.04 percent to Washington State University for alcoholism and drug abuse research and for the dissemination of such research; and

(ii) 89.9 percent to the general fund to be used by the ~~((department of social and health services))~~ health care

authority solely to carry out the purposes of RCW ((70.96A.050)) 71.24.535;

(2) The first fifty-five dollars per license fee provided in RCW 66.24.320 and 66.24.330 up to a maximum of one hundred fifty thousand dollars annually shall be disbursed every three months by the board to the general fund to be used for juvenile alcohol and drug prevention programs for kindergarten through third grade to be administered by the superintendent of public instruction;

(3) Twenty percent of the remaining total amount derived from license fees pursuant to RCW 66.24.320, 66.24.330, 66.24.350, and 66.24.360, shall be transferred to the general fund to be used by the ((department of social and health services)) health care authority solely to carry out the purposes of RCW ((70.96A.050)) 71.24.535; and

(4) One-fourth cent per liter of the tax imposed by RCW 66.24.210 shall every three months be disbursed by the board to Washington State University solely for wine and wine grape research, extension programs related to wine and wine grape research, and resident instruction in both wine grape production and the processing aspects of the wine industry in accordance with RCW 28B.30.068. The director of financial management shall prescribe suitable accounting procedures to ensure that the funds transferred to the general fund to be used by the department of social and health services and appropriated are separately accounted for.

**Sec. 5019.** RCW 70.02.010 and 2018 c 201 s 8001 are each amended to read as follows:

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

(1) "Admission" has the same meaning as in RCW 71.05.020.

(2) "Audit" means an assessment, evaluation, determination, or investigation of a health care provider by a person not employed by or affiliated with the provider to determine compliance with:

(a) Statutory, regulatory, fiscal, medical, or scientific standards;

(b) A private or public program of payments to a health care provider; or

(c) Requirements for licensing, accreditation, or certification.

(3) "Authority" means the Washington state health care authority.

(4) "Commitment" has the same meaning as in RCW 71.05.020.

(5) "Custody" has the same meaning as in RCW 71.05.020.

(6) "Deidentified" means health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

(7) "Department" means the department of social and health services.

(8) "Designated crisis responder" has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.

(9) "Detention" or "detain" has the same meaning as in RCW 71.05.020.

(10) "Directory information" means information disclosing the presence, and for the purpose of identification, the name, location within a health care facility, and the general health condition of a particular patient who is a patient in a health care facility or who is currently receiving emergency health care in a health care facility.

(11) "Discharge" has the same meaning as in RCW 71.05.020.

(12) "Evaluation and treatment facility" has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.

(13) "Federal, state, or local law enforcement authorities" means an officer of any agency or authority in the United States, a state, a tribe, a territory, or a political subdivision of a state, a tribe, or a territory who is empowered by law to: (a) Investigate or conduct an official inquiry into a potential criminal violation of law; or (b) prosecute or otherwise conduct a criminal proceeding arising from an alleged violation of law.

(14) "General health condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.

(15) "Health care" means any care, service, or procedure provided by a health care provider:

(a) To diagnose, treat, or maintain a patient's physical or mental condition; or

(b) That affects the structure or any function of the human body.

(16) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

(17) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care, including a patient's deoxyribonucleic acid and identified sequence of chemical base pairs. The term includes any required accounting of disclosures of health care information.

(18) "Health care operations" means any of the following activities of a health care provider, health care facility, or third-party payor to the extent that the activities are related to functions that make an entity a health care provider, a health care facility, or a third-party payor:

(a) Conducting: Quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, if the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based

activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;

(b) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance and third-party payor performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of nonhealth care professionals, accreditation, certification, licensing, or credentialing activities;

(c) Underwriting, premium rating, and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care, including stop-loss insurance and excess of loss insurance, if any applicable legal requirements are met;

(d) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;

(e) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the health care facility or third-party payor, including formulary development and administration, development, or improvement of methods of payment or coverage policies; and

(f) Business management and general administrative activities of the health care facility, health care provider, or third-party payor including, but not limited to:

(i) Management activities relating to implementation of and compliance with the requirements of this chapter;

(ii) Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that health care information is not disclosed to such policy holder, plan sponsor, or customer;

(iii) Resolution of internal grievances;

(iv) The sale, transfer, merger, or consolidation of all or part of a health care provider, health care facility, or third-party payor with another health care provider, health care facility, or third-party payor or an entity that following such activity will become a health care provider, health care facility, or third-party payor, and due diligence related to such activity; and

(v) Consistent with applicable legal requirements, creating deidentified health care information or a limited dataset for the benefit of the health care provider, health care facility, or third-party payor.

(19) "Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.

(20) "Human immunodeficiency virus" or "HIV" has the same meaning as in RCW 70.24.017.

(21) "Imminent" has the same meaning as in RCW 71.05.020.

(22) "Information and records related to mental health services" means a type of health care information that relates to all information and records compiled, obtained, or maintained in the course of providing services by a mental health service agency or mental health professional to persons who are receiving or have received services for mental illness. The term includes mental health information contained in a medical bill, registration records, as defined in RCW ((71.05.020)) 70.97.010, and all other records regarding the person maintained by the department, by the authority, by behavioral health administrative services organizations and their staff, managed care organizations contracted with the authority under chapter 74.09 RCW and their staff, and by treatment facilities. The term further includes documents of legal proceedings under chapter 71.05, 71.34, or 10.77 RCW, or somatic health care information. For health care information maintained by a hospital as defined in RCW 70.41.020 or a health care facility or health care provider that participates with a hospital in an organized health care arrangement defined under federal law, "information and records related to mental health services" is limited to information and records of services provided by a mental health professional or information and records of services created by a hospital-operated community behavioral health program as defined in RCW 71.24.025. The term does not include psychotherapy notes.

(23) "Information and records related to sexually transmitted diseases" means a type of health care information that relates to the identity of any person upon whom an HIV antibody test or other sexually transmitted infection test is performed, the results of such tests, and any information relating to diagnosis of or treatment for any confirmed sexually transmitted infections.

(24) "Institutional review board" means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects.

(25) "Legal counsel" has the same meaning as in RCW 71.05.020.

(26) "Local public health officer" has the same meaning as in RCW 70.24.017.

(27) "Maintain," as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

(28) "Mental health professional" means a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary of health under chapter 71.05

RCW, whether that person works in a private or public setting.

(29) "Mental health service agency" means a public or private agency that provides services to persons with mental disorders as defined under RCW 71.05.020 or 71.34.020 and receives funding from public sources. This includes evaluation and treatment facilities as defined in RCW 71.34.020, community mental health service delivery systems, or community behavioral health programs, as defined in RCW 71.24.025, and facilities conducting competency evaluations and restoration under chapter 10.77 RCW.

(30) "Minor" has the same meaning as in RCW 71.34.020.

(31) "Parent" has the same meaning as in RCW 71.34.020.

(32) "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

(33) "Payment" means:

(a) The activities undertaken by:

(i) A third-party payor to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits by the third-party payor; or

(ii) A health care provider, health care facility, or third-party payor, to obtain or provide reimbursement for the provision of health care; and

(b) The activities in (a) of this subsection that relate to the patient to whom health care is provided and that include, but are not limited to:

(i) Determinations of eligibility or coverage, including coordination of benefits or the determination of cost-sharing amounts, and adjudication or subrogation of health benefit claims;

(ii) Risk adjusting amounts due based on enrollee health status and demographic characteristics;

(iii) Billing, claims management, collection activities, obtaining payment under a contract for reinsurance, including stop-loss insurance and excess of loss insurance, and related health care data processing;

(iv) Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;

(v) Utilization review activities, including precertification and preauthorization of services, and concurrent and retrospective review of services; and

(vi) Disclosure to consumer reporting agencies of any of the following health care information relating to collection of premiums or reimbursement:

(A) Name and address;

(B) Date of birth;

(C) Social security number;

(D) Payment history;

(E) Account number; and

(F) Name and address of the health care provider, health care facility, and/or third-party payor.

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

(35) "Professional person" has the same meaning as in RCW 71.05.020.

(36) "Psychiatric advanced registered nurse practitioner" has the same meaning as in RCW 71.05.020.

(37) "Psychotherapy notes" means notes recorded, in any medium, by a mental health professional documenting or analyzing the contents of conversations during a private counseling session or group, joint, or family counseling session, and that are separated from the rest of the individual's medical record. The term excludes mediation prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: Diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

(38) "Reasonable fee" means the charges for duplicating or searching the record, but shall not exceed sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages. In addition, a clerical fee for searching and handling may be charged not to exceed fifteen dollars. These amounts shall be adjusted biennially in accordance with changes in the consumer price index, all consumers, for Seattle-Tacoma metropolitan statistical area as determined by the secretary of health. However, where editing of records by a health care provider is required by statute and is done by the provider personally, the fee may be the usual and customary charge for a basic office visit.

(39) "Release" has the same meaning as in RCW 71.05.020.

(40) "Resource management services" has the same meaning as in RCW 71.05.020.

(41) "Serious violent offense" has the same meaning as in RCW 71.05.020.

(42) "Sexually transmitted infection" or "sexually transmitted disease" has the same meaning as "sexually transmitted disease" in RCW 70.24.017.

(43) "Test for a sexually transmitted disease" has the same meaning as in RCW 70.24.017.

(44) "Third-party payor" means an insurer regulated under Title 48 RCW authorized to transact business in this state or other jurisdiction, including a health care service contractor, and health maintenance organization; or an employee welfare benefit plan, excluding fitness or wellness plans; or a state or federal health benefit program.

(45) "Treatment" means the provision, coordination, or management of health care and related services by one or

more health care providers or health care facilities, including the coordination or management of health care by a health care provider or health care facility with a third party; consultation between health care providers or health care facilities relating to a patient; or the referral of a patient for health care from one health care provider or health care facility to another.

(46) "Managed care organization" has the same meaning as provided in RCW 71.24.025.

**Sec. 5020.** RCW 70.02.230 and 2018 c 201 s 8002 are each amended to read as follows:

(1) Except as provided in this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or pursuant to a valid authorization under RCW 70.02.030, the fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies must be confidential.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed only:

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

- (i) Employed by the facility;
- (ii) Who has medical responsibility for the patient's care;
- (iii) Who is a designated crisis responder;
- (iv) Who is providing services under chapter 71.24 RCW;
- (v) Who is employed by a state or local correctional facility where the person is confined or supervised; or
- (vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d)(i) To the courts as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e)(i) When a mental health professional or designated crisis responder is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional or designated crisis responder shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be disclosed only after giving notice to the committed person and the person's counsel;

(h)(i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the

public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW 70.02.140;

(l) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;

(m) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)((~~iii~~)) (iv). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the

person is charged with violating RCW 9.41.040(2)(a)((~~iii~~)) (iv);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(n) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

(o) Pursuant to lawful order of a court;

(p) To qualified staff members of the department, to the authority, to ~~((the director of))~~ behavioral health administrative services organizations, to managed care organizations, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

(q) Within the mental health service agency where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

(r) Within the department and the authority as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or substance use disorder of persons who are under the supervision of the department;

(s) Between the department of social and health services, the department of children, youth, and families, and the health care authority as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department of social and health services or the department of children, youth, and families;

(t) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

(u)(i) Consistent with the requirements of the federal health insurance portability and accountability act, to:

(A) A health care provider who is providing care to a patient, or to whom a patient has been referred for evaluation or treatment; or

(B) Any other person who is working in a care coordinator role for a health care facility or health care provider or is under an agreement pursuant to the federal health insurance portability and accountability act with a health care facility or a health care provider and requires the information and records to assure coordinated care and treatment of that patient.

(ii) A person authorized to use or disclose information and records related to mental health services under this subsection (2)(u) must take appropriate steps to protect the information and records relating to mental health services.

(iii) Psychotherapy notes may not be released without authorization of the patient who is the subject of the request for release of information;

(v) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in (u) of this subsection;

(w) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;

(x) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

(y) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing

within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

(z) To all current treating providers of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department or the authority may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW 70.02.050(1)(d). The department, or the authority, if applicable, shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. Neither the department nor the authority may release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

(aa)(i) To the secretary of social and health services and the director of the health care authority for either program evaluation or research, or both so long as the secretary or director, where applicable, adopts rules for the conduct of the evaluation or research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, . . . . ., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ . . . . ."

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary, or director, where applicable;

(bb) To any person if the conditions in RCW 70.02.205 are met.

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for (~~chemical dependency~~) a substance use disorder, the department or the authority may restrict the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services or the authority under RCW 71.05.280(3) and 71.05.320(4)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW 70.02.260, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

(i) One thousand dollars; or

(ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.

(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.

**Sec. 5021.** RCW 70.02.250 and 2018 c 201 s 8004 are each amended to read as follows:

(1) Information and records related to mental health services delivered to a person subject to chapter 9.94A or 9.95 RCW must be released, upon request, by a mental health service agency to department of corrections personnel for whom the information is necessary to carry out the responsibilities of their office. The information must be provided only for the purpose of completing presentence investigations, supervision of an incarcerated person, planning for and provision of supervision of a person, or assessment of a person's risk to the community. The request

must be in writing and may not require the consent of the subject of the records.

(2) The information to be released to the department of corrections must include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties, including those records and reports identified in subsection (1) of this section.

(3) The authority shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific behavioral health administrative services organizations, managed care organizations contracted with the authority under chapter 74.09 RCW, and mental health service agencies that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the authority and the department of corrections.

(4) The authority, in consultation with the department, the department of corrections, behavioral health administrative services organizations, managed care organizations contracted with the authority under chapter 74.09 RCW, mental health service agencies as defined in RCW 70.02.010, mental health consumers, and advocates for persons with mental illness, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules must:

(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received mental health services as a minor; and

(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.

(5) The information received by the department of corrections under this section must remain confidential and subject to the limitations on disclosure outlined in chapter 71.34 RCW, except as provided in RCW 72.09.585.

(6) No mental health service agency or individual employed by a mental health service agency may be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section.

(7) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(8) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under this chapter.

**Sec. 5022.** RCW 70.97.010 and 2016 sp.s. c 29 s 419 are each amended to read as follows:

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

(1) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes but is not limited to atypical antipsychotic medications.

(2) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient.

~~(3) ("Chemical dependency" means alcoholism, drug addiction, or dependence on alcohol and one or more other psychoactive chemicals, as the context requires and as those terms are defined in chapter 71.05 RCW.~~

(4)) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

~~((5))~~ (4) "Commitment" means the determination by a court that an individual should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting.

~~((6))~~ (5) "Conditional release" means a modification of a commitment that may be revoked upon violation of any of its terms.

~~((7))~~ (6) "Custody" means involuntary detention under chapter 71.05 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

~~((8))~~ (7) "Department" means the department of social and health services.

~~((9))~~ (8) "Designated crisis responder" has the same meaning as in chapter 71.05 RCW.

~~((10))~~ (9) "Detention" or "detain" means the lawful confinement of an individual under chapter 71.05 RCW.

~~((11))~~ (10) "Discharge" means the termination of facility authority. The commitment may remain in place, be terminated, or be amended by court order.

~~((12))~~ (11) "Enhanced services facility" means a facility that provides treatment and services to persons for whom acute inpatient treatment is not medically necessary and who have been determined by the department to be inappropriate for placement in other licensed facilities due to the complex needs that result in behavioral and security issues.

~~((13))~~ (12) "Expanded community services program" means a nonsecure program of enhanced behavioral and residential support provided to long-term and residential care providers serving specifically eligible clients who would otherwise be at risk for hospitalization at state hospital geriatric units.

~~((14))~~ (13) "Facility" means an enhanced services facility.

~~((15))~~ (14) "Gravely disabled" means a condition in which an individual, as a result of a mental disorder, as a result of the use of alcohol or other psychoactive chemicals, or both:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

~~((16))~~ (15) "History of one or more violent acts" refers to the period of time ten years before the filing of a petition under this chapter or chapter 71.05 RCW, excluding any time spent, but not any violent acts committed, in a mental health facility or a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction.

~~((17))~~ (16) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

~~((18))~~ (17) "Likelihood of serious harm" means:

(a) A substantial risk that:

(i) Physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;

(ii) Physical harm will be inflicted by an individual upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or

(iii) Physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or

(b) The individual has threatened the physical safety of another and has a history of one or more violent acts.

~~((19))~~ (18) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

~~((20))~~ (19) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under the authority of chapter 71.05 RCW.

~~((21))~~ (20) "Professional person" means a mental health professional and also means a physician, registered nurse, and such others as may be defined in rules adopted by the secretary pursuant to the provisions of this chapter.

~~((22))~~ (21) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology.

~~((23))~~ (22) "Psychologist" means a person who has been licensed as a psychologist under chapter 18.83 RCW.

~~((24))~~ (23) "Registration records" include all the records of the authority, department, behavioral health administrative services organizations, managed care organizations, treatment facilities, and other persons providing services to ~~((the department, county departments, or facilities))~~ such entities which identify individuals who are receiving or who at any time have received services for mental illness.

~~((25))~~ (24) "Release" means legal termination of the commitment under chapter 71.05 RCW.

~~((26))~~ (25) "Resident" means a person admitted to an enhanced services facility.

~~((27))~~ (26) "Secretary" means the secretary of the department or the secretary's designee.

~~((28))~~ (27) "Significant change" means:

(a) A deterioration in a resident's physical, mental, or psychosocial condition that has caused or is likely to cause clinical complications or life-threatening conditions; or

(b) An improvement in the resident's physical, mental, or psychosocial condition that may make the resident eligible for release or for treatment in a less intensive or less secure setting.

~~((29))~~ (28) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

~~((30))~~ (29) "Treatment" means the broad range of emergency, detoxification, residential, inpatient, and outpatient services and care, including diagnostic evaluation, mental health or ~~((chemical dependency))~~ substance use disorder education and counseling, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, which may be extended to persons with mental disorders, ~~((chemical dependency))~~ substance use disorders, or both, and their families.

~~((31))~~ (30) "Treatment records" include registration and all other records concerning individuals who are receiving or who at any time have received services for mental illness, which are maintained by the department or the health care authority, by behavioral health administrative services organizations ~~((and))~~ or their staffs, managed care organizations contracted with the health care authority under chapter 74.09 RCW or their staffs, and by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by an individual providing treatment services for the department, the health

care authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others.

~~((32))~~ (31) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

(32) "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.

**Sec. 5023.** RCW 70.320.010 and 2014 c 225 s 73 are each amended to read as follows:

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

(1) "Authority" means the health care authority.

(2) "Department" means the department of social and health services.

(3) "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 this section.

(4) "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.

(5) "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 this subsection but does not meet the full criteria for evidence-based.

(6) "Service coordination organization" or "service contracting entity" means the authority and department, or an entity that may contract with the state to provide, directly or through subcontracts, a comprehensive delivery system of medical, behavioral, long-term care, or social support services, including entities such as ~~((behavioral health organizations as defined in RCW 71.24.025,))~~ managed care organizations that provide medical services to clients under chapter 74.09 RCW and RCW 71.24.380, ((counties providing chemical dependency services under chapters

74.50 and 70.96A RCW)) and area agencies on aging providing case management services under chapter 74.39A RCW.

**Sec. 5024.** RCW 72.09.350 and 2018 c 201 s 9011 are each amended to read as follows:

(1) The department of corrections and the University of Washington may enter into a collaborative arrangement to provide improved services for offenders with mental illness with a focus on prevention, treatment, and reintegration into society. The participants in the collaborative arrangement may develop a strategic plan within sixty days after May 17, 1993, to address the management of offenders with mental illness within the correctional system, facilitating their reentry into the community and the mental health system, and preventing the inappropriate incarceration of individuals with mental illness. The collaborative arrangement may also specify the establishment and maintenance of a corrections mental health center located at McNeil Island corrections center. The collaborative arrangement shall require that an advisory panel of key stakeholders be established and consulted throughout the development and implementation of the center. The stakeholders advisory panel shall include a broad array of interest groups drawn from representatives of mental health, criminal justice, and correctional systems. The stakeholders advisory panel shall include, but is not limited to, membership from: The department of corrections, the department of social and health services (~~mental health division and division of juvenile rehabilitation~~), the health care authority, behavioral health administrative services organizations, managed care organizations under chapter 74.09 RCW, local and regional law enforcement agencies, the sentencing guidelines commission, county and city jails, mental health advocacy groups for individuals with mental illness or developmental disabilities, the traumatically brain-injured, and the general public. The center established by the department of corrections and University of Washington, in consultation with the stakeholder advisory groups, shall have the authority to:

(a) Develop new and innovative treatment approaches for corrections mental health clients;

(b) Improve the quality of mental health services within the department and throughout the corrections system;

(c) Facilitate mental health staff recruitment and training to meet departmental, county, and municipal needs;

(d) Expand research activities within the department in the area of treatment services, the design of delivery systems, the development of organizational models, and training for corrections mental health care professionals;

(e) Improve the work environment for correctional employees by developing the skills, knowledge, and understanding of how to work with offenders with special chronic mental health challenges;

(f) Establish a more positive rehabilitative environment for offenders;

(g) Strengthen multidisciplinary mental health collaboration between the University of Washington, other groups committed to the intent of this section, and the department of corrections;

(h) Strengthen department linkages between institutions of higher education, public sector mental health systems, and county and municipal corrections;

(i) Assist in the continued formulation of corrections mental health policies;

(j) Develop innovative and effective recruitment and training programs for correctional personnel working with offenders with mental illness;

(k) Assist in the development of a coordinated continuum of mental health care capable of providing services from corrections entry to community return; and

(l) Evaluate all current and innovative approaches developed within this center in terms of their effective and efficient achievement of improved mental health of inmates, development and utilization of personnel, the impact of these approaches on the functioning of correctional institutions, and the relationship of the corrections system to mental health and criminal justice systems. Specific attention should be paid to evaluating the effects of programs on the reintegration of offenders with mental illness into the community and the prevention of inappropriate incarceration of persons with mental illness.

(2) The corrections mental health center may conduct research, training, and treatment activities for the offender with mental illness within selected sites operated by the department. The department shall provide support services for the center such as food services, maintenance, perimeter security, classification, offender supervision, and living unit functions. The University of Washington may develop, implement, and evaluate the clinical, treatment, research, and evaluation components of the mentally ill offender center. The institute of for public policy and management may be consulted regarding the development of the center and in the recommendations regarding public policy. As resources permit, training within the center shall be available to state, county, and municipal agencies requiring the services. Other state colleges, state universities, and mental health providers may be involved in activities as required on a subcontract basis. Community mental health organizations, research groups, and community advocacy groups may be critical components of the center's operations and involved as appropriate to annual objectives. Clients with mental illness may be drawn from throughout the department's population and transferred to the center as clinical need, available services, and department jurisdiction permits.

(3) The department shall prepare a report of the center's progress toward the attainment of stated goals and provide the report to the legislature annually.

**Sec. 5025.** RCW 72.09.370 and 2018 c 201 s 9012 are each amended to read as follows:

(1) The offender reentry community safety program is established to provide intensive services to offenders identified under this subsection and to thereby promote public safety. The secretary shall identify offenders in confinement or partial confinement who: (a) Are reasonably believed to be dangerous to themselves or others; and (b) have a mental disorder. In determining an offender's dangerousness, the secretary shall consider behavior known to the department and factors, based on research, that are linked to an increased risk for dangerousness of offenders with mental illnesses and shall include consideration of an offender's (~~chemical dependency~~) substance use disorder or abuse.

(2) Prior to release of an offender identified under this section, a team consisting of representatives of the department of corrections, the health care authority, and, as necessary, the indeterminate sentence review board, divisions or administrations within the department of social and health services, specifically including the division of developmental disabilities, the appropriate (~~behavioral health~~) managed care organization contracted with the health care authority, the appropriate behavioral health administrative services organization, and the providers, as appropriate, shall develop a plan, as determined necessary by the team, for delivery of treatment and support services to the offender upon release. In developing the plan, the offender shall be offered assistance in executing a mental health directive under chapter 71.32 RCW, after being fully informed of the benefits, scope, and purposes of such directive. The team may include a school district representative for offenders under the age of twenty-one. The team shall consult with the offender's counsel, if any, and, as appropriate, the offender's family and community. The team shall notify the crime victim/witness program, which shall provide notice to all people registered to receive notice under RCW 72.09.712 of the proposed release plan developed by the team. Victims, witnesses, and other interested people notified by the department may provide information and comments to the department on potential safety risk to specific individuals or classes of individuals posed by the specific offender. The team may recommend: (a) That the offender be evaluated by the designated crisis responder, as defined in chapter 71.05 RCW; (b) department-supervised community treatment; or (c) voluntary community mental health or (~~chemical dependency~~) substance use disorder or abuse treatment.

(3) Prior to release of an offender identified under this section, the team shall determine whether or not an evaluation by a designated crisis responder is needed. If an evaluation is recommended, the supporting documentation shall be immediately forwarded to the appropriate designated crisis responder. The supporting documentation shall include the offender's criminal history, history of judicially required or administratively ordered involuntary antipsychotic medication while in confinement, and any known history of involuntary civil commitment.

(4) If an evaluation by a designated crisis responder is recommended by the team, such evaluation shall occur not more than ten days, nor less than five days, prior to release.

(5) A second evaluation by a designated crisis responder shall occur on the day of release if requested by the team, based upon new information or a change in the offender's mental condition, and the initial evaluation did not result in an emergency detention or a summons under chapter 71.05 RCW.

(6) If the designated crisis responder determines an emergency detention under chapter 71.05 RCW is necessary, the department shall release the offender only to a state hospital or to a consenting evaluation and treatment facility. The department shall arrange transportation of the offender to the hospital or facility.

(7) If the designated crisis responder believes that a less restrictive alternative treatment is appropriate, he or she shall seek a summons, pursuant to the provisions of chapter 71.05 RCW, to require the offender to appear at an evaluation and treatment facility. If a summons is issued, the offender shall remain within the corrections facility until completion of his or her term of confinement and be transported, by corrections personnel on the day of completion, directly to the identified evaluation and treatment facility.

(8) The secretary shall adopt rules to implement this section.

**Sec. 5026.** RCW 72.09.381 and 2018 c 201 s 9014 are each amended to read as follows:

The secretary of the department of corrections and the director of the health care authority shall, in consultation with the behavioral health administrative services organizations, managed care organizations contracted with the health care authority, and provider representatives, each adopt rules as necessary to implement chapter 214, Laws of 1999.

**Sec. 5027.** RCW 72.10.060 and 2014 c 225 s 97 are each amended to read as follows:

The secretary shall, for any person committed to a state correctional facility after July 1, 1998, inquire at the time of commitment whether the person had received outpatient mental health treatment within the two years preceding confinement and the name of the person providing the treatment.

The secretary shall inquire of the treatment provider if he or she wishes to be notified of the release of the person from confinement, for purposes of offering treatment upon the inmate's release. If the treatment provider wishes to be notified of the inmate's release, the secretary shall attempt to provide such notice at least seven days prior to release.

At the time of an inmate's release if the secretary is unable to locate the treatment provider, the secretary shall notify the health care authority and the behavioral health administrative services organization in the county the inmate will most likely reside following release.

If the secretary has, prior to the release from the facility, evaluated the inmate and determined he or she

requires postrelease mental health treatment, a copy of relevant records and reports relating to the inmate's mental health treatment or status shall be promptly made available to the offender's present or future treatment provider. The secretary shall determine which records and reports are relevant and may provide a summary in lieu of copies of the records.

**Sec. 5028.** RCW 72.23.025 and 2014 c 225 s 98 are each amended to read as follows:

(1) It is the intent of the legislature to improve the quality of service at state hospitals, eliminate overcrowding, and more specifically define the role of the state hospitals. The legislature intends that eastern and western state hospitals shall become clinical centers for handling the most complicated long-term care needs of patients with a primary diagnosis of mental disorder. To this end, the legislature intends that funds appropriated for mental health programs, including funds for behavioral health administrative services organizations, managed care organizations contracted with the health care authority, and the state hospitals, be used for persons with primary diagnosis of mental disorder. The legislature finds that establishment of institutes for the study and treatment of mental disorders at both eastern state hospital and western state hospital will be instrumental in implementing the legislative intent.

(2)(a) There is established at eastern state hospital and western state hospital, institutes for the study and treatment of mental disorders. The institutes shall be operated by joint operating agreements between state colleges and universities and the department of social and health services. The institutes are intended to conduct training, research, and clinical program development activities that will directly benefit persons with mental illness who are receiving treatment in Washington state by performing the following activities:

(i) Promote recruitment and retention of highly qualified professionals at the state hospitals and community mental health programs;

(ii) Improve clinical care by exploring new, innovative, and scientifically based treatment models for persons presenting particularly difficult and complicated clinical syndromes;

(iii) Provide expanded training opportunities for existing staff at the state hospitals and community mental health programs;

(iv) Promote bilateral understanding of treatment orientation, possibilities, and challenges between state hospital professionals and community mental health professionals.

(b) To accomplish these purposes the institutes may, within funds appropriated for this purpose:

(i) Enter joint operating agreements with state universities or other institutions of higher education to accomplish the placement and training of students and faculty in psychiatry, psychology, social work, occupational

therapy, nursing, and other relevant professions at the state hospitals and community mental health programs;

(ii) Design and implement clinical research projects to improve the quality and effectiveness of state hospital services and operations;

(iii) Enter into agreements with community mental health service providers to accomplish the exchange of professional staff between the state hospitals and community mental health service providers;

(iv) Establish a student loan forgiveness and conditional scholarship program to retain qualified professionals at the state hospitals and community mental health providers when the secretary has determined a shortage of such professionals exists.

(c) Notwithstanding any other provisions of law to the contrary, the institutes may enter into agreements with the department or the state hospitals which may involve changes in staffing necessary to implement improved patient care programs contemplated by this section.

(d) The institutes are authorized to seek and accept public or private gifts, grants, contracts, or donations to accomplish their purposes under this section.

**Sec. 5029.** RCW 74.09.758 and 2014 c 223 s 7 are each amended to read as follows:

(1) The authority and the department may restructure medicaid procurement of health care services and agreements with managed care systems on a phased basis to better support integrated physical health, mental health, and ~~((chemical dependency))~~ substance use disorder treatment, consistent with assumptions in Second Substitute Senate Bill No. 6312, Laws of 2014, and recommendations provided by the behavioral health task force. The authority and the department may develop and utilize innovative mechanisms to promote and sustain integrated clinical models of physical and behavioral health care.

(2) The authority and the department may incorporate the following principles into future medicaid procurement efforts aimed at integrating the delivery of physical and behavioral health services:

(a) Medicaid purchasing must support delivery of integrated, person-centered care that addresses the spectrum of individuals' health needs in the context of the communities in which they live and with the availability of care continuity as their health needs change;

(b) Accountability for the client outcomes established in RCW 43.20A.895 (as recodified by this act) and 71.36.025 and performance measures linked to those outcomes;

(c) Medicaid benefit design must recognize that adequate preventive care, crisis intervention, and support services promote a recovery-focused approach;

(d) Evidence-based care interventions and continuous quality improvement must be enforced through contract specifications and performance measures that

provide meaningful integration at the patient care level with broadly distributed accountability for results;

(e) Active purchasing and oversight of medicaid managed care contracts is a state responsibility;

(f) A deliberate and flexible system change plan with identified benchmarks to promote system stability, provide continuity of treatment for patients, and protect essential existing behavioral health system infrastructure and capacity; and

(g) Community and organizational readiness are key determinants of implementation timing; a phased approach is therefore desirable.

(3) The principles identified in subsection (2) of this section are not intended to create an individual entitlement to services.

(4) The authority shall increase the use of value-based contracting, alternative quality contracting, and other payment incentives that promote quality, efficiency, cost savings, and health improvement, for medicaid and public employee purchasing. The authority shall also implement additional chronic disease management techniques that reduce the subsequent need for hospitalization or readmissions. It is the intent of the legislature that the reforms the authority implements under this subsection are anticipated to reduce extraneous medical costs, across all medical programs, when fully phased in by fiscal year 2017 to generate budget savings identified in the omnibus appropriations act.

**Sec. 5030.** RCW 74.34.020 and 2018 c 201 s 9016 are each amended to read as follows:

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

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and personal exploitation of a vulnerable adult, and improper use of restraint against a vulnerable adult which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual conduct, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse also includes any sexual conduct between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that

facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.

(b) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.

(c) "Mental abuse" means a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing.

(d) "Personal exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(e) "Improper use of restraint" means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that: (i) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is not medically authorized; or (iii) otherwise constitutes abuse under this section.

(3) "Chemical restraint" means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

(4) "Consent" means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

(5) "Department" means the department of social and health services.

(6) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, assisted living facilities; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; ~~((or))~~ chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed or certified by the department ~~((or the department of health))~~.

(7) "Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. "Financial exploitation" includes, but is not limited to:

(a) The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with a vulnerable adult to obtain or use the

property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult;

(b) The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult; or

(c) Obtaining or using a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the vulnerable adult lacks the capacity to consent to the release or use of his or her property, income, resources, or trust funds.

(8) "Financial institution" has the same meaning as in RCW 30A.22.040 and 30A.22.041. For purposes of this chapter only, "financial institution" also means a "broker-dealer" or "investment adviser" as defined in RCW 21.20.005.

(9) "Hospital" means a facility licensed under chapter 70.41 or 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any employee, agent, officer, director, or independent contractor thereof.

(10) "Incapacitated person" means a person who is at a significant risk of personal or financial harm under RCW 11.88.010(1) (a), (b), (c), or (d).

(11) "Individual provider" means a person under contract with the department to provide services in the home under chapter 74.09 or 74.39A RCW.

(12) "Interested person" means a person who demonstrates to the court's satisfaction that the person is interested in the welfare of the vulnerable adult, that the person has a good faith belief that the court's intervention is necessary, and that the vulnerable adult is unable, due to incapacity, undue influence, or duress at the time the petition is filed, to protect his or her own interests.

(13)(a) "Isolate" or "isolation" means to restrict a vulnerable adult's ability to communicate, visit, interact, or otherwise associate with persons of his or her choosing. Isolation may be evidenced by acts including but not limited to:

(i) Acts that prevent a vulnerable adult from sending, making, or receiving his or her personal mail, electronic communications, or telephone calls; or

(ii) Acts that prevent or obstruct the vulnerable adult from meeting with others, such as telling a prospective visitor or caller that a vulnerable adult is not present, or does not wish contact, where the statement is contrary to the express wishes of the vulnerable adult.

(b) The term "isolate" or "isolation" may not be construed in a manner that prevents a guardian or limited guardian from performing his or her fiduciary obligations under chapter 11.92 RCW or prevents a hospital or facility

from providing treatment consistent with the standard of care for delivery of health services.

(14) "Mandated reporter" is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

(15) "Mechanical restraint" means any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are (a) medically authorized, as required, and (b) used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW.

(16) "Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

(17) "Permissive reporter" means any person, including, but not limited to, an employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.

(18) "Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include (a) briefly holding without undue force a vulnerable adult in order to calm or comfort him or her, or (b) holding a vulnerable adult's hand to safely escort him or her from one area to another.

(19) "Protective services" means any services provided by the department to a vulnerable adult with the consent of the vulnerable adult, or the legal representative of the vulnerable adult, who has been abandoned, abused, financially exploited, neglected, or in a state of self-neglect. These services may include, but are not limited to case management, social casework, home care, placement, arranging for medical evaluations, psychological evaluations, day care, or referral for legal assistance.

(20) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services

through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

(21) "Social worker" means:

(a) A social worker as defined in RCW 18.320.010(2); or

(b) Anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of vulnerable adults, or providing social services to vulnerable adults, whether in an individual capacity or as an employee or agent of any public or private organization or institution.

(22) "Vulnerable adult" includes a person:

(a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or

(b) Found incapacitated under chapter 11.88 RCW; or

(c) Who has a developmental disability as defined under RCW 71A.10.020; or

(d) Admitted to any facility; or

(e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(f) Receiving services from an individual provider; or

(g) Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.

(23) "Vulnerable adult advocacy team" means a team of three or more persons who coordinate a multidisciplinary process, in compliance with chapter 266, Laws of 2017 and the protocol governed by RCW 74.34.320, for preventing, identifying, investigating, prosecuting, and providing services related to abuse, neglect, or financial exploitation of vulnerable adults.

**Sec. 5031.** RCW 74.34.068 and 2014 c 225 s 103 are each amended to read as follows:

(1) After the investigation is complete, the department may provide a written report of the outcome of the investigation to an agency or program described in this subsection when the department determines from its investigation that an incident of abuse, abandonment, financial exploitation, or neglect occurred. Agencies or programs that may be provided this report are home health, hospice, or home care agencies, or after January 1, 2002, any in-home services agency licensed under chapter 70.127 RCW, a program authorized under chapter 71A.12 RCW, an adult day care or day health program, behavioral health administrative services organizations and managed care organizations authorized under chapter 71.24 RCW, or other agencies. The report may contain the name of the vulnerable adult and the alleged perpetrator. The report shall not disclose the identity of the person who made the report or

any witness without the written permission of the reporter or witness. The department shall notify the alleged perpetrator regarding the outcome of the investigation. The name of the vulnerable adult must not be disclosed during this notification.

(2) The department may also refer a report or outcome of an investigation to appropriate state or local governmental authorities responsible for licensing or certification of the agencies or programs listed in subsection (1) of this section.

(3) The department shall adopt rules necessary to implement this section.

**NEW SECTION. Sec. 5032.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The legislature finds that behavioral health integration requires parity in the approach to regulation between primary care providers and behavioral health agencies.

(2) Neither the authority nor the department may provide initial documentation requirements for patients receiving care in a behavioral health agency, either in contract or rule, which are substantially more administratively burdensome to complete than initial documentation requirements in primary care settings, unless such documentation is required by federal law or to receive federal funds.

**Sec. 5033.** RCW 10.77.280 and 2015 1st sp.s. c 7 s 10 are each amended to read as follows:

(1) In order to prioritize goals of accuracy, prompt service to the court, quality assurance, and integration with other services, an office of forensic mental health services is established within the department of social and health services. The office shall be led by a director (~~(on at least the level of deputy assistant secretary within the department)~~) who shall (~~(after a reasonable period of transition,)~~) have responsibility for the following functions:

(a) (~~Operational control~~) Coordination of all forensic evaluation services (~~(including specific budget allocation)~~);

(b) Responsibility for assuring appropriate training of forensic evaluators;

(c) Development of a system to certify forensic evaluators, and to monitor the quality of forensic evaluation reports;

(d) Liaison with courts, jails, and community mental health programs to ensure the proper coordination of care, flow of information, (coordinate logistical issues, and solve problems in complex circumstances) and transition to community services, when applicable;

(e) Coordination with state hospitals to identify and develop best practice interventions and curricula for services (~~(that are unique)~~) relevant to forensic patients;

~~(f) ((Promotion of congruence across state hospitals where appropriate, and promotion of interventions that flow smoothly into community interventions;~~

~~(g))~~ Coordination with ~~((regional—support networks))~~ the authority, managed care organizations, behavioral health administrative services organizations, community ~~((mental))~~ behavioral health agencies, and the department of corrections regarding community treatment and monitoring of persons on conditional release;

~~((h) Oversight of)~~ (g) Participation in statewide forensic data collection ((and)), analysis ((statewide)), and appropriate dissemination of data trends ((and recommendations)); ((and))

(h) Provide data-based recommendations for system changes and improvements; and

(i) Oversight of the development, implementation, and maintenance of community forensic programs and services.

(2) The office of forensic mental health services must have a clearly delineated budget separate from the overall budget for state hospital services.

## PART 6

NEW SECTION. Sec. 6001. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 6002. RCW 43.20A.895 is recodified as a section in chapter 71.24 RCW.

NEW SECTION. Sec. 6003. The following sections are decodified:

(1) RCW 28A.310.202 (ESD board—Partnership with behavioral health organization to operate a wraparound model site);

(2) RCW 44.28.800 (Legislation affecting persons with mental illness—Report to legislature);

(3) RCW 71.24.049 (Identification by behavioral health organization—Children's mental health services);

(4) RCW 71.24.320 (Behavioral health organizations—Procurement process—Penalty for voluntary termination or refusal to renew contract);

(5) RCW 71.24.330 (Behavioral health organizations—Contracts with authority—Requirements);

(6) RCW 71.24.360 (Establishment of new behavioral health organizations);

(7) RCW 71.24.382 (Mental health and chemical dependency treatment providers and programs—Vendor rate increases);

(8) RCW 71.24.515 (Chemical dependency specialist services—To be available at children and family services offices—Training in uniform screening);

(9) RCW 71.24.620 (Persons with substance use disorders—Intensive case management pilot projects);

(10) RCW 71.24.805 (Mental health system review—Performance audit recommendations affirmed);

(11) RCW 71.24.810 (Mental health system review—Implementation of performance audit recommendations);

(12) RCW 71.24.840 (Mental health system review—Study of long-term outcomes);

(13) RCW 71.24.860 (Task force—Integrated behavioral health services);

(14) RCW 71.24.902 (Construction);

(15) RCW 72.78.020 (Inventory of services and resources by counties); and

(16) RCW 74.09.872 (Behavioral health organizations—Access to chemical dependency and mental health professionals).

NEW SECTION. Sec. 6004. The following acts or parts of acts are each repealed:

(1)RCW 71.24.110 (Joint agreements of county authorities—Permissive provisions) and 2014 c 225 s 15, 1999 c 10 s 7, 1982 c 204 s 8, & 1967 ex.s. c 111 s 11;

(2)RCW 71.24.310 (Administration of chapters 71.05 and 71.24 RCW through behavioral health organizations—Implementation of chapter 71.05 RCW) and 2018 c 201 s 4015, 2017 c 222 s 1, 2014 c 225 s 40, & 2013 2nd sp.s. c 4 s 994;

(3)RCW 71.24.340 (Behavioral health organizations—Agreements with city and county jails) and 2018 c 201 s 4018, 2014 c 225 s 16, & 2005 c 503 s 13;

(4)RCW 71.24.582 (Review of expenditures for drug and alcohol treatment) and 2018 c 201 s 2002 & 2002 c 290 s 6;

(5)RCW 74.09.492 (Children's mental health—Treatment and services—Authority's duties) and 2017 c 202 s 2;

(6)RCW 74.09.521 (Medical assistance—Program standards for mental health services for children) and 2014 c 225 s 101, 2011 1st sp.s. c 15 s 28, 2009 c 388 s 1, & 2007 c 359 s 11;

(7)RCW 74.09.873 (Tribal-centric behavioral health system) and 2018 c 201 s 2009, 2014 c 225 s 65, & 2013 c 338 s 7;

(8)RCW 74.50.010 (Legislative findings) and 1988 c 163 s 1 & 1987 c 406 s 2;

(9)RCW 74.50.011 (Additional legislative findings) and 1989 1st ex.s. c 18 s 1;

(10)RCW 74.50.035 (Shelter services—Eligibility) and 1989 1st ex.s. c 18 s 2;

(11)RCW 74.50.040 (Client assessment, treatment, and support services) and 1987 c 406 s 5;

(12)RCW 74.50.050 (Treatment services) and 2002 c 64 s 1, 1989 1st ex.s. c 18 s 5, 1988 c 163 s 3, & 1987 c 406 s 6;

(13)RCW 74.50.055 (Treatment services—Eligibility) and 2011 1st sp.s. c 36 s 10 & 1989 1st ex.s. c 18 s 4;

(14)RCW 74.50.060 (Shelter assistance program) and 2011 1st sp.s. c 36 s 33, 2010 1st sp.s. c 8 s 31, 1989 1st ex.s. c 18 s 3, 1988 c 163 s 4, & 1987 c 406 s 7;

(15)RCW 74.50.070 (County multipurpose diagnostic center or detention center) and 2016 sp.s. c 29 s 429 & 1987 c 406 s 8;

(16)RCW 74.50.080 (Rules—Discontinuance of service) and 1989 1st ex.s. c 18 s 6 & 1989 c 3 s 2; and

(17)RCW 74.50.900 (Short title) and 1987 c 406 s 1.

NEW SECTION. Sec. 6005. Section 2009 of this act takes effect July 1, 2026.

NEW SECTION. Sec. 6006. Section 2008 of this act expires July 1, 2026.

NEW SECTION. Sec. 6007. Sections 1003 and 5030 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. Sec. 6008. Except as provided in sections 6005 and 6007 of this act, this act takes effect January 1, 2020."

Correct the title.

Signed by Representatives Ormsby, Chair; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger and Ybarra.

Referred to Committee on Appropriations.

March 28, 2019

SSB 5488 Prime Sponsor, Committee on Human Services, Reentry & Rehabilitation:

Concerning the sentencing of persons under the age of twenty-one years at the time of the commission of a crime. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.94A.533 and 2018 c 7 s 8 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any

deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun or bump-fire stock, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun or bump-fire stock in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun or bump-fire stock, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun or bump-fire stock in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.827. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

Notwithstanding any other provision of law, all impaired driving enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other impaired driving enhancements, for all offenses sentenced under this chapter.

An offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c).

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (a)(i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1,

2006, under (a)(i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional one-year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in the sexual conduct in return for a fee, an additional one-year enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

(10)(a) For a person age eighteen or older convicted of any criminal street gang-related felony offense for which the person compensated, threatened, or solicited a minor in order to involve the minor in the commission of the felony

offense, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by one hundred twenty-five percent. If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

(b) This subsection does not apply to any criminal street gang-related felony offense for which involving a minor in the commission of the felony offense is an element of the offense.

(c) The increased penalty specified in (a) of this subsection is unavailable in the event that the prosecution gives notice that it will seek an exceptional sentence based on an aggravating factor under RCW 9.94A.535.

(11) An additional twelve months and one day shall be added to the standard sentence range for a conviction of attempting to elude a police vehicle as defined by RCW 46.61.024, if the conviction included a finding by special allegation of endangering one or more persons under RCW 9.94A.834.

(12) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.831.

(13) An additional twelve months shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)) or felony physical control under the influence (RCW 46.61.504(6)) for each child passenger under the age of sixteen who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions. If the addition of a minor child enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(14) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.832.

(15) Regardless of any provisions in this section, if a person is being sentenced in adult court for a crime committed under age eighteen, the court has full discretion to depart from mandatory sentencing enhancements and to take the particular circumstances surrounding the defendant's youth into account.

**Sec. 2.** RCW 9.94A.535 and 2016 c 6 s 2 are each amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts

supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(i) The defendant was making a good faith effort to obtain or provide medical assistance for someone who is experiencing a drug-related overdose.

(j) The current offense involved domestic violence, as defined in RCW 10.99.020, and the defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse.

(k) The defendant was convicted of vehicular homicide, by the operation of a vehicle in a reckless manner and has committed no other previous serious traffic offenses as defined in RCW 9.94A.030, and the sentence is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(l) The defendant is less culpable because of youthfulness at the time of the offense, which is demonstrated by age, susceptibility to peer pressure, lack of sophistication or maturity, or other factors not shown in a fully developed adult.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury - Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of a victim or multiple victims manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

(bb) The current offense involved paying to view, over the internet in violation of RCW 9.68A.075, depictions of a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (g).

(cc) The offense was intentionally committed because the defendant perceived the victim to be homeless, as defined in RCW 9.94A.030.

(dd) The current offense involved a felony crime against persons, except for assault in the third degree pursuant to RCW 9A.36.031(1)(k), that occurs in a courtroom, jury room, judge's chamber, or any waiting area or corridor immediately adjacent to a courtroom, jury room, or judge's chamber. This subsection shall apply only: (i) During the times when a courtroom, jury room, or judge's chamber is being used for judicial purposes during court proceedings; and (ii) if signage was posted in compliance with RCW 2.28.200 at the time of the offense.

(ee) During the commission of the current offense, the defendant was driving in the opposite direction of the normal flow of traffic on a multiple lane highway, as defined by RCW 46.04.350, with a posted speed limit of forty-five miles per hour or greater."

Correct the title.

Signed by Representatives Goodman, Chair; Davis, Vice Chair; Sutherland, Assistant Ranking Minority Member; Lovick; Orwall; Pellicciotti and Pettigrew.

MINORITY recommendation: Do not pass. Signed by Representatives Klippert, Ranking Minority Member and Griffey.

Referred to Committee on Rules for second reading.

April 8, 2019

2SSB 5489 Prime Sponsor, Committee on Ways & Means: Establishing a healthy environment for all by addressing environmental health disparities. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on State Government & Tribal Relations.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature recognizes that it is state policy to encourage productive and enjoyable harmony between humankind and the environment, to promote efforts that will prevent or eliminate damage to the environment and the biosphere, and to stimulate the health and welfare of human beings.

(2) The legislature declares it is the public policy of the state to ensure for all people of Washington a safe, healthful, productive, and aesthetically and culturally pleasing surroundings and an environment that supports diversity and variety of individual choice. It is also the continuing policy of the state of Washington to use all practicable means and measures, including financial and technical assistance, in a manner calculated to: (a) Foster and promote the general welfare; (b) create and maintain conditions under which human beings and nature can exist in productive harmony; and (c) fulfill the social, economic, and other requirements of present and future generations of Washington residents.

(3) The legislature finds that there are communities and residents that face greater barriers to a healthy environment because of cumulative environmental hazards and population vulnerabilities.

(4) The legislature further finds that a fundamental principle of environmental justice and our democracy is that people most impacted by government actions should have, to the extent practicable, advance notice of government decisions that could impact them, a clear understanding of the options and their impacts, and a meaningful opportunity to provide input and be heard before decisions are made.

(5) Multiple agency actions recognize the need for public participation and outreach including, but not limited to, education, rule making, enforcement, permitting, grant making, planning, and other government actions. However, individuals and organizations representing vulnerable populations often face barriers to participation, such as limited time, lack of funds for technical experts and reviews, the ability to attend meetings that conflict with work, parenting, child care responsibilities, and language barriers.

(6) While state agencies have identified a need to more effectively target their implementation and

enforcement actions and funding opportunities to those areas and populations in the state that face greater exposure and susceptibility to environmental burdens, there is limited understanding of which communities across the state are most likely highly impacted.

(7) Therefore, the legislature finds that it is necessary to incorporate environmental justice principles into the operations and activities of state agencies in order to achieve state policies of ensuring all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings, ensuring the right of all Washington residents to a healthful environment, and achieving a balance between population and resource use that will permit high standards of living and wide sharing of life's amenities, including through a task force on environmental justice, and agency analysis and consideration of environmental justice in decision making.

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

(1) "Cumulative impact analysis" means the analysis tool used by the department of health's Washington tracking network to identify highly impacted communities and vulnerable populations and environmental health disparities in identified areas and populations.

(2) "Environmental burdens" means the cumulative risks to communities caused by historic and current:

(a) Exposure to conventional and toxic hazards in the air, water, and land;

(b) Adverse environmental effects, which include environmental conditions caused or made worse by contamination or pollution or that create vulnerabilities to climate impacts; and

(c) Exposure to hazards made worse by changes in the climate, such as water stress and drought, flooding, wildfire, air quality, ocean acidification, and infectious disease.

(3) "Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

(4) "Equity analysis" means an analysis used to determine or evaluate environmental justice considerations.

(5) "Fair treatment" means that no group of people, including racial, ethnic, or socioeconomic groups, should bear disproportionately high exposure to pollution or adverse human health or environmental impacts.

(6) "Highly impacted communities" means communities designated by state agencies based on their findings from implementing the cumulative impact analysis required under section 5 of this act and census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

(7) "Meaningful involvement" means all groups of people have appropriate access to meaningful public participation in decisions that affect their environment.

(8) "Precautionary approach" means where there are threats of serious or irreversible damage, lack of full scientific certainty is not used as a reason for postponing measures to prevent environmental degradation.

(9) "State agency" means a state agency that is represented on the task force created under section 4 of this act.

(10) "Vulnerable populations" means communities that experience disproportionate cumulative risk from environmental burdens due to:

(a) Adverse socioeconomic factors, including unemployment, high housing and transportation costs relative to income, access to food and health care, and linguistic isolation; and

(b) Sensitivity factors, such as low birth weight and higher rates of hospitalization.

**NEW SECTION. Sec. 3.** To ensure implementation and adherence to state policies of fostering and promoting the general welfare by ensuring that all people of Washington have a safe and healthful environment, state agencies shall use all practicable means and measures to promote environmental justice and fair treatment.

**NEW SECTION. Sec. 4.** (1) Subject to the availability of amounts appropriated for this specific purpose, a task force is established to recommend strategies for incorporating environmental justice principles into how state agencies discharge their responsibilities.

(2) The membership of the task force established under this section is as follows:

(a) The director of the department of commerce, or the director's designee;

(b) The director of the department of ecology, or the director's designee;

(c) The executive director of the Puget Sound partnership, or the executive director's designee;

(d) The secretary of the department of transportation, or the secretary's designee;

(e) The secretary of the department of health, or the secretary's designee;

(f) The chair of the energy facility site evaluation council, or the chair's designee;

(g) The chair of the governor's interagency council on health disparities, or the chair's designee;

(h) The commissioner of public lands, or the commissioner's designee;

(i) A member who is well-informed on the principles of environmental justice and with expertise in statewide environmental justice issues, appointed by the governor;

(j) Three members from community-based organizations, appointed by the cochairs specified under subsection (3) of this section, the nominations of which are based upon maintaining a balanced and diverse distribution of ethnic, geographic, gender, sexual orientation, age, socioeconomic status, and occupational representation, where practicable;

(k) A tribal leader, appointed by the governor;

(l) One member from an association representing business interests, appointed by the governor; and

(m) One member from a union or other organized labor association representing worker interests, appointed by the governor.

(3) The representative of statewide environmental justice interests, and the chair of the governor's interagency council on health disparities, or the chair's designee, must cochair the task force.

(4) The governor's interagency council on health disparities shall provide staff support to the task force. The interagency council may work with other agencies, departments, or offices as necessary to provide staff support to the task force.

(5) The task force must submit a final report of its findings and recommendations to the appropriate committees of the legislature and the governor by October 31, 2020, and in compliance with RCW 43.01.036. The goal of the final report is to provide guidance to agencies, the legislature, and the governor, and at a minimum must include the following:

(a) Guidance for state agencies when adopting rules, policies, or guidelines regarding how to use the cumulative impact analysis, defined under section 2 of this act. Guidance must cover how agencies identify highly impacted communities and must be based on best practices and current demographic data. The guidance provided relating to the designation of a highly impacted community must utilize as a basis for this determination the cumulative impact analysis, exposure scenarios developed by tribes for use in remediation decisions at, or to mitigate and address natural resource damage from, national priority list sites pursuant to the federal comprehensive environment response, compensation, and liability act, 42 U.S.C. 9601 et seq., or sites regulated under chapter 70.105D RCW, and additional factors as the task force deems appropriate;

(b) Best practices for increasing public participation and engagement by providing meaningful opportunities for involvement for all people, taking into account barriers to participation that may arise due to race, color, ethnicity, religion, income, or education level. In addition, a specific recommendation on how to best meaningfully consult vulnerable populations, including how to consider exposure scenarios developed by tribes as described in (a) of this subsection, when periodically evaluating and updating the cumulative impact analysis;

(c) Recommendations for establishing measurable goals for reducing environmental health disparities for each community in Washington state and ways in which state agencies may focus their work towards meeting those goals;

(d) Guidelines for prioritizing highly impacted communities and vulnerable populations by identifying and implementing, where practicable, procedures, processes, applications, and reporting requirements so that inspections, enforcement actions, investment of resources, planning and permitting, and public participation are maximized for the purpose of reducing environmental health disparities and advancing a healthy environment for all residents; and

(e) Best practices for how local governments that plan under RCW 36.70A.040 may incorporate environmental justice principles into the development of comprehensive plans to evaluate the ways in which the plans they propose or adopt disproportionately contribute to or threaten displacement of low-income communities and people of color particularly in urban areas, or exacerbate environmental burdens to vulnerable populations.

(6) If time and resources permit, the task force may also include in its final report:

(a) Recommendations for approaches to integrate an analysis of the distribution of environmental burdens across population groups into evaluations performed under the state environmental policy act, chapter 43.21C RCW;

(b) Recommendations for creating and implementing equity analysis into all significant planning, programmatic and policy decision making, and investments. The equity analysis methods may include a process for describing potential risks to, benefits to, and opportunities for highly impacted communities and vulnerable populations;

(c) Best practices and needed resources for cataloging and cross-referencing current research and data collection for programs within all state agencies relating to the health and environment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state;

(d) Recommendations for criteria for identifying and addressing gaps in current research and data collection to inform agency actions, to refine the common cumulative impact methodology, and to identify factors that may impede the achievement of environmental justice; and

(e) Methods for incorporating the precautionary approach into decision making, including permitting, to the extent allowed by law.

(7) By December 1, 2019, and in compliance with RCW 43.01.036, the task force must submit a preliminary report to the appropriate committees of the legislature and the governor if the task force is not able to complete the tasks required under this section because of insufficient funds appropriated to implement this section. The preliminary report must include the following information:

(a) Tasks that could not be completed as a result of insufficient funds appropriated;

(b) The status of the task force's activities; and

(c) Additional resources the task force needs to complete all of the requirements under this section.

(8) Members of the task force who are not state employees must be compensated in accordance with RCW 43.03.240 and are entitled to reimbursement individually for travel expenses incurred in the performance of their duties as members of the task force in accordance with RCW 43.03.050 and 43.03.060. The expenses of the task force must be paid by the governor's interagency council on health disparities.

(9) The task force may form work groups or consult with stakeholders as necessary to assist the task force in carrying out its duties.

(10) The task force must hold four regional meetings to seek input from, present their work plan and proposals to, and receive feedback from communities throughout the state. The following locations must be considered for these meetings: Northwest Washington, central Puget Sound region, south Puget Sound region, southwest Washington, central Washington, and eastern Washington.

(11)(a) Upon adoption of rules, policies, or guidelines related to the cumulative impact analysis, as required under section 5 of this act, each state agency must notify the governor's interagency council on health disparities.

(b) One year after the adoption of rules, policies, or guidelines, and two years thereafter, each state agency must submit a report to the governor, governor's interagency council on health disparities, and appropriate committees of the legislature regarding progress made towards reducing disproportionate environmental burdens and attaining environmental health targets. The report must be submitted in compliance with RCW 43.01.036.

(12) Reports submitted under this section must be available for public inspection and copying through the governor's interagency council on health disparities and must be posted on its web site.

**NEW SECTION. Sec. 5.** (1) State agencies, through rules, policies, or guidelines, shall adopt the use of the cumulative impact analysis to identify highly impacted communities and vulnerable populations and reduce environmental health disparities in identified areas and populations. If the task force created under section 4 of this act issues guidance on how to use the cumulative impact analysis, the rules, policies, or guidelines adopted pursuant to this subsection must be consistent with the task force's guidance.

(2) State agencies may issue policies, guidance, or adopt practices, guidelines, or rules as necessary to identify highly impacted communities, establish measurable goals for reducing environmental health disparities, and prioritize highly impacted communities and their vulnerable populations in the development, adoption, implementation, and enforcement of environmental laws, regulations, policies, and funding decisions.

(3) If the task force created under section 4 of this act issues guidance on how to use the cumulative impact analysis, then within sixty days after the issuance of the task force's guidance, the department of health shall initiate a process to develop model policies for the purpose of providing uniform rules, policies, or guidelines to all state agencies implementing the task force guidance related to the cumulative impact analysis.

**NEW SECTION. Sec. 6.** Sections 2 through 5 and 7 of this act constitute a new chapter in Title 43 RCW.

**NEW SECTION. Sec. 7.** This chapter may be known and cited as the HEAL act.

**NEW SECTION. Sec. 8.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Cody; Dolan; Fitzgibbon; Hansen; Hudgins; Jinkins; Macri; Pettigrew; Pollet; Ryu; Senn; Stanford; Sullivan and Tarleton.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Dye; Hoff; Kraft; Mosbrucker; Schmick; Springer; Steele; Sutherland and Ybarra.

MINORITY recommendation: Without recommendation. Signed by Representative Tharinger.

Referred to Committee on Appropriations.

March 27, 2019

**SB 5490** Prime Sponsor, Senator Frockt: Transferring duties of the life sciences discovery fund. Reported by Committee on Innovation, Technology & Economic Development

MAJORITY recommendation: Do pass. Signed by Representatives Hudgins, Chair; Kloba, Vice Chair; Smith, Ranking Minority Member; Boehnke, Assistant Ranking Minority Member; Morris; Slatter; Tarleton; Van Werven and Wylie.

April 8, 2019

**SSB 5492** Prime Sponsor, Committee on Law & Justice: Sentencing of motor vehicle-related felonies. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Public Safety.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 9.94A RCW to read as follows:

(1) Notwithstanding the provisions of RCW 9.94A.701 and 9.94A.702 and subject to the provisions of this section, a court may sentence an offender to community custody for a period of six to twelve months when the midpoint of the standard sentence range is greater than one year and the person is being sentenced for one of the following crimes:

(a) Theft of a motor vehicle (RCW 9A.56.065);

(b) Possession of a stolen vehicle (RCW 9A.56.068);

(c) Taking a motor vehicle without permission in the first degree (RCW 9A.56.070);

(d) Taking a motor vehicle without permission in the second degree (RCW 9A.56.075); or

(e) Attempt of (a) or (b) of this subsection.

(2) The department shall conduct an assessment of the offender and identify programming and services that would be appropriate to address the offender's needs. To the extent possible, the department shall make available the programming identified by the assessment while the offender is on community custody.

(3) For purposes of this section, the offender's sentence of incarceration may not exceed the mid-point of the standard sentence range reduced by one-half of the ordered term of community custody.

(4) An offender receiving a sentence under this section is not eligible for earned release time under RCW 9.94A.729 in excess of one-third of the total sentence.

(5) No later than November 1, 2025, the department shall submit a report to the governor and the appropriate committees of the legislature analyzing the effectiveness of supervision in reducing recidivism among offenders committing felonies relating to the theft or taking of a motor vehicle. The department shall consult with the Washington state institute for public policy in guiding its data tracking efforts and preparing the report.

(6) This section expires June 30, 2026.

**Sec. 2.** RCW 9.94A.501 and 2016 sp.s. c 28 s 1 are each amended to read as follows:

(1) The department shall supervise the following offenders who are sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

(a) Offenders convicted of:

- (i) Sexual misconduct with a minor second degree;
- (ii) Custodial sexual misconduct second degree;
- (iii) Communication with a minor for immoral purposes; and
- (iv) Violation of RCW 9A.44.132(2) (failure to register); and

(b) Offenders who have:

- (i) A current conviction for a repetitive domestic violence offense where domestic violence has been pleaded and proven after August 1, 2011; and
- (ii) A prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been pleaded and proven after August 1, 2011.

(2) Misdemeanor and gross misdemeanor offenders supervised by the department pursuant to this section shall be placed on community custody.

(3) The department shall supervise every felony offender sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk assessment classifies the offender as one who is at a high risk to reoffend.

(4) Notwithstanding any other provision of this section, the department shall supervise an offender sentenced to community custody regardless of risk classification if the offender:

(a) Has a current conviction for a sex offense or a serious violent offense and was sentenced to a term of community custody pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

(b) Has been identified by the department as a dangerous mentally ill offender pursuant to RCW 72.09.370;

(c) Has an indeterminate sentence and is subject to parole pursuant to RCW 9.95.017;

(d) Has a current conviction for violating RCW 9A.44.132(1) (failure to register) and was sentenced to a term of community custody pursuant to RCW 9.94A.701;

(e)(i) Has a current conviction for a domestic violence felony offense where domestic violence has been pleaded and proven after August 1, 2011, and a prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence was pleaded and proven after August 1, 2011. This subsection (4)(e)(i) applies only to offenses committed prior to July 24, 2015;

(ii) Has a current conviction for a domestic violence felony offense where domestic violence was pleaded and proven. The state and its officers, agents, and employees shall not be held criminally or civilly liable for its supervision of an offender under this subsection (4)(e)(ii) unless the state and its officers, agents, and employees acted with gross negligence;

(f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, ~~((~~or~~))~~ 9.94A.670, or section 1 of this act;

(g) Is subject to supervision pursuant to RCW 9.94A.745; or

(h) Was convicted and sentenced under RCW 46.61.520 (vehicular homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6) (felony DUI), or RCW 46.61.504(6) (felony physical control).

(5) The department shall supervise any offender who is released by the indeterminate sentence review board and who was sentenced to community custody or subject to community custody under the terms of release.

(6) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody or any probationer unless the offender or probationer is one for whom supervision is required under this section or RCW 9.94A.5011.

(7) The department shall conduct a risk assessment for every felony offender sentenced to a term of community custody who may be subject to supervision under this section or RCW 9.94A.5011.

(8) The period of time the department is authorized to supervise an offender under this section may not exceed the duration of community custody specified under RCW 9.94B.050, 9.94A.701 (1) through (8), or 9.94A.702, except in cases where the court has imposed an exceptional term of community custody under RCW 9.94A.535.

**Sec. 3.** RCW 9.94A.505 and 2015 c 287 s 10 and 2015 c 81 s 1 are each reenacted and amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

(iii) RCW 9.94A.570, relating to persistent offenders;

(iv) RCW 9.94A.540, relating to mandatory minimum terms;

(v) RCW 9.94A.650, relating to the first-time offender waiver;

(vi) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(vii) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

(viii) RCW 9.94A.655, relating to the parenting sentencing alternative;

(ix) RCW 9.94A.507, relating to certain sex offenses;

(x) RCW 9.94A.535, relating to exceptional sentences;

(xi) RCW 9.94A.589, relating to consecutive and concurrent sentences;

(xii) RCW 9.94A.603, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug;

(xiii) Section 1 of this act, relating to the theft or taking of a motor vehicle.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; a term of community custody under RCW 9.94A.702 not to exceed one year; and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement and a community custody term under RCW 9.94A.701 if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community custody that exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The sentencing court shall not give the offender credit for any time the offender was required to comply with an electronic monitoring program prior to sentencing if the offender was convicted of one of the following offenses:

(a) A violent offense;

(b) Any sex offense;

(c) Any drug offense;

(d) Reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050;

(e) Assault in the third degree as defined in RCW 9A.36.031;

(f) Assault of a child in the third degree;

(g) Unlawful imprisonment as defined in RCW 9A.40.040; or

(h) Harassment as defined in RCW 9A.46.020.

(8) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(9) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter. "Crime-related prohibitions" may include a prohibition on the use or possession of alcohol or controlled substances if the court finds that any chemical dependency or substance abuse contributed to the offense.

(10) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention."

Correct the title.

Signed by Representatives Ormsby, Chair; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger and Ybarra.

MINORITY recommendation: Do not pass. Signed by Representative Kraft.

Referred to Committee on Appropriations.

March 26, 2019

SSB 5532 Prime Sponsor, Committee on Ways & Means: Concerning special education. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"PART I**

**INTENT**

NEW SECTION. **Sec. 101.** (1) The state of Washington stands at a critical juncture in the education of students with disabilities. For too long special education in

our state has languished with a piecemeal approach in both funding and practice.

(2) When compared to other states, including those with comparable funding, students with disabilities in Washington lag behind their peers. Washington ranks near the bottom nationally for inclusion of students with disabilities. Only seven states having a lower percentage of students spending eighty percent or more of their day in the general education classroom. The numbers are even more stark for students with intellectual disabilities, where only five percent of students in Washington spend a majority of the day in regular classrooms. Only two states have inclusion rates that are worse.

(3) Washington does not fare much better when it comes to other basic indicators of success. Thirty-four percent of students with disabilities dropped out of school in 2017; only two other states reported worse dropout rates. Only fifty-eight percent of students receiving special education services earned their diploma in 2016. That puts Washington in the bottom thirteen in the nation. It is the legislature's intent to increase the graduation rate of students receiving special education services to seventy percent by 2025.

(4) Inclusive education practices significantly improve outcomes for students with disabilities and have significant benefits for all students in the classroom. It is the legislature's intent to develop best practices for inclusion in numerous settings and to ensure that the best practices are supported statewide.

(5) With this act, the state of Washington will advance expectations and lay a foundation that commits to ensuring every child with a disability has an opportunity to live a full, meaningful, and productive life.

## **PART II**

### **PROFESSIONAL DEVELOPMENT**

NEW SECTION. Sec. 201. A new section is added to chapter 28A.415 RCW to read as follows:

School districts and educational service districts must embed in any professional development provided to general education teachers the best practices for differentiating instruction and learning activities to meet each student's individual needs.

## **PART III**

### **TRAINING FOR STUDENTS, FAMILIES, SCHOOL STAFF, AND THE COMMUNITY**

NEW SECTION. Sec. 301. A new section is added to chapter 43.06B RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, and as described in this section, the office of the education ombuds shall serve as the lead agency to provide information and training to

students, families, educational service district and school district staff, and communities regarding the special education services and disability accommodations processes under the federal individuals with disabilities education act, section 504 of the federal rehabilitation act of 1973, and the federal Americans with disabilities act.

(2)(a) The office of the education ombuds must develop a multicourse training program for students with disabilities, families of students with disabilities, educational service district and school district staff, and community and educational organizations supporting students with disabilities.

(b) The training program must address the components of: A free and appropriate public education, family-school relationships, navigation of the special education services and disability accommodations processes, advocacy by families of students with disabilities, self-advocacy for students with disabilities, and communication strategies and conflict resolution between families and educators.

(c) The training program must be developed, and revised annually, in consultation with students with disabilities and their families, and at least one representative each from: An educational service district or school district, a community-based organization that advocates for students with disabilities, a state organization that represents parents and teachers, and the office of the superintendent of public instruction.

(d) The office of the education ombuds must develop publications, online training, videos, and other resources to supplement the training program.

(3)(a) For the purpose of delivering the training program to students, families, educational service district and school district staff, and communities across the state, the office of the education ombuds must distribute special education outreach ombuds statewide, with the goal of at least one special education outreach ombuds located within the boundaries of each educational service district.

(b) The office of the education ombuds, and its special education outreach ombuds, may deliver the training program in partnership with other entities, such as Washington professional educator standards board-approved teacher preparation programs, educational service districts, school districts, and community and educator organizations that provide professional development or that support students with disabilities.

(4) The office of the education ombuds must make the training program available to other ombuds offices within Washington, as well as nationally.

(5) The office of the education ombuds may charge for the delivery of the training program, or the use of resources, developed under this section.

## **PART IV**

### **RECOGNITION**

**Sec. 401.** RCW 28A.657.110 and 2013 c 159 s 12 are each amended to read as follows:

(1) By November 1, 2013, the state board of education shall propose rules for adoption establishing an accountability framework that creates a unified system of support for challenged schools that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions. The board must seek input from the public and interested groups in developing the framework. Based on the framework, the superintendent of public instruction shall design a comprehensive system of specific strategies for recognition, provision of differentiated support and targeted assistance, and, if necessary, requiring intervention in schools and school districts. The superintendent shall submit the system design to the state board of education for review. The state board of education shall recommend approval or modification of the system design to the superintendent no later than January 1, 2014, and the system must be implemented statewide no later than the 2014-15 school year. To the extent state funds are appropriated for this purpose, the system must apply equally to Title I, Title I-eligible, and non-Title I schools in the state.

(2) The state board of education shall develop a Washington achievement index to identify schools and school districts for recognition, for continuous improvement, and for additional state support. The index shall be based on criteria that are fair, consistent, and transparent. Performance shall be measured using multiple outcomes and indicators including, but not limited to, graduation rates and results from statewide assessments. The index shall be developed in such a way as to be easily understood by both employees within the schools and school districts, as well as parents and community members. It is the legislature's intent that the index provide feedback to schools and school districts to self-assess their progress, and enable the identification of schools with exemplary performance and those that need assistance to overcome challenges in order to achieve exemplary performance.

(3) The state board of education, in cooperation with the office of the superintendent of public instruction, shall annually recognize schools for exemplary performance as measured on the Washington achievement index. The state board of education shall have ongoing collaboration with the educational opportunity gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps. Schools with exemplary performance in serving students receiving special education services must be recognized.

(4) In coordination with the superintendent of public instruction, the state board of education shall seek approval from the United States department of education for use of the Washington achievement index and the state system of differentiated support, assistance, and intervention to replace the federal accountability system under P.L. 107-110, the no child left behind act of 2001.

(5) The state board of education shall work with the education data center established within the office of financial management and the technical working group established in RCW 28A.290.020 to determine the feasibility of using the prototypical funding allocation model as not only a tool for allocating resources to schools and school districts but also as a tool for schools and school districts to report to the state legislature and the state board of education on how the state resources received are being used.

## PART V

### TRANSITION PLANNING

**Sec. 501.** RCW 28A.155.220 and 2015 c 217 s 2 are each amended to read as follows:

(1) The office of the superintendent of public instruction must establish interagency agreements with the department of social and health services, the department of services for the blind, and any other state agency that provides high school transition services for special education students. Such interagency agreements shall not interfere with existing individualized education programs, nor override any individualized education program team's decision-making power. The purpose of the interagency agreements is to foster effective collaboration among the multiple agencies providing transition services for individualized education program-eligible special education students from the beginning of transition planning, as soon as educationally and developmentally appropriate, through age twenty-one, or through high school graduation, whichever occurs first. Interagency agreements are also intended to streamline services and programs, promote efficiencies, and establish a uniform focus on improved outcomes related to self-sufficiency.

(2)(a) When educationally and developmentally appropriate, the interagency responsibilities and linkages with transition services under subsection (1) of this section must be addressed in a transition plan to a postsecondary setting in the individualized education program of a student with disabilities.

(b) Transition planning shall be based upon educationally and developmentally appropriate transition assessments that outline the student's individual needs, strengths, preferences, and interests. Transition assessments may include observations, interviews, inventories, situational assessments, formal and informal assessments, as well as academic assessments.

(c) The transition services that the transition plan must address include activities needed to assist the student in reaching postsecondary goals and courses of study to support postsecondary goals.

(d) Transition activities that the transition plan may address include instruction, related services, community experience, employment and other adult living objectives, daily living skills, and functional vocational evaluation.

(e) Beginning when a student reaches the age of sixteen and continuing until the student reaches the age of twenty-one, or through high school graduation, whichever occurs first, a representative from the division of vocational rehabilitation in the department of social and health services must attend individualized education program meetings to assist students with transition planning when requested by a member of a student's individualized education program team.

(f) When educationally and developmentally appropriate, a discussion must take place with the student and parents, and others as needed, to determine the postsecondary goals or postschool vision for the student. This discussion may be included as part of an annual individualized education program review, high school and beyond plan meeting, or any other meeting that includes parents, students, and educators. The postsecondary goals included in the transition plan shall be goals that are measurable and must be based on appropriate transition assessments related to training, education, employment, and independent living skills, when necessary. The goals must also be based on the student's needs, while considering the strengths, preferences, and interests of the student. During this discussion, students and parents must be provided with information about the Washington achieving a better life experience program, defined in RCW 43.330.460, including information on eligibility, benefits, and Washington achieving a better life experience program account creation.

~~((f))~~ (g) As the student gets older, changes in the transition plan may be noted in the annual update of the student's individualized education program.

~~((g))~~ (h) A student with disabilities who has a high school and beyond plan may use the plan to comply with the transition plan required under this subsection (2).

(3) To the extent that data is available through data-sharing agreements established by the education data center under RCW 43.41.400, the education data center must monitor the following outcomes for individualized education program-eligible special education students after high school graduation:

(a) The number of students who, within one year of high school graduation:

(i) Enter integrated employment paid at the greater of minimum wage or competitive wage for the type of employment, with access to related employment and health benefits; or

(ii) Enter a postsecondary education or training program focused on leading to integrated employment;

(b) The wages and number of hours worked per pay period;

(c) The impact of employment on any state and federal benefits for individuals with disabilities;

(d) Indicators of the types of settings in which students who previously received transition services primarily reside;

(e) Indicators of improved economic status and self-sufficiency;

(f) Data on those students for whom a postsecondary or integrated employment outcome does not occur within one year of high school graduation, including:

(i) Information on the reasons that the desired outcome has not occurred;

(ii) The number of months the student has not achieved the desired outcome; and

(iii) The efforts made to ensure the student achieves the desired outcome.

(4) To the extent that the data elements in subsection (3) of this section are available to the education data center through data-sharing agreements, the office of the superintendent of public instruction must prepare an annual report using existing resources and submit the report to the legislature.

## PART VI

### COOPERATIVE PROGRAMS

NEW SECTION. Sec. 601. A new section is added to chapter 28A.155 RCW to read as follows:

(1) School districts are encouraged to participate in the establishment of, or continuation of existing, cooperative programs between or among school districts, or educational service districts and school districts, to provide special education and related services to eligible students with disabilities.

(2) Prior to the 2020-21 school year and every five years thereafter, each special education cooperative must apply for approval from the office of the superintendent of public instruction.

## PART VII

### ADVISORY GROUP AND DEMONSTRATION PROJECTS

NEW SECTION. Sec. 701. (1) The office of the superintendent of public instruction must convene an advisory group to design a coordinated and responsive system for meeting the diverse needs of students with disabilities.

(2) The advisory group must:

(a) Review state and federal laws and state policies related to special education, including those related to least restrictive environment;

(b) Review research on the following topics:

(i) Improving achievement and postsecondary outcomes for students with disabilities;

(ii) Creating an inclusive educational environment;

(iii) Best practices to provide a continuum of services for students receiving special education services;

(iv) Effective implementation at the school district office, through the building principal, and using teacher teams;

(v) Best practices to train teachers and paraeducators on the use of inclusive educational practices; and

(vi) The costs of implementing and maintaining an inclusive education model compared to the current model;

(c) Establish a common language, including use of the following terms:

(i) Continuum of services;

(ii) Coteaching;

(iii) Strategic intervention;

(iv) General education provision of specially designed instruction; and

(v) Adult support models and plans;

(d) Review, discuss, and plan for the realities of implementing inclusive education practices;

(e) Develop an inclusive education implementation plan template to be used by local education agencies interested in applying for designation as a special education demonstration project under section 702 of this act. The template must include components of the application described in section 702(2) of this act and must specify that the inclusive education implementation plan must:

(i) Only be implemented in schools where the principal is in full support of inclusive education practices;

(ii) Create a building coalition to support implementation;

(iii) Provide staff with support and training;

(iv) Celebrate student and staff achievement; and

(v) Provide staff release time for planning and collaboration;

(f) Develop an inclusive education guidance document for local education agencies based on best practices learned from the special education demonstration projects designated under section 702 of this act;

(g) Recommend a technical assistance structure and a professional learning structure to support local education agencies in improving instructional practices and systems of meeting the diverse needs of students with disabilities; and

(h) Review the feedback from educators, students, and families gathered by the special education demonstration projects designated under section 702 of this act.

(3) The office of the superintendent of public instruction must appoint the following members to the advisory group:

(a) One representative each of the following groups at the office of the superintendent of public instruction:

(i) The special education department;

(ii) The learning and teaching department;

(iii) The bilingual education advisory committee;

(iv) The center for the improvement of student learning, established under RCW 28A.300.130; and

(v) The special education advisory council;

(b) A representative of the University of Washington's disabilities, opportunities, internetworking, and technology center;

(c) A representative of Central Washington University's special education technology center;

(d) A representative of the Washington professional educator standards board;

(e) A general education teacher and a special education teacher, both nominated by an association of educators;

(f) A parent of a student receiving special education services;

(g) Three individuals who represent organizations advocating for equity, access, and improving outcomes for students with disabilities, with one individual representing each of the following disability perspectives: Intellectual or developmental, mental health or physical health, and learning disability. The selected individuals must be either an individual with a disability or a parent of a student receiving, or who has received, special education services. At least one of the selected individuals must be familiar with research on inclusive education or improving outcomes for students with disabilities;

(h) A representative of the office of the education ombuds; and

(i) One or two representatives each from the special education demonstration projects designated under section 702 of this act.

(4) The members of the advisory group must select cochairs. One cochair must be an individual with a disability or a parent of a student receiving, or who has received, special education services and the other cochair must be an educator.

(5) By November 1, 2019, and by November 1st each year thereafter, and in compliance with RCW 43.01.036, the advisory group must coordinate with the office of the superintendent of public instruction to submit a report to the appropriate committees of the legislature. The report must summarize the advisory group's activities over the prior year and the progress of the special education demonstration projects designated under section 702 of this act. The report must also recommend any changes to state laws or policies necessary to support the improvement of instructional practices and systems to meet the diverse needs of students with disabilities, such as changes related to

inclusive education practices, regional and school-level coordination, educator release time, school climate and culture, professional learning, use of multitiered systems of support, and blending resource streams.

(6) Staff support for the advisory group must be provided by the office of the superintendent of public instruction.

(7) The advisory group must meet at least quarterly.

(8) This section expires August 1, 2023.

**NEW SECTION. Sec. 702.** (1) By September 1, 2019, the office of the superintendent of public instruction must develop, and broadly publicize, a process for local education agencies to apply to have one or more schools designated as a special education demonstration project.

(2) Local education agencies interested in having one or more schools designated as a special education demonstration project must submit an application to the office of the superintendent of public instruction by January 6, 2020. The application must be developed in collaboration with educators, parents of students with disabilities, and community partners. The local education agency must use the inclusive education implementation plan template developed by the advisory group described in section 701 of this act to:

(a) Define the scope of the special education demonstration project and describe why designation would support the school's ability to improve its instructional practices and systems to meet the diverse needs of students with disabilities;

(b) Enumerate specific, research-based, inclusive education practices to be carried out under the designation;

(c) Justify each request for waiver of state statutes or administrative rules as provided under section 703 of this act;

(d) Justify any requests for waiver of state statutes or administrative rules that are in addition to the waivers authorized under section 703 of this act that are necessary to carry out the proposal;

(e) Identify additional training and supports that will be provided to staff at the local education agency;

(f) Include a written statement that the governing board and administrators are willing to exempt the local education agency from specifically identified local rules, as needed;

(g) Include a written statement that the governing board and local bargaining agents will modify those portions of their local agreements as applicable for the local education agency; and

(h) Include written statements of support from the governing board and administrators, the principal and staff, each local employee association affected by the special education demonstration project proposal, and the local parent organization.

(3)(a) The office of the superintendent of public instruction, in collaboration with its special education advisory council, must develop criteria for reviewing the applications and for evaluating the need for waivers of state statutes and administrative rules as provided under section 703 of this act.

(b) The office of the superintendent of public instruction must review the applications and select up to five local education agencies to designate as special education demonstration projects. The selected local education agencies must be diverse in geography and size. One of the selected local education agencies must have a school or program that removes students receiving special education services from the regular class for eighty percent or more of the school day.

(c) The office of the superintendent of public instruction must notify the applicants of its selection by February 21, 2020.

(4) The designation of the selected schools as special education demonstration projects begins in the 2020-21 school year and lasts for two school years.

(5) The schools selected as special education demonstration projects must:

(a) Execute the inclusive education implementation plan approved by the office of the superintendent of public instruction;

(b) Form collaborative learning teams of teachers with similar grade levels and content areas to help implement the special education demonstration project at the classroom level;

(c) Form an advisory committee to oversee the demonstration project, where the committee includes administrators, educators, parents of students with disabilities, and community partners;

(d) Gather feedback from educators, students, and families on the progress of the special education demonstration project toward meeting the diverse needs of students with disabilities;

(e) Participate in the advisory group created under section 701 of this act; and

(f) Report quarterly to the advisory group created under section 701 of this act and the office of the superintendent of public instruction on the activities and progress of the special education demonstration project in the prior year.

(6) This section expires August 1, 2023.

**NEW SECTION. Sec. 703.** (1)(a) The superintendent of public instruction and the state board of education, each within the scope of their statutory authority, may grant waivers of state statutes and administrative rules for special education demonstration projects designated under section 702 of this act, as follows:

(i) Waivers may be granted to permit the commingling of funds appropriated by the legislature on a categorical basis for such programs as special education, highly capable students, transitional bilingual instruction, and learning assistance; and

(ii) Waivers may be granted of other administrative rules that in the opinion of the superintendent of public instruction or the state board of education are necessary to be waived in order to implement the special education demonstration projects.

(b) Laws and rules related to the following topics may not be waived: Public health, safety, and civil rights, including protections for individuals with disabilities.

(2) At the request of a local education agency, the superintendent of public instruction may petition the United States department of education or other federal agencies to waive federal regulations necessary to implement the special education demonstration projects designated under section 702 of this act.

(3) Waivers may be granted under this section for a period not to exceed the duration of the special education demonstration projects designated under section 702 of this act.

(4) The superintendent of public instruction and the state board of education must provide an expedited review of requests for waivers for special education demonstration projects designated under section 702 of this act. Requests may be denied if the superintendent of public instruction or the state board of education conclude that the waiver:

(a) Is likely to result in a decrease in academic achievement;

(b) Would jeopardize the receipt of state or federal funds that a local education agency would otherwise be eligible to receive, unless the local education agency submits a written authorization for the waiver acknowledging that receipt of these funds may be jeopardized; or

(c) Would violate state or federal laws or rules that are not authorized to be waived.

(5) This section expires August 1, 2023.

**NEW SECTION. Sec. 704.** Sections 701 through 703 of this act are each added to chapter 28A.630 RCW.

## **PART VIII**

### **TECHNICAL ASSISTANCE**

**NEW SECTION. Sec. 801.** A new section is added to chapter 28A.155 RCW to read as follows:

The office of the superintendent of public instruction must establish a technical assistance program to provide resources and best practice guidance on inclusive education practices and improving outcomes for students with disabilities. The components of the technical assistance

program must be informed by the advisory group created under section 701 of this act.

**NEW SECTION. Sec. 802.** Section 801 of this act takes effect September 1, 2021.

## **PART IX**

### **MEANINGFUL INDICATORS OF PROGRESS**

**NEW SECTION. Sec. 901.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction shall identify meaningful indicators of progress toward eliminating the most significant barriers to success, and disparities in outcomes, for students with disabilities or special needs within ten years. The indicators must be quantifiable and based on data that are regularly and reliably collected statewide. For example, the indicators might compare the data for all students to the following data for students with an individualized education program or plan developed under section 504 of the federal rehabilitation act of 1973:

(a) Educational opportunity gaps;

(b) Time spent in a general education classroom;

(c) Discipline rates and rates of restraint or isolation;

(d) Use of medicaid-funded school-based services;

(e) Training and curriculum; and

(f) Postsecondary education and employment outcomes.

(2) Beginning September 1, 2020, and by September 1st every even-numbered year thereafter, and in compliance with RCW 43.01.036, the office of the superintendent of public instruction shall report to the appropriate committees of the legislature on the state's progress toward eliminating the most significant barriers to success, and disparities in outcomes, for students with disabilities or special needs."

Correct the title.

Signed by Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Bergquist; Caldier; Callan; Corry; Kilduff; Kraft; Ortiz-Self; Rude; Stonier; Thai; Valdez and Ybarra.

Referred to Committee on Appropriations.

March 27, 2019

**SSB 5591**

Prime Sponsor, Committee on Transportation: Exempting previously registered vehicles from the stolen vehicle check fee. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Barkis, Ranking Minority Member; Wylie, 1st Vice Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke; Chambers; Chapman; Dent; Doglio; Dufault; Entenman; Eslick; Goehner; Gregerson; Irwin; Kloba; Lovick; McCaslin; Mead; Orcutt; Ortiz-Self; Paul; Pellicciotti; Riccelli; Shea; Shewmake and Van Werven.

MINORITY recommendation: Do not pass. Signed by Representative Ramos.

Referred to Committee on Rules for second reading.

March 26, 2019

SB 5635 Prime Sponsor, Senator Brown: Expanding opportunities for students to pursue mental and behavioral health professions. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.50.271 and 2007 c 277 s 101 are each amended to read as follows:

(1) The college board shall develop and implement a workforce education program known as the opportunity grant program to provide financial and other assistance for students enrolled at qualified institutions of higher education in opportunity grant-eligible programs of study as described in RCW 28B.50.273. Students enrolled in the opportunity grant program are eligible for:

(a) Funding for tuition and mandatory fees at the public community and technical college rate, prorated if the credit load is less than full time, paid directly to the educational institution; and

(b) An additional one thousand dollars per academic year for books, tools, and supplies, prorated if the credit load is less than full time.

(2) Funding under subsection (1)(a) and (b) of this section is limited to ~~((a maximum))~~:

(a) Forty-five credits or the equivalent in ~~((an))~~ any opportunity grant-eligible program of study, including required related courses, unless the student is pursuing a certificate or degree under (b) of this subsection. No student may receive opportunity grant funding for more than forty-five credits or for more than three years from initial receipt of grant funds in one or a combination of programs, unless the student is pursuing a certificate or degree under (b) of this subsection; or

(b) Ninety credits for students in an opportunity grant-eligible program of study, including required related courses, that result in a certificate or degree required for employment in a behavioral health profession. Extended opportunity grant funding is limited to no more than a total of ninety credits or for more than four years from initial receipt of grant funds.

(3) Grants awarded under this section are subject to the availability of amounts appropriated for this specific purpose.

**Sec. 2.** RCW 28B.145.005 and 2018 c 209 s 5 and 2018 c 114 s 1 are each reenacted and amended to read as follows:

The legislature finds that, despite increases in degree production, there remain acute shortages in high employer demand programs of study, particularly in the science, technology, engineering, and mathematics (STEM) and health care fields of study. According to the workforce training and education coordinating board, seventeen percent of Washington businesses had difficulty finding job applicants in 2010. Eleven thousand employers did not fill a vacancy because they lacked qualified job applicants. Fifty-nine percent of projected job openings in Washington state from now until 2017 will require some form of postsecondary education and training.

It is the intent of the legislature to provide jobs and opportunity by making Washington the place where the world's most productive companies find the world's most talented people. The legislature intends to accomplish this through the creation of the opportunity scholarship and the opportunity expansion programs to help mitigate the impact of tuition increases, increase the number of professional-technical certificates, professional-technical degrees, ~~((and))~~ baccalaureate degrees in high employer demand and other programs ~~((and))~~, advanced degrees in health professions ~~((needed in service obligation areas))~~, and invest in programs and students to meet market demands for a knowledge-based economy while filling middle-income jobs with a sufficient supply of skilled workers.

**Sec. 3.** RCW 28B.145.020 and 2018 c 254 s 2, 2018 c 209 s 7, and 2018 c 114 s 3 are each reenacted and amended to read as follows:

(1) The opportunity scholarship board is created. The board consists of eleven members:

(a) Six members appointed by the governor. For three of the six appointments, the governor shall consider names from a list provided by the president of the senate and the speaker of the house of representatives; and

(b) Five foundation or business and industry representatives appointed by the governor from among the state's most productive industries such as aerospace, manufacturing, health care, information technology, engineering, agriculture, and others, as well as philanthropy. The foundation or business and industry representatives shall be selected from among nominations provided by the

private sector donors to the opportunity scholarship and opportunity expansion programs. However, the governor may request, and the private sector donors shall provide, an additional list or lists from which the governor shall select these representatives.

(2) Board members shall hold their offices for a term of four years from the first day of September and until their successors are appointed. No more than the terms of two members may expire simultaneously on the last day of August in any one year.

(3) The members of the board shall elect one of the business and industry representatives to serve as chair.

(4) Seven members of the board constitute a quorum for the transaction of business. In case of a vacancy, or when an appointment is made after the date of expiration of the term, the governor or the president of the senate or the speaker of the house of representatives, depending upon which made the initial appointment to that position, shall fill the vacancy for the remainder of the term of the board member whose office has become vacant or expired.

(5) The board shall be staffed by a program administrator, under contract with the board and the council.

(6) The purpose of the board is to provide oversight and guidance for the opportunity expansion ~~((program))~~ program, the opportunity scholarship program ~~((s program))~~, and the rural jobs program, in light of established legislative priorities and to fulfill the duties and responsibilities under this chapter, including but not limited to determining eligible education programs and eligible advanced degree programs for purposes of the opportunity scholarship program and rural jobs program. In determining eligible advanced degree programs, the board shall consider advanced degree programs that lead to credentials in health professions that include, but are not limited to, primary care, dental care, behavioral health, and public health. Duties, exercised jointly with the program administrator, include soliciting funds and setting annual fund-raising goals.

(7) The board may report to the governor and the appropriate committees of the legislature with recommendations as to:

(a) Whether some or all of the scholarships should be changed to conditional scholarships that must be repaid in the event the participant does not complete the eligible education program;

(b) A source or sources of funds for the opportunity expansion program in addition to the voluntary contributions of the high-technology research and development tax credit under RCW 82.32.800; and

(c) Whether the program should include a loan repayment or low-interest or no-interest loan component for the advanced degree portion of the program.

~~((8) The board shall report to the governor and the appropriate committees of the legislature by December 1st of each biennium, beginning December 1, 2019, on the following:~~

~~(a) A list of the eligible advanced degree programs and service obligation areas;~~

~~(b) The number of participants in eligible advanced degree programs, the number of participants completing their service obligations in a service obligation area, and the number of participants who have completed their service obligation; and~~

~~(c) The number of participants who did not complete their service obligation who now owe a repayment obligation and the reasons why the participants did not complete their service obligations.)~~

**Sec. 4.** RCW 28B.145.010 and 2018 c 254 s 9, 2018 c 209 s 6, and 2018 c 114 s 2 are each reenacted and amended to read as follows:

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

(1) "Board" means the opportunity scholarship board.

(2) "Council" means the student achievement council.

(3) "Eligible advanced degree program" means a health professional degree program beyond the baccalaureate level and includes graduate and professional degree programs.

(4) "Eligible county" has the same meaning as "rural county" as defined in RCW 82.14.370 and also includes any county that shares a common border with Canada and has a population of over one hundred twenty-five thousand.

(5) "Eligible education programs" means high employer demand ~~((and other))~~ programs of study as ~~((determined))~~ identified by the board.

(6) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses as determined by the program administrator in consultation with the council and the state board for community and technical colleges.

(7) "Eligible school district" means a school district of the second class as identified in RCW 28A.300.065(2).

(8) "Eligible student" means a resident student who received his or her high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 in Washington and who:

(a)(i) Has been accepted at a four-year institution of higher education into an eligible education program leading to a baccalaureate degree;

(ii) Will attend a two-year institution of higher education and intends to transfer to an eligible education program at a four-year institution of higher education;

(iii) Has been accepted at an institution of higher education into a professional-technical degree program in an eligible education program; ~~((or))~~

(iv) Has been accepted at an institution of higher education into a professional-technical certificate program in an eligible education program; or

(v) Has been accepted at an institution of higher education into an eligible advanced degree program ~~((and has agreed to the service obligation established by the board));~~

(b) Declares an intention to obtain a professional-technical certificate, professional-technical degree, ~~((or))~~ baccalaureate degree~~((or))~~, or an advanced degree; and

(c) Has a family income at or below one hundred twenty-five percent of the state median family income at the time the student applies for an opportunity scholarship.

(9) "Gift aid" means financial aid received from the federal Pell grant, the state need grant program in chapter 28B.92 RCW, the college bound scholarship program in chapter 28B.118 RCW, the opportunity grant program in chapter 28B.50 RCW, the opportunity scholarship program in this chapter, or any other state grant, scholarship, or worker retraining program that provides funds for educational purposes with no obligation of repayment. "Gift aid" does not include student loans, work-study programs, the basic food employment and training program administered by the department of social and health services, or other employment assistance programs that provide job readiness opportunities and support beyond the costs of tuition, books, and fees.

(10) "High employer demand program of study" has the same meaning as provided in RCW 28B.50.030.

(11) "Participant" means an eligible student who has received a scholarship under the opportunity scholarship program.

(12) "Professional-technical certificate" means a program as approved by the state board for community and technical colleges under RCW 28B.50.090(7)(c), that is offered by an institution of higher education.

(13) "Professional-technical degree" means a program as approved by the state board for community and technical colleges under RCW 28B.50.090(7)(c), that is offered by an institution of higher education.

(14) "Program administrator" means a private nonprofit corporation registered under Title 24 RCW and qualified as a tax-exempt entity under section 501(c)(3) of the federal internal revenue code.

(15) "Resident student" has the same meaning as provided in RCW 28B.15.012.

(16) "Rural jobs program" means the rural county high employer demand jobs program created in this chapter.

~~((17) "Service obligation" means an obligation by the participant to be employed in a service obligation area in the state for a specific period to be established by the board.~~

~~(18) "Service obligation area" means a location that meets one of the following conditions:~~

~~(a) Has been designated by the council as an eligible site under the health professional conditional scholarship program established under chapter 28B.115 RCW;~~

~~(b) Serves at least forty percent uninsured or medicaid-enrolled patients;~~

~~(c) Is located in a rural county as defined in RCW 82.14.370 and serves a combination of uninsured, medicaid enrolled patients, and medicare enrolled patients, equal to at least forty percent of the practice location's total patients; or~~

~~(d) Serves a public agency, nonprofit organization, or local health jurisdiction as defined in RCW 43.70.575 by providing public health services necessary to preserve, protect, and promote the health of the state's population, as determined by the board after consultation with the department of health.)~~

**Sec. 5.** RCW 28B.145.030 and 2018 c 209 s 8, 2018 c 204 s 2, and 2018 c 114 s 4 are each reenacted and amended to read as follows:

(1) The program administrator shall provide administrative support to execute the duties and responsibilities provided in this chapter, including but not limited to publicizing the program, selecting participants for the opportunity scholarship award, distributing opportunity scholarship awards, and achieving the maximum possible rate of return on investment of the accounts in subsection (2) of this section, while ensuring transparency in the investment decisions and processes. Duties, exercised jointly with the board, include soliciting funds and setting annual fund-raising goals. The program administrator shall be paid an administrative fee as determined by the board.

(2) With respect to the opportunity scholarship program, the program administrator shall:

(a) Establish and manage ~~((three separate))~~ the specified accounts created in (b) of this subsection, into which to receive grants and contributions from private sources as well as state matching funds, and from which to disburse scholarship funds to participants;

(b) Solicit and accept grants and contributions from private sources, via direct payment, pledge agreement, or escrow account, of private sources for deposit into any of the ~~((three))~~ specified accounts created in this subsection (2)(b) upon the direction of the donor and in accordance with this subsection (2)(b):

(i) The "scholarship account," whose principal may be invaded, and from which scholarships must be disbursed for baccalaureate programs beginning no later than December 1, 2011, if, by that date, state matching funds in the amount of five million dollars or more have been received. Thereafter, scholarships shall be disbursed on an annual basis beginning no later than May 1, 2012, and every October 1st thereafter;

(ii) The "student support pathways account," whose principal may be invaded, and from which scholarships may be disbursed for professional-technical certificate or degree programs in the fiscal year following appropriations of state

matching funds. Thereafter, scholarships shall be disbursed on an annual basis;

(iii) The "advanced degrees pathways account," whose principal may be invaded, and from which scholarships may be disbursed for eligible advanced degree programs in the fiscal year following appropriations of state matching funds. Thereafter, scholarships shall be disbursed on an annual basis;

(iv) The "endowment account," from which scholarship moneys may be disbursed for baccalaureate programs from earnings only in years when:

(A) The state match has been made into both the scholarship and the endowment account; and

(B) The state appropriations for the state need grant under RCW 28B.92.010 meet or exceed state appropriations for the state need grant made in the 2011-2013 biennium, adjusted for inflation, and eligibility for state need grant recipients is at least seventy percent of state median family income;

(v) An amount equal to at least fifty percent of all grants and contributions must be deposited into the scholarship account until such time as twenty million dollars have been deposited into the scholarship account, after which time the private donors may designate whether their contributions must be deposited to the scholarship account, the student support pathways account, the advanced degrees pathways account, or the endowment account((s)). The board and the program administrator must work to maximize private sector contributions to ~~((the scholarship account, the student support pathways account, the advanced degrees pathways account, and the endowment account,))~~ these accounts to maintain a robust scholarship program while simultaneously building the endowment, and to determine the division between the ~~((scholarship, the student support pathways, the advanced degrees pathways, and the endowment))~~ accounts in the case of undesigned grants and contributions, taking into account the need for a long-term funding mechanism and the short-term needs of families and students in Washington. The first five million dollars in state match, as provided in RCW 28B.145.040, shall be deposited into the scholarship account and thereafter the state match shall be deposited into the ~~((three))~~ specified accounts created in this subsection (2)(b) in equal proportion to the private funds deposited in each account, except that no more than one million dollars in state match shall be deposited into the advanced degrees pathways account in a single fiscal biennium; and

(vi) Once moneys in the opportunity scholarship match transfer account are subject to an agreement under RCW 28B.145.050(5) and are deposited in the scholarship account, the student support pathways account, the advanced degrees pathways account, or the endowment account under this section, the state acts in a fiduciary rather than ownership capacity with regard to those assets. Assets in the scholarship account, the student support pathways account, the advanced degrees pathways account, and the endowment account are not considered state money, common cash, or revenue to the state;

(c) Provide proof of receipt of grants and contributions from private sources to the council, identifying the amounts received by name of private source and date, and whether the amounts received were deposited into the scholarship account, the student support pathways account, the advanced degrees pathways account, or the endowment account~~((s))~~;

(d) In consultation with the council and the state board for community and technical colleges, make an assessment of the reasonable annual eligible expenses associated with eligible education programs and eligible advanced degree programs identified by the board;

(e) Determine the dollar difference between tuition fees charged by institutions of higher education in the 2008-09 academic year and the academic year for which an opportunity scholarship is being distributed;

(f) Develop and implement an application, selection, and notification process for awarding opportunity scholarships;

(g) Determine the annual amount of the opportunity scholarship for each selected participant. The annual amount shall be at least one thousand dollars or the amount determined under (e) of this subsection, but may be increased on an income-based, sliding scale basis up to the amount necessary to cover all reasonable annual eligible expenses as assessed pursuant to (d) of this subsection, or to encourage participation in professional-technical certificate programs, professional-technical degree programs, ~~((or))~~ baccalaureate degree programs, or eligible advanced degree programs identified by the board;

(h) Distribute scholarship funds to selected participants. Once awarded, and to the extent funds are available for distribution, an opportunity scholarship shall be automatically renewed as long as the participant annually submits documentation of filing both a free application for federal student aid (FAFSA) and for available federal education tax credits including, but not limited to, the American opportunity tax credit, or if ineligible to apply for federal student aid, the participant annually submits documentation of filing a state financial aid application as approved by the office of student financial assistance; and until the participant withdraws from or is no longer attending the program, completes the program, or has taken the credit or clock hour equivalent of one hundred twenty-five percent of the published length of time of the participant's program, whichever occurs first; and

(i) Notify institutions of scholarship recipients who will attend their institutions and inform them of the terms of the students' eligibility~~((s))~~;

~~((j)) Establish a required service obligation for participants enrolled in an eligible advanced degree program, and establish a process for verifying a participant's employment in a service obligation area; and~~

~~((k)) Establish a repayment obligation and appeals process for participants who serve less than the required service obligation, unless the program administrator determines the circumstances are beyond the participant's~~

control. If the participant is unable to pay the repayment obligation in full, the participant may enter into payment arrangements with the program administrator. The program administrator is responsible for the collection of repayment obligations on behalf of participants who fail to complete their service obligation)).

(3) With respect to the opportunity expansion program, the program administrator shall:

(a) Assist the board in developing and implementing an application, selection, and notification process for making opportunity expansion awards; and

(b) Solicit and accept grants and contributions from private sources for opportunity expansion awards.

**Sec. 6.** RCW 28B.145.040 and 2018 c 209 s 9 and 2018 c 114 s 5 are each reenacted and amended to read as follows:

(1) The opportunity scholarship program is established.

(2) The purpose of this scholarship program is to provide scholarships that will help low and middle-income Washington residents earn professional-technical certificates, professional-technical degrees, or baccalaureate degrees in high employer demand and other programs of study and advanced degrees in health professions (~~(needed in service obligation areas)~~), and encourage them to remain in the state to work. The program must be designed for students starting professional-technical certificate or degree programs, students starting at two-year institutions of higher education and intending to transfer to four-year institutions of higher education, students starting at four-year institutions of higher education, and students enrolled in an eligible advanced degree program.

(3) The opportunity scholarship board shall (~~(determine)~~) identify which programs of study (~~(including but not limited to)~~) are high employer demand programs, (~~(are)~~) eligible for purposes of the opportunity scholarship. For eligible advanced degree programs, the board shall limit scholarships to eligible students enrolling in programs that lead to credentials in health professions (~~(needed in service obligation areas)~~).

(4) The source of funds for the program shall be a combination of private grants and contributions and state matching funds. A state match may be earned under this section for private contributions made on or after June 6, 2011. A state match, up to a maximum of fifty million dollars annually, shall be provided beginning the later of January 1, 2014, or January 1st next following the end of the fiscal year in which collections of state retail sales and use tax, state business and occupation tax, and state public utility tax exceed, by ten percent the amounts collected from these tax resources in the fiscal year that ended June 30, 2008, as determined by the department of revenue.

**Sec. 7.** RCW 28B.145.090 and 2018 c 254 s 3, 2018 c 209 s 10, and 2018 c 114 s 6 are each reenacted and amended to read as follows:

(1) The board may elect to have the state investment board invest the funds in the scholarship account, the student support pathways account, the advanced degrees pathways account, and the endowment account described under RCW 28B.145.030(2)(b). If the board so elects, the state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in (~~(the three)~~) these accounts. All investment and operating costs associated with the investment of money shall be paid under RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the accounts.

(2) All investments made by the state investment board shall be made with the exercise of that degree of judgment and care under RCW 43.33A.140 and the investment policy established by the state investment board.

(3) As deemed appropriate by the state investment board, money in the scholarship account, the student support pathways account, the advanced degrees pathways account, and the endowment account may be commingled for investment with other funds subject to investment by the state investment board.

(4) Members of the state investment board shall not be considered an insurer of the funds or assets and are not liable for any action or inaction.

(5) Members of the state investment board are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The state investment board in its discretion may purchase liability insurance for members.

(6) The authority to establish all policies relating to the scholarship account, the student support pathways account, the advanced degrees pathways account, and the endowment account, other than the investment policies as provided in subsections (1) through (3) of this section, resides with the board and program administrator acting in accordance with the principles set forth in this chapter. With the exception of expenses of the state investment board in subsection (1) of this section, disbursements from the scholarship account, the student support pathways account, the advanced degrees pathways account, and the endowment account shall be made only on the authorization of the opportunity scholarship board or its designee, and moneys in the accounts may be spent only for the purposes specified in this chapter.

(7) The state investment board shall routinely consult and communicate with the board on the investment policy, earnings of the accounts, and related needs of the program."

Correct the title.

Signed by Representatives Hansen, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Van Werven, Ranking

Minority Member; Gildon, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Bergquist; Kraft; Mead; Paul; Pollet; Ramos; Rude; Sells; Slatter and Sutherland.

Referred to Committee on Appropriations.

April 8, 2019

2SSB 5672 Prime Sponsor, Committee on Ways & Means: Concerning adult family home specialty services. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 70.128 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the developmental disabilities administration within the department shall work with stakeholders to design and implement services for individuals living in adult family homes who have a primary need of care related to a developmental or intellectual disability. These services must be enhancements or in addition to services currently available, and designed to meet the specific provisions related to the assessment, environment, regulations, provision of care, and training requirements. These services must be enhancements or in addition to services currently available, and designed to support an intentional environment to improve resident quality of life, promote resident safety, including protecting safety in relationships between residents, increase resident length of stay, clarify regulations, streamline training requirements, reduce the need for institutional settings, and attract more adult family home providers to develop such highly needed resources. The recommendations for these services must be completed by June 1, 2020, for consideration and implementation in the 2021-2023 biennium.

(2) Subject to the availability of amounts appropriated for this specific purpose, the aging and long-term support administration within the department shall work with stakeholders to design and implement proposed services for individuals living in adult family homes that are dedicated solely to the care of individuals with dementia, including Alzheimer's disease. These services must be enhancements or in addition to services currently available, and designed to include specific provisions related to the assessment, environment, regulations, provision of care, and training requirements. These services must be designed to support an intentional environment to improve resident quality of life, promote resident safety, including protecting safety in relationships between residents, increase resident

length of stay, clarify regulations, streamline training requirements, reduce the need for institutional settings, and attract more adult family home providers to develop such highly needed resources. The recommendations for these services must be completed by June 1, 2020, for consideration and implementation in the 2021-2023 biennium.

**Sec. 2.** RCW 70.128.010 and 2007 c 184 s 7 are each amended to read as follows:

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

(1) "Adult family home" means a residential home in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

(2) "Provider" means any person who is licensed under this chapter to operate an adult family home. For the purposes of this section, "person" means any individual, partnership, corporation, association, or limited liability company.

(3) "Department" means the department of social and health services.

(4) "Resident" means an adult in need of personal or special care in an adult family home who is not related to the provider.

(5) "Adults" means persons who have attained the age of eighteen years.

(6) "Home" means an adult family home.

(7) "Imminent danger" means serious physical harm to or death of a resident has occurred, or there is a serious threat to resident life, health, or safety.

(8) "Special care" means care beyond personal care as defined by the department, in rule.

(9) "Capacity" means the maximum number of persons in need of personal or special care permitted in an adult family home at a given time. This number shall include related children or adults in the home and who received special care.

(10) "Resident manager" means a person employed or designated by the provider to manage the adult family home.

(11) "Adult family home licensee" means a provider as defined in this section who does not receive payments from the medicaid and state-funded long-term care programs.

(12) "Adult family home training network" means a nonprofit organization established by the exclusive bargaining representative of adult family homes designated under RCW 41.56.029 with the capacity to provide training, workforce development, and other services to adult family homes.

NEW SECTION. Sec. 3. A new section is added to chapter 70.128 RCW to read as follows:

If the department has any contracts for personal care services with any adult family home represented by an exclusive bargaining representative:

(1) Effective July 1, 2020, training required under this chapter for adult family homes must be available through an adult family home training network.

(2) The exclusive bargaining representative shall designate the adult family home training network.

(3) The parties to the collective bargaining agreement must negotiate a memorandum of understanding to provide for contributions to the adult family home training network. Contributions to the adult family home training network must begin no sooner than January 1, 2020. Contributions to the adult family home training network for fiscal year 2021 must be limited to no more than the amount appropriated for training in the 2019-2021 collective bargaining agreement.

(4) Contributions must be provided to the adult family home training network through a vendor contract executed by the department.

(5) The adult family home training network shall provide reports as required by the department verifying that providers have complied with all training requirements.

NEW SECTION. Sec. 4. A new section is added to chapter 70.128 RCW to read as follows:

(1) By December 1, 2020, the department shall report to the appropriate committees of the legislature on the status of the adult family home training network.

(2) This section expires July 1, 2021.

**Sec. 5.** RCW 70.128.230 and 2013 c 259 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 ~~((challenge))~~ complete the competency challenge test for basic training are fully exempt from the basic training requirements of this section. Persons who successfully ~~((challenge))~~ 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 ~~((coordinated system of long term care training and education))~~ 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 ~~((, must be encouraged by the department in their efforts))~~. 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.

NEW SECTION. Sec. 6. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Cody; Dolan; Fitzgibbon; Hansen; Hudgins; Jinkins; Macri; Pettigrew; Pollet; Ryu; Senn; Springer; Stanford; Steele; Sullivan; Tarleton; Tharinger and Ybarra.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler; Dye; Hoff; Kraft; Mosbrucker; Schmick and Sutherland.

Referred to Committee on Appropriations.

March 28, 2019

SSB 5714 Prime Sponsor, Committee on Law & Justice: Concerning the reliability of evidence in criminal proceedings. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. INTENT. The legislature recognizes that prosecuting attorneys, law enforcement, and society at large strive for a criminal justice system that minimizes the risk actually innocent people will be convicted. The legislature further recognizes that mistaken identification by witnesses to crime and false testimony by informants who are given benefits in exchange for their testimony have contributed to the conviction of the innocent in Washington state. Through the development of best practices related to the collection of eyewitness evidence and the use of informant witnesses, and the adoption of model guidelines to implement those practices, the legislature aims to improve the quality of such evidence and reduce the risk of wrongful conviction related to these contributing factors.

NEW SECTION. Sec. 2. EYEWITNESS EVIDENCE WORK GROUP. (1) The University of Washington Tacoma shall convene a work group for the purpose of maximizing the reliability of eyewitness evidence collected during criminal investigations.

(2) The president of the senate and the speaker of the house of representatives shall jointly appoint the members of the work group to include the following:

(a) One member representing the senate;

(b) One member representing the house of representatives;

(c) The chief of the Washington state patrol or the chief's designee;

(d) One member representing the criminal justice training commission with expertise in developing law enforcement training curricula;

(e) The executive director of the Washington association of sheriffs and police chiefs or the executive director's designee;

(f) Two members representing the Washington association of prosecuting attorneys, each from a diverse geographical location;

(g) One member representing the Washington defender association;

(h) One member representing the Washington association of criminal defense lawyers;

(i) One member representing the Washington innocence project; and

(j) One member from the scientific community with expertise in eyewitness memory.

(3) The duties of the work group include, but are not limited to:

(a) Developing model guidelines for the collection of eyewitness evidence consistent with the model policies adopted in 2015 by the Washington association of sheriffs and police chiefs and the Washington association of prosecuting attorneys;

(b) Designing and implementing statewide law enforcement training for the collection and documentation of eyewitness evidence based on the model guidelines developed pursuant to this subsection; and

(c) Collecting local protocols required under section 3 of this act.

(4) The work group shall hold its initial meeting no later than July 31, 2019, and complete the model guidelines and training curriculum no later than November 30, 2019.

(5) The work group shall prepare and submit to the appropriate committees of the legislature a report including the model guidelines, training curriculum, and a summary of its work by November 30, 2019. Following the submission of the report, the work group must reconvene every three years to revise the model guidelines as needed in accordance with science-based best practices for the collection of eyewitness evidence.

(6) The work group shall function within existing resources.

**NEW SECTION. Sec. 3. LOCAL PROTOCOLS FOR EYEWITNESS EVIDENCE.** (1) No later than December 31, 2020, each law enforcement agency shall adopt and implement a written local protocol for the collection of eyewitness evidence consistent with the model guidelines developed pursuant to section 2 of this act, and

submit a copy of the local protocol to the work group established under section 2 of this act.

(2) If a law enforcement agency adopts the model guidelines, it has met the requirements of this section.

(3) If a law enforcement agency chooses to adopt its own local protocol, the protocol must:

(a) Be based on credible field, academic, or laboratory research on eyewitness memory;

(b) Be designed to reduce erroneous eyewitness identifications and enhance the reliability and objectivity of eyewitness identifications; and

(c) Include standards for: (i) Blind administration of the identification procedure; (ii) filler selection; (iii) instructions to the witness; and (iv) documenting a statement of witness confidence immediately following any positive identification.

**NEW SECTION. Sec. 4. TRAINING ON EYEWITNESS EVIDENCE PROCEDURES.** Beginning October 1, 2020, the criminal justice training commission shall make available specialized training based on the training curriculum developed pursuant to section 2 of this act to persons responsible for the collection of eyewitness identification evidence during criminal investigations. For the purposes of providing training based on the required curriculum, the commission shall consult with the University of Washington Tacoma and the work group under section 2 of this act. Training participants shall have the opportunity to practice skills and receive feedback from instructors.

**NEW SECTION. Sec. 5. INFORMANT RELIABILITY WORK GROUP.** (1) For the purposes of this section, "informant" means any person who: (a) Was previously unconnected with the criminal case as either a witness or a codefendant; (b) claims to have relevant information about the crime; (c) is currently charged with a crime or is facing potential criminal charges or is in custody; and (d) at any time receives consideration in exchange for providing the information or testimony.

(2) The Washington innocence project, through the University of Washington school of law, and in consultation with the Washington association of prosecuting attorneys, shall convene a work group on the reliability of informant testimony. The primary purposes of the work group are to adopt model guidelines and develop a training curriculum based on those guidelines to assist prosecuting attorneys in evaluating the reliability of information or testimony offered by an informant before it is used in connection with any criminal proceeding and in determining adequate preliminary disclosures to the defense.

(3) The president of the senate and the speaker of the house of representatives shall jointly appoint the members of the work group to include the following:

(a) One member representing the senate;

(b) One member representing the house of representatives;

(c) The executive director of the Washington association of sheriffs and police chiefs or the executive director's designee;

(d) Two members representing the Washington association of prosecuting attorneys, each from a diverse geographical location;

(e) One member representing the Washington defender association;

(f) One member representing the Washington association of criminal defense lawyers;

(g) One member representing the Washington innocence project; and

(h) One member of the board of the western states information network.

(4) The duties of the work group include, but are not limited to:

(a) Developing model guidelines to direct prosecutors in determining whether to use an informant in a criminal proceeding;

(b) Designing and implementing statewide training for prosecutors and defense counsel based on the model guidelines; and

(c) Collecting local protocols required under section 6 of this act.

(5) The work group shall hold its initial meeting no later than July 31, 2019, and complete the model guidelines and training curriculum no later than November 30, 2019.

(6) The work group shall coordinate with the Washington association of prosecuting attorneys, Washington defender association, and Washington association of criminal defense lawyers to make specialized training based on the training curriculum developed pursuant to subsection (4) of this section available to prosecuting attorneys and criminal defense attorneys.

(7) The work group shall prepare and submit to the appropriate committees of the legislature a report including the model guidelines, the training curriculum, and a summary of its work by November 30, 2019.

(8) The work group shall function within existing resources.

**NEW SECTION. Sec. 6. LOCAL PROTOCOLS FOR THE USE OF INFORMANTS.** (1) No later than December 31, 2020, each county prosecuting attorney shall:

(a) Adopt and implement a written local protocol for the use of informants consistent with the model guidelines developed pursuant to section 5 of this act, and submit a copy of the local protocol to the work group established in section 5 of this act; and

(b) Establish and maintain a central record of informants used in the course of criminal proceedings as well as formal offers to give testimony or other information. This record is the confidential work product of the office of the prosecuting attorney.

(2) If a county prosecutor adopts the model guidelines developed by the work group established under section 5 of this act, it has met the requirements of this section.

(3) If a county prosecutor chooses to adopt its own local protocol, the protocol must articulate adequate preliminary disclosures to the defense and include a list of procedures for prosecuting attorneys to follow when evaluating the reliability of an informant that includes:

(a) The complete criminal history of the informant including pending criminal charges;

(b) Any consideration provided in exchange for the information or testimony;

(c) Whether the informant's information or testimony was modified or recanted;

(d) The number of times the informant has previously provided information or testimony in exchange for consideration; and

(e) The kind and quality of other evidence corroborating the informant's information or testimony.

(4) Nothing in this section diminishes federal constitutional disclosure obligations to criminal defendants or any related obligations under Washington case law, statutes, or court rules.

(5) For the purposes of this section, "informant" has the same meaning as in section 5 of this act.

**NEW SECTION. Sec. 7. JURY INSTRUCTION FOR INFORMANT TESTIMONY.** (1) If the testimony of an informant is admitted in a criminal proceeding, the prosecuting attorney or defendant may request a jury instruction on exercising caution in evaluating the credibility of an informant. Except when otherwise determined by the court, the instruction should be substantially similar to the following form:

"The testimony of an informant, given on behalf of the [State] [City] [County] in exchange for a legal advantage or other benefit, should be subjected to careful examination in the light of other evidence in the case, and should be acted upon with great caution. You, the jury, must weigh the credibility of his or her testimony. You should not find the defendant guilty upon such testimony alone unless, after carefully considering the testimony, you are satisfied beyond a reasonable doubt of its truth."

(2) For the purposes of this section, "informant" has the same meaning as in section 5 of this act.

**NEW SECTION. Sec. 8.** Sections 1 through 7 of this act constitute a new chapter in Title 10 RCW."

Correct the title.

Signed by Representatives Goodman, Chair; Davis, Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Griffey; Lovick; Orwall; Pellicciotti and Pettigrew.

Referred to Committee on Appropriations.

April 8, 2019

ESSB 5741 Prime Sponsor, Committee on Health & Long Term Care: Making changes to support future operations of the state all payer claims database by transferring the responsibility to the health care authority, partnering with a lead organization with broad data experience, including with self-insured employers, and other changes to improve and ensure successful and sustainable database operations for access to and use of the data to improve health care, providing consumers useful and consistent quality and cost measures, and assess total cost of care in Washington state. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Innovation, Technology & Economic Development.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.371.005 and 2014 c 223 s 9 are each amended to read as follows:

The legislature finds that:

(1) The activities authorized by this chapter will require collaboration among state agencies and local governments that ~~((purchase))~~ are involved in health care, private health carriers, third-party purchasers, health care providers, and hospitals. These activities will identify strategies to increase the quality and effectiveness of health care delivered in Washington state and are therefore in the best interest of the public.

(2) The benefits of collaboration, together with active state supervision, outweigh potential adverse impacts. Therefore, the legislature intends to exempt from state antitrust laws, and provide immunity through the state action doctrine from federal antitrust laws, activities that are undertaken, reviewed, and approved by the ~~((office))~~ authority pursuant to this chapter that might otherwise be constrained by such laws. The legislature does not intend and does not authorize any person or entity to engage in activities not provided for by this chapter, and the legislature neither exempts nor provides immunity for such activities including,

but not limited to, agreements among competing providers or carriers to set prices or specific levels of reimbursement for health care services.

Sec. 2. RCW 43.371.010 and 2015 c 246 s 1 are each reenacted and amended to read as follows:

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

(1) "Authority" means the health care authority.

(2) "Carrier" and "health carrier" have the same meaning as in RCW 48.43.005.

(3) "Claims data" means the data required by RCW 43.371.030 to be submitted to the database, including billed, allowed and paid amounts, and such additional information as defined by the director in rule.

(4) "Data supplier" means: (a) A carrier, third-party administrator, or a public program identified in RCW 43.371.030 that provides claims data; and (b) a carrier or any other entity that provides claims data to the database at the request of an employer-sponsored self-funded health plan or Taft-Hartley trust health plan pursuant to RCW 43.371.030(1).

(5) "Data vendor" means an entity contracted to perform data collection, processing, aggregation, extracts, analytics, and reporting.

(6) "Database" means the statewide all-payer health care claims database established in RCW 43.371.020.

(7) "Direct patient identifier" means a data variable that directly identifies an individual, including: Names; telephone numbers; fax numbers; social security number; medical record numbers; health plan beneficiary numbers; account numbers; certificate or license numbers; vehicle identifiers and serial numbers, including license plate numbers; device identifiers and serial numbers; web universal resource locators; internet protocol address numbers; biometric identifiers, including finger and voice prints; and full face photographic images and any comparable images.

(8) "Director" means the director of ~~((financial management))~~ the authority.

(9) "Indirect patient identifier" means a data variable that may identify an individual when combined with other information.

(10) "Lead organization" means the organization selected under RCW 43.371.020.

(11) "Office" means the office of financial management.

(12) "Proprietary financial information" means claims data or reports that disclose or would allow the determination of specific terms of contracts, discounts, or fixed reimbursement arrangements or other specific reimbursement arrangements between an individual health care facility or health care provider, as those terms are defined in RCW 48.43.005, and a specific payer, or internal

fee schedule or other internal pricing mechanism of integrated delivery systems owned by a carrier.

(13) "Unique identifier" means an obfuscated identifier assigned to an individual represented in the database to establish a basis for following the individual longitudinally throughout different payers and encounters in the data without revealing the individual's identity.

**Sec. 3.** RCW 43.371.020 and 2015 c 246 s 2 are each amended to read as follows:

(1) The office shall establish a statewide all-payer health care claims database ~~((to))~~. On January 1, 2020, the office must transfer authority and oversight for the database to the authority. The office and authority must develop a transition plan that sustains operations by July 1, 2019. The database shall support transparent public reporting of health care information. The database must improve transparency to: Assist patients, providers, and hospitals to make informed choices about care; enable providers, hospitals, and communities to improve by benchmarking their performance against that of others by focusing on best practices; enable purchasers to identify value, build expectations into their purchasing strategy, and reward improvements over time; and promote competition based on quality and cost. The database must systematically collect all medical claims and pharmacy claims from private and public payers, with data from all settings of care that permit the systematic analysis of health care delivery. Any mandated claims data collected in the all-payer health care claims database is owned by the state. Copies of the information may be retained by the lead organization.

(2) The ~~((office))~~ authority shall use a competitive procurement process, in accordance with chapter 39.26 RCW, to select a lead organization from among the best potential bidders to coordinate and manage the database.

(a)(i) In conducting the competitive procurement, the authority must ensure that no state officer or state employee participating in the procurement process:

(A) Has a current relationship or had a relationship within the last three years with any organization that bids on the procurement that would constitute a conflict with the proper discharge of official duties under chapter 42.52 RCW; or

(B) Is a compensated or uncompensated member of a bidding organization's board of directors, advisory committee, or has held such a position in the past three years.

(ii) If any relationship or interest described in (a)(i) of this subsection is discovered during the procurement process, the officer or employee with the prohibited relationship must withdraw from involvement in the procurement process.

(b) Due to the complexities of the all payer claims database and the unique privacy, quality, and financial objectives, the ~~((office))~~ authority must ~~((award extra points in the scoring evaluation for))~~ give strong consideration to the following elements in determining the appropriate lead organization contractor: (i) The ~~((bidder's))~~ organization's

degree of experience in health care data collection, analysis, analytics, and security; (ii) whether the ~~((bidder))~~ organization has a long-term self-sustainable financial model; (iii) the ~~((bidder's))~~ organization's experience in convening and effectively engaging stakeholders to develop reports, especially among groups of health providers, carriers, and self-insured purchasers; (iv) the ~~((bidder's))~~ organization's experience in meeting budget and timelines for report generations; and (v) the ~~((bidder's))~~ organization's ability to combine cost and quality data to assess total cost of care.

~~((b) By December 31, 2017;))~~ (c) The successful lead organization must apply to be certified as a qualified entity pursuant to 42 C.F.R. Sec. 401.703(a) by the centers for medicare and medicaid services.

(d) The authority may not select a lead organization that:

(i) Is a health plan as defined by and consistent with the definitions in RCW 48.43.005;

(ii) Is a hospital as defined in RCW 70.41.020;

(iii) Is a provider regulated under Title 18 RCW;

(iv) Is a third-party administrator as defined in RCW 70.290.010; or

(v) Is an entity with a controlling interest in any entity covered in (d)(i) through (iv) of this subsection.

(3) As part of the competitive procurement process referenced in subsection (2) of this section, the lead organization shall enter into a contract with a data vendor or multiple data vendors to perform data collection, processing, aggregation, extracts, and analytics. ~~((The))~~ A data vendor must:

(a) Establish a secure data submission process with data suppliers;

(b) Review data submitters' files according to standards established by the ~~((office))~~ authority;

(c) Assess each record's alignment with established format, frequency, and consistency criteria;

(d) Maintain responsibility for quality assurance, including, but not limited to: (i) The accuracy and validity of data suppliers' data; (ii) accuracy of dates of service spans; (iii) maintaining consistency of record layout and counts; and (iv) identifying duplicate records;

(e) Assign unique identifiers, as defined in RCW 43.371.010, to individuals represented in the database;

(f) Ensure that direct patient identifiers, indirect patient identifiers, and proprietary financial information are released only in compliance with the terms of this chapter;

(g) Demonstrate internal controls and affiliations with separate organizations as appropriate to ensure safe data collection, security of the data with state of the art encryption methods, actuarial support, and data review for accuracy and quality assurance;

(h) Store data on secure servers that are compliant with the federal health insurance portability and accountability act and regulations, with access to the data strictly controlled and limited to staff with appropriate training, clearance, and background checks; and

(i) Maintain state of the art security standards for transferring data to approved data requestors.

(4) The lead organization and data vendor must submit detailed descriptions to the office of the chief information officer to ensure robust security methods are in place. The office of the chief information officer must report its findings to the ~~((office))~~ authority and the appropriate committees of the legislature.

(5) The lead organization is responsible for internal governance, management, funding, and operations of the database. At the direction of the ~~((office))~~ authority, the lead organization shall work with the data vendor to:

(a) Collect claims data from data suppliers as provided in RCW 43.371.030;

(b) Design data collection mechanisms with consideration for the time and cost incurred by data suppliers and others in submission and collection and the benefits that measurement would achieve, ensuring the data submitted meet quality standards and are reviewed for quality assurance;

(c) Ensure protection of collected data and store and use any data in a manner that protects patient privacy and complies with this section. All patient-specific information must be deidentified with an up-to-date industry standard encryption algorithm;

(d) Consistent with the requirements of this chapter, make information from the database available as a resource for public and private entities, including carriers, employers, providers, hospitals, and purchasers of health care;

(e) Report performance on cost and quality pursuant to RCW 43.371.060 using, but not limited to, the performance measures developed under RCW 41.05.690;

(f) Develop protocols and policies, including prerelease peer review by data suppliers, to ensure the quality of data releases and reports;

(g) Develop a plan for the financial sustainability of the database as ~~((self-sustaining))~~ may be reasonable and customary as compared to other states' databases and charge fees for reports and data files as needed to fund the database. Any fees must be approved by the ~~((office))~~ authority and should be comparable, accounting for relevant differences across data requests and uses. The lead organization may not charge providers or data suppliers fees other than fees directly related to requested reports and data files; and

(h) Convene advisory committees with the approval and participation of the ~~((office))~~ authority, including: (i) A committee on data policy development; and (ii) a committee to establish a data release process consistent with the requirements of this chapter and to provide advice regarding formal data release requests. The advisory committees must include in-state representation from key provider, hospital,

public health, health maintenance organization, large and small private purchasers, consumer organizations, and the two largest carriers supplying claims data to the database.

(6) The lead organization governance structure and advisory committees for this database must include representation of the third-party administrator of the uniform medical plan. A payer, health maintenance organization, or third-party administrator must be a data supplier to the all-payer health care claims database to be represented on the lead organization governance structure or advisory committees.

**Sec. 4.** RCW 43.371.030 and 2015 c 246 s 3 are each amended to read as follows:

(1) The state medicaid program, public employees' benefits board programs, school employees' benefits board programs beginning July 1, 2020, all health carriers operating in this state, all third-party administrators paying claims on behalf of health plans in this state, and the state labor and industries program must submit claims data to the database within the time frames established by the director in rule and in accordance with procedures established by the lead organization. The director may expand this requirement by rule to include any health plans or health benefit plans defined in RCW 48.43.005(26) (a) through (i) to accomplish the goals of this chapter set forth in RCW 43.371.020(1). Employer-sponsored self-funded health plans and Taft-Hartley trust health plans may voluntarily provide claims data to the database within the time frames and in accordance with procedures established by the lead organization.

(2) Any data supplier used by an entity that voluntarily participates in the database must provide claims data to the data vendor upon request of the entity.

(3) The lead organization shall submit an annual status report to the ~~((office))~~ authority regarding compliance with this section.

(4) The state retains the ownership over all mandated claims data submitted to the database under this section. No contract with the lead organization may transfer ownership of data from the state to the lead organization or the data vendor. Copies of the information may be retained by the lead organization.

**Sec. 5.** RCW 43.371.050 and 2015 c 246 s 5 are each amended to read as follows:

(1) Except as otherwise required by law, claims or other data from the database shall only be available for retrieval in processed form to public and private requesters pursuant to this section and shall be made available within a reasonable time after the request. Each request for claims data must include, at a minimum, the following information:

(a) The identity of any entities that will analyze the data in connection with the request;

(b) The stated purpose of the request and an explanation of how the request supports the goals of this chapter set forth in RCW 43.371.020(1);

(c) A description of the proposed methodology;

(d) The specific variables requested and an explanation of how the data is necessary to achieve the stated purpose described pursuant to (b) of this subsection;

(e) How the requester will ensure all requested data is handled in accordance with the privacy and confidentiality protections required under this chapter and any other applicable law;

(f) The method by which the data will be ~~((stored,)) destroyed((, or returned to the lead organization))~~ at the conclusion of the data use agreement;

(g) The protections that will be utilized to keep the data from being used for any purposes not authorized by the requester's approved application; and

(h) Consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or proprietary financial information adopted under RCW 43.371.070(1).

(2) The lead organization may decline a request that does not include the information set forth in subsection (1) of this section that does not meet the criteria established by the lead organization's data release advisory committee, or for reasons established by rule.

(3) Except as otherwise required by law, the ~~((office))~~ authority shall direct the lead organization and the data vendor to maintain the confidentiality of claims or other data it collects for the database that include proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof. Any entity that receives claims or other data must also maintain confidentiality and may only release such claims data or any part of the claims data if:

(a) The claims data does not contain proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof; and

(b) The release is described and approved as part of the request in subsection (1) of this section.

(4) The lead organization shall, in conjunction with the ~~((office))~~ authority and the data vendor, create and implement a process to govern levels of access to and use of data from the database consistent with the following:

(a) Claims or other data that include proprietary financial information, direct patient identifiers, indirect patient identifiers, unique identifiers, or any combination thereof may be released only to the extent such information is necessary to achieve the goals of this chapter set forth in RCW 43.371.020(1) to researchers with approval of an institutional review board upon receipt of a signed data use and confidentiality agreement with the lead organization. A researcher or research organization that obtains claims data pursuant to this subsection must agree in writing not to disclose such data or parts of the data set to any other party, including affiliated entities, and must consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers,

or proprietary financial information adopted under RCW 43.371.070(1).

(b) Claims or other data that do not contain direct patient identifiers, but that may contain proprietary financial information, indirect patient identifiers, unique identifiers, or any combination thereof may be released to:

(i) Federal, state, tribal, and local government agencies upon receipt of a signed data use agreement with the ~~((office))~~ authority and the lead organization. Federal, state, tribal, and local government agencies that obtain claims data pursuant to this subsection are prohibited from using such data in the purchase or procurement of health benefits for their employees; ~~((and))~~

(ii) Any entity when functioning as the lead organization under the terms of this chapter; and

(iii) The Washington health benefit exchange established under chapter 43.71 RCW, upon receipt of a signed data use agreement with the authority and the lead organization as directed by rules adopted under this chapter.

(c) Claims or other data that do not contain proprietary financial information, direct patient identifiers, or any combination thereof, but that may contain indirect patient identifiers, unique identifiers, or a combination thereof may be released to agencies, researchers, and other entities as approved by the lead organization upon receipt of a signed data use agreement with the lead organization.

(d) Claims or other data that do not contain direct patient identifiers, indirect patient identifiers, proprietary financial information, or any combination thereof may be released upon request.

(5) Reports utilizing data obtained under this section may not contain proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof. Nothing in this subsection (5) may be construed to prohibit the use of geographic areas with a sufficient population size or aggregate gender, age, medical condition, or other characteristics in the generation of reports, so long as they cannot lead to the identification of an individual.

(6) Reports issued by the lead organization at the request of providers, facilities, employers, health plans, and other entities as approved by the lead organization may utilize proprietary financial information to calculate aggregate cost data for display in such reports. The ~~((office))~~ authority shall approve by rule a format for the calculation and display of aggregate cost data consistent with this chapter that will prevent the disclosure or determination of proprietary financial information. In developing the rule, the ~~((office))~~ authority shall solicit feedback from the stakeholders, including those listed in RCW 43.371.020(5)(h), and must consider, at a minimum, data presented as proportions, ranges, averages, and medians, as well as the differences in types of data gathered and submitted by data suppliers.

(7) Recipients of claims or other data under subsection (4) of this section must agree in a data use agreement or a confidentiality agreement to, at a minimum:

(a) Take steps to protect data containing direct patient identifiers, indirect patient identifiers, proprietary financial information, or any combination thereof as described in the agreement;

(b) Not redisclose the claims data except pursuant to subsection (3) of this section;

(c) Not attempt to determine the identity of any person whose information is included in the data set or use the claims or other data in any manner that identifies any individual or their family or attempt to locate information associated with a specific individual;

(d) Destroy ~~((or return))~~ claims data ~~((to the lead organization))~~ at the conclusion of the data use agreement; and

(e) Consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or proprietary financial information adopted under RCW 43.371.070(1).

**Sec. 6.** RCW 43.371.060 and 2015 c 246 s 6 are each amended to read as follows:

(1)(a) Under the supervision of and through contract with the ~~((office))~~ authority, the lead organization shall prepare health care data reports using the database and the statewide health performance and quality measure set. Prior to the lead organization releasing any health care data reports that use claims data, the lead organization must submit the reports to the ~~((office))~~ authority for review.

(b) By October 31st of each year, the lead organization shall submit to the director a list of reports it anticipates producing during the following calendar year. The director may establish a public comment period not to exceed thirty days, and shall submit the list and any comment to the appropriate committees of the legislature for review.

(2)(a) Health care data reports that use claims data prepared by the lead organization for the legislature and the public should promote awareness and transparency in the health care market by reporting on:

(i) Whether providers and health systems deliver efficient, high quality care; and

(ii) Geographic and other variations in medical care and costs as demonstrated by data available to the lead organization.

(b) Measures in the health care data reports should be stratified by demography, income, language, health status, and geography when feasible with available data to identify disparities in care and successful efforts to reduce disparities.

(c) Comparisons of costs among providers and health care systems must account for differences in the case mix and severity of illness of patients and populations, as appropriate and feasible, and must take into consideration the cost impact of subsidization for uninsured and

government-sponsored patients, as well as teaching expenses, when feasible with available data.

(3) The lead organization may not publish any data or health care data reports that:

(a) Directly or indirectly identify individual patients;

(b) Disclose a carrier's proprietary financial information; ~~((or))~~

(c) Compare performance in a report generated for the general public that includes any provider in a practice with fewer than four providers; or

(d) Contain medicaid data that is in direct conflict with the biannual medicaid forecast.

(4) The lead organization may not release a report that compares and identifies providers, hospitals, or data suppliers unless:

(a) It allows the data supplier, the hospital, or the provider to verify the accuracy of the information submitted to the data vendor, comment on the reasonableness of conclusions reached, and submit to the lead organization and data vendor any corrections of errors with supporting evidence and comments within thirty days of receipt of the report;

(b) It corrects data found to be in error within a reasonable amount of time; and

(c) The report otherwise complies with this chapter.

(5) The ~~((office))~~ authority and the lead organization may use claims data to identify and make available information on payers, providers, and facilities, but may not use claims data to recommend or incentivize direct contracting between providers and employers.

(6)(a) The lead organization shall distinguish in advance to the ~~((office))~~ authority when it is operating in its capacity as the lead organization and when it is operating in its capacity as a private entity. Where the lead organization acts in its capacity as a private entity, it may only access data pursuant to RCW 43.371.050(4) (b), (c), or (d).

(b) Except as provided in RCW 43.371.050(4), claims or other data that contain direct patient identifiers or proprietary financial information must remain exclusively in the custody of the data vendor and may not be accessed by the lead organization.

**Sec. 7.** RCW 43.371.070 and 2015 c 246 s 7 are each amended to read as follows:

(1) The director shall adopt any rules necessary to implement this chapter, including:

(a) Definitions of claim and data files that data suppliers must submit to the database, including: Files for covered medical services, pharmacy claims, and dental claims; member eligibility and enrollment data; and provider data with necessary identifiers;

(b) Deadlines for submission of claim files;

(c) Penalties for failure to submit claim files as required;

(d) Procedures for ensuring that all data received from data suppliers are securely collected and stored in compliance with state and federal law;

(e) Procedures for ensuring compliance with state and federal privacy laws;

(f) Procedures for establishing appropriate fees;

(g) Procedures for data release; ~~((and))~~

(h) Penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, and proprietary financial information; and

(i) A minimum reporting threshold below which a data supplier is not required to submit data.

(2) The director may not adopt rules, policies, or procedures beyond the authority granted in this chapter.

**Sec. 8.** RCW 43.371.080 and 2015 c 246 s 8 are each amended to read as follows:

~~(1) ((By December 1st of 2016 and 2017, the office shall report to the appropriate committees of the legislature regarding the development and implementation of the database, including but not limited to budget and cost detail, technical progress, and work plan metrics.~~

~~(2) Every two years commencing two years following the year in which the first report is issued or the first release of data is provided from the database, the office)) The authority shall report every two years to the appropriate committees of the legislature regarding the cost, performance, and effectiveness of the database and the performance of the lead organization under its contract with the ((office)) authority. Using independent economic expertise, subject to appropriation, the report must evaluate whether the database has advanced the goals set forth in RCW 43.371.020(1), as well as the performance of the lead organization. The report must also make recommendations regarding but not limited to how the database can be improved, whether the contract for the lead organization should be modified, renewed, or terminated, and the impact the database has had on competition between and among providers, purchasers, and payers.~~

~~((3) Beginning July 1, 2015, and every six months thereafter, the office)) (2) The authority shall annually report to the appropriate committees of the legislature regarding any additional grants received or extended.~~

**NEW SECTION. Sec. 9.** A new section is added to chapter 43.371 RCW to read as follows:

(1) To ensure the database is meeting the needs of state agencies and other data users, the authority shall convene a state agency coordinating structure, consisting of state agencies with related data needs and the Washington health benefit exchange to ensure effectiveness of the database and the agencies' programs. The coordinating

structure must collaborate in a private/public manner with the lead organization and other partners key to the broader success of the database. The coordinating structure shall advise the authority and lead organization on the development of any database policies and rules relevant to agency data needs.

(2) The office must participate as a key part of the coordinating structure and evaluate progress towards meeting the goals of the database, and, as necessary, recommend strategies for maintaining and promoting the progress of the database in meeting the intent of this section, and report its findings biennially to the governor and the legislature. The authority shall facilitate the office obtaining the information needed to complete the report in a manner that is efficient and not overly burdensome for the parties. The authority must provide the office with access to database processes, procedures, nonproprietary methodologies, and outcomes to conduct the review and issue the biennial report. The biennial review shall assess, at a minimum the following:

(a) The list of approved agency use case projects and related data requirements under RCW 43.371.050(4);

(b) Successful and unsuccessful data requests and outcomes related to agency and nonagency health researchers pursuant to RCW 43.371.050(4);

(c) On-line data portal access and effectiveness related to research requests and data provider review and reconsideration;

(d) Adequacy of data security and policy consistent with the policy of the office of the chief information officer; and

(e) Timeliness, adequacy, and responsiveness of the database with regard to requests made under RCW 43.371.050(4) and for potential improvements in data sharing, data processing, and communication.

(3) To promote the goal of improving health outcomes through better cost and quality information, the authority, in consultation with the agency coordinating structure, the office, lead organization, and data vendor shall make recommendations to the Washington state performance measurement coordinating committee as necessary to improve the effectiveness of the state common measure set as adopted under RCW 70.320.030.

**NEW SECTION. Sec. 10.** The lead organization and the authority shall provide any persons or entities that have a signed data use agreement with the lead organization in effect on June 1, 2019, with the option to extend the data use agreement through June 30, 2020. Any person or entity that chooses to extend its data use agreement through June 30, 2020, may not be charged any fees in excess of the fees in the data use agreement in effect on June 1, 2019.

**NEW SECTION. Sec. 11.** (1) The powers, duties, and functions of the office of financial management provided in chapter 43.371 RCW, except as otherwise

specified in this act, are transferred to the health care authority.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material necessary for the health care authority to carry out the powers, duties, and functions in chapter 43.371 RCW being transferred from the office of financial management to the health care authority and that are in the possession of the office of financial management must be delivered to the custody of the health care authority. All funds or credits of the office of financial management that are solely for the purposes of fulfilling the powers, duties, and functions in chapter 43.371 RCW shall be assigned to the health care authority.

(b) Any specific appropriations made to the office of financial management for the sole purpose of fulfilling the duties, powers, and functions in chapter 43.371 RCW must, on the effective date of this section, be transferred and credited to the health care authority.

(c) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management must make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and pending business before the office of financial management specifically related to its powers, duties, and functions in chapter 43.371 RCW that are being transferred to the health care authority shall be continued and acted upon by the health care authority. All existing contracts and obligations remain in full force and must be performed by the health care authority.

(4) The transfer of the powers, duties, and functions of the office of financial management does not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these must make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

**NEW SECTION. Sec. 12.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

**NEW SECTION. Sec. 13.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Ormsby, Chair; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; MacEwen, Assistant Ranking Minority Member; Caldier; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger and Ybarra.

MINORITY recommendation: Do not pass. Signed by Representatives Rude, Assistant Ranking Minority Member; Chandler; Kraft and Schmick.

Referred to Committee on Appropriations.

March 27, 2019

ESSB 5746 Prime Sponsor, Committee on Housing Stability & Affordability: Providing for adequate provisions for low-income homeownership opportunities. Reported by Committee on Housing, Community Development & Veterans

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that communities need to provide a continuum of affordable housing to people and that the continuum of housing includes emergency shelters for the homeless, supportive housing for people with special needs, rental housing assistance, and helping families buy their first home.

(2) The legislature also finds that:

(a) A recent Harvard University study reported that even after the tremendous decline in housing prices and the rising wave of foreclosures that began in 2007, homeownership continues to be a significant source of household wealth and remains particularly important for low-income and minority households. The desire to own a home is not solely or even primarily motivated by financial goals, but homeownership's appeal lies strongly in associations with having control over one's living situation, the desire to put down roots in a community, and the sense of efficacy and success that is associated with owning. Homeowning is strongly preferred for a host of other reasons by most individuals as they age, and provides further support for policies to promote homeownership out of equity concerns to help individuals and families achieve this important goal. The social benefits of homeownership lend further credence to the value of supports for homeownership.

(b) Policies to support low-income homeownership are a means to alleviate wealth disparities and provide homeowners with a hedge against inflation in rents over time, thereby potentially preventing low-income homeowners from becoming homeless and allow low-income households to build equity that continues to account

for a substantial share of net wealth, as losses in nonhousing wealth were also significant in the wake of the great recession.

(c) Housing is both a physical and psychological anchor that is essential to the stability of our personal and communal lives. However, for too many, housing is a source of stress due to its cost and uncertainty, whether as a renter or owner, and inadequate and substandard housing is a primary contributor to the higher incidences of mental and physical health problems and related public costs found among children and adults living in poverty.

(d) Stable affordable housing has ancillary benefits in individual and family mental and physical health, and in education achievement.

(e) Homeownership is a critical component to an effective continuum of housing that impacts the success of neighborhoods as places of opportunity for positive life outcomes for residents, especially neighborhoods with families with children.

(f) Appropriations for low-income homeownership projects have not been adequately provided between 2013 and 2018, with only 4.26 percent of housing trust fund dollars being invested in such projects.

**Sec. 2.** RCW 43.185.050 and 2018 c 223 s 4 are each amended to read as follows:

(1) The department must use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loans or grant projects that will provide affordable housing for ~~((persons and families with special housing needs and with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located))~~ low-income households as defined in RCW 43.185A.010. At least thirty percent of these moneys used in any given funding cycle must be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in nonrural areas of the state.

(2) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) Rent subsidies;

(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;

(d) Technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(e) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

(f) Shelters and related services for the homeless, including emergency shelters and overnight youth shelters;

(g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;

(h) Mortgage insurance guarantee or payments for eligible projects;

(i) Down payment or closing cost assistance for eligible first-time home buyers as defined in RCW 43.185A.010;

(j) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing;

(k) Projects making housing more accessible to families with members who have disabilities; and

(l) Remodeling and improvements as required to meet building code, licensing requirements, or legal operations to residential properties owned and operated by an entity eligible under RCW 43.185A.040, which were transferred as described in RCW 82.45.010(3)(t) by the parent of a child with developmental disabilities.

(3) Preference must be given for projects that include an early learning facility.

(4) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2)(a), (i), and (j) of this section, and not for the administrative costs of the department.

(5) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the housing assistance program except for activities authorized under subsection (2)(b) and (c) of this section.

(6) Administrative costs associated with application, distribution, and project development activities of the department may not exceed three percent of the annual funds available for the housing assistance program. Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

(7) Administrative costs associated with compliance and monitoring activities of the department may not exceed one-quarter of one percent annually of the contracted amount of state investment in the housing assistance program.

**Sec. 3.** RCW 43.185.070 and 2015 c 155 s 2 are each amended to read as follows:

(1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the housing assistance program, the department must announce to all known interested parties, and through major media throughout the state, a grant and loan application period of

at least ninety days' duration. This announcement must be made as often as the director deems appropriate for proper utilization of resources. The department must then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department as provided in RCW 43.185.050.

(2) In awarding funds under this chapter, the department must:

(a) Provide for a geographic distribution on a statewide basis; and

(b) Until June 30, 2013, consider the total cost and per-unit cost of each project for which an application is submitted for funding under RCW 43.185.050(2) (a) and (j), as compared to similar housing projects constructed or renovated within the same geographic area.

(3) The department, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, or a subcommittee of the affordable housing advisory board, must report recommendations for awarding funds in a cost-effective manner. The report must include an implementation plan, timeline, and any other items the department identifies as important to consider to the legislature by December 1, 2012.

(4) The department must give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities must be evaluated under subsection ~~((5))~~ (6) of this section. Second priority must be given to activities and projects which utilize existing publicly owned housing stock. All projects and activities must be evaluated by some or all of the criteria under subsection ~~((5))~~ (6) of this section, and similar projects and activities shall be evaluated under the same criteria.

(5) The department must use a separate application form for applications to provide homeownership opportunities and evaluate homeownership project applications as allowed under chapter 43.185A RCW.

(6) The department must give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities must be evaluated under the same criteria:

(a) The degree of leveraging of other funds that will occur;

(b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;

(c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Local government project contributions in the form of infrastructure improvements, and others;

(e) Projects that encourage ownership, management, and other project-related responsibility opportunities;

(f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;

(g) The applicant has the demonstrated ability, stability and resources to implement the project;

(h) Projects which demonstrate serving the greatest need;

(i) Projects that provide housing for persons and families with the lowest incomes;

(j) Projects serving special needs populations which are under statutory mandate to develop community housing;

(k) Project location and access to employment centers in the region or area;

(l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in RCW 50.72.020;

(m) Project location and access to available public transportation services; and

(n) Projects involving collaborative partnerships between local school districts and either public housing authorities or nonprofit housing providers, that help children of low-income families succeed in school. To receive this preference, the local school district must provide an opportunity for community members to offer input on the proposed project at the first scheduled school board meeting following submission of the grant application to the department.

~~((6))~~ (7) The department may only approve applications for projects for persons with mental illness that are consistent with a behavioral health organization six-year capital and operating plan.

**Sec. 4.** RCW 43.185A.010 and 2013 c 145 s 4 are each amended to read as follows:

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

(1) "Affordable housing" means residential housing for rental occupancy which, as long as the same is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the family's income. The department must adopt policies for residential homeownership housing, occupied by low-income households, which specify the percentage of family income that may be spent on monthly housing costs, including utilities other than telephone, to qualify as affordable housing.

(2) "Contracted amount" has the same meaning as provided in RCW 43.185.020.

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

(4) "Director" means the director of the department of commerce.

(5) "First-time home buyer" means an individual who meets any of the following criteria:

(a) An individual or ((his or her)) the individual's spouse ((or domestic partner)) who ((have not owned a home)) has had no ownership in a principal residence during the three-year period ((prior to purchase of a home)) ending on the date of purchase of the property;

(b) A single parent who has only owned a home with a former spouse while married;

(c) An individual who is a displaced homemaker as defined in 24 C.F.R Sec. 93.2 as it exists on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and has only owned a home with a spouse;

(d) An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations; or

(e) An individual who has only owned a property that is discerned by a licensed building inspector as being uninhabitable.

(6) "Low-income household" means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the project is located.

NEW SECTION. Sec. 5. A new section is added to chapter 43.185A RCW to read as follows:

Beginning December 1, 2021, and every year thereafter, the department must report on its web site the following for every previous funding cycle: The number of homeownership and multifamily projects funded by housing trust fund moneys; the percentage of housing trust fund investments made to homeownership and multifamily projects; and the total number of households being served at up to eighty percent of the area median income, up to fifty percent of the area median income, and up to thirty percent of the area median income, for both homeownership and multifamily projects."

Correct the title.

Signed by Representatives Jenkin, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Ryu, Chair; Morgan, Vice Chair; Barkis; Entenman; Frame; Leavitt and Reeves.

Referred to Committee on Capital Budget.

March 26, 2019

ESB 5755

Prime Sponsor, Senator Randall:  
Concerning veteran and national guard  
tuition waivers. Reported by Committee  
on College & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.15.621 and 2018 c 129 s 1 are each amended to read as follows:

(1) The legislature finds that active military and naval veterans, reserve military and naval veterans, and national guard members called to active duty have served their country and have risked their lives to defend the lives of all Americans and the freedoms that define and distinguish our nation. The legislature intends to honor active military and naval veterans, reserve military and naval veterans, and national guard members who have served on active military or naval duty for the public service they have provided to this country.

(2) Subject to the limitations in RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, may waive all or a portion of tuition and fees for an eligible veteran or national guard member.

(3) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, may waive all or a portion of tuition and fees for a military or naval veteran who is a Washington domiciliary, but who did not serve on foreign soil or in international waters or in another location in support of those serving on foreign soil or in international waters and who does not qualify as an eligible veteran or national guard member under subsection (8) of this section. However, there shall be no state general fund support for waivers granted under this subsection.

(4) Subject to the conditions in subsection (5) of this section and the limitations in RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, shall waive all tuition and fees for the following persons:

(a) A child and the spouse or the domestic partner or surviving spouse or surviving domestic partner of an eligible veteran or national guard member who became totally disabled as a result of serving in active federal military or naval service, or who is determined by the federal government to be a prisoner of war or missing in action; and

(b) A child and the surviving spouse or surviving domestic partner of an eligible veteran or national guard member who lost his or her life as a result of serving in active federal military or naval service.

(5) The conditions in this subsection (5) apply to waivers under subsection (4) of this section.

(a) A child must be a Washington domiciliary between the age of seventeen and twenty-six to be eligible for the tuition waiver. A child's marital status does not affect eligibility.

(b)(i) A surviving spouse or surviving domestic partner must be a Washington domiciliary.

(ii) Except as provided in (b)(iii) of this subsection, a surviving spouse or surviving domestic partner has ten years from the date of the death, total disability, or federal determination of prisoner of war or missing in action status of the eligible veteran or national guard member to receive benefits under the waiver. Upon remarriage or registration in a subsequent domestic partnership, the surviving spouse or surviving domestic partner is ineligible for the waiver of all tuition and fees.

(iii) If a death results from total disability, the surviving spouse has ten years from the date of death in which to receive benefits under the waiver.

(c) Each recipient's continued participation is subject to the school's satisfactory progress policy.

(d) Tuition waivers for graduate students are not required for those who qualify under subsection (4) of this section but are encouraged.

(e) Recipients who receive a waiver under subsection (4) of this section may attend full-time or part-time. Total credits earned using the waiver may not exceed two hundred fifty quarter credits, or the equivalent of semester credits.

(f) Subject to amounts appropriated, recipients who receive a waiver under subsection (4) of this section shall also receive a stipend for textbooks and course materials in the amount of five hundred dollars per academic year, to be divided equally among academic terms and prorated for part-time enrollment.

(6) Required waivers of all tuition and fees under subsection (4) of this section shall not affect permissive waivers of tuition and fees under subsection (3) of this section.

(7) Private vocational schools and private higher education institutions are encouraged to provide waivers consistent with the terms in subsections (2) through (5) of this section.

(8) The definitions in this subsection apply throughout this section.

(a) "Child" means a biological child, adopted child, or stepchild.

(b) "Eligible veteran or national guard member" means a Washington domiciliary who was an active or reserve member of the United States military or naval forces, or a national guard member called to active duty, who served in active federal service, under either Title 10 or Title 32 of the United States Code, in a war or conflict fought on foreign soil or in international waters or in support of those serving on foreign soil or in international waters, and if discharged from service, has received an honorable discharge or any

other discharge if the sole reason for discharge is due to gender or sexuality.

(c) "Totally disabled" means a person who has been determined to be one hundred percent disabled by the federal department of veterans affairs.

(d) "Washington domiciliary" means a person whose true, fixed, and permanent house and place of habitation is the state of Washington. "Washington domiciliary" includes a person who is residing in rental housing or residing in base housing. In ascertaining whether a child or surviving spouse or surviving domestic partner is domiciled in the state of Washington, public institutions of higher education shall, to the fullest extent possible, rely upon the standards provided in RCW 28B.15.013.

(9) As used in subsection (4) of this section, "fees" includes all assessments for costs incurred as a condition to a student's full participation in coursework and related activities at an institution of higher education.

(10) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges shall report to the higher education committees of the legislature by November 15, 2010, and every two years thereafter, regarding the status of implementation of the waivers under subsection (4) of this section. The reports shall include the following data and information:

(a) Total number of waivers;

(b) Total amount of tuition waived;

(c) Total amount of fees waived;

(d) Average amount of tuition and fees waived per recipient;

(e) Recipient demographic data that is disaggregated by distinct ethnic categories within racial subgroups; and

(f) Recipient income level, to the extent possible."

Correct the title.

Signed by Representatives Hansen, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Van Werven, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Bergquist; Kraft; Mead; Paul; Pollet; Ramos; Rude; Sells; Slatter and Sutherland.

Referred to Committee on Appropriations.

March 27, 2019

SB 5764

Prime Sponsor, Senator Randall: Changing the name of the medical quality assurance commission to the Washington medical commission. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Macri, Vice Chair;

Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers; Davis; DeBolt; Harris; Jinkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

March 27, 2019

SB 5817 Prime Sponsor, Senator Rivers: Concerning senior students in accredited schools of chiropractic. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.25.190 and 2000 c 171 s 8 are each amended to read as follows:

Nothing in this chapter shall be construed to prohibit:

(1) The temporary practice in this state of chiropractic by any chiropractor licensed by another state, territory, or country in which he or she resides. However, the chiropractor shall not establish a practice open to the general public and shall not engage in temporary practice under this section for a period longer than thirty days. The chiropractor shall register his or her intention to engage in the temporary practice of chiropractic in this state with the commission before engaging in the practice of chiropractic, and shall agree to be bound by such conditions as may be prescribed by rule by the commission.

(2) The practice of chiropractic(~~(, except the administration of a chiropractic adjustment,))~~ by a person who is a regular senior student in an accredited school of chiropractic approved by the commission if the practice is part of a regular course of instruction offered by the school and the student is under the direct supervision and control of a chiropractor duly licensed pursuant to this chapter and approved by the commission. A senior student practicing chiropractic under this subsection must pass an open book written jurisprudence examination approved by the commission prior to administering a chiropractic adjustment. The commission may adopt rules requiring the student and his or her supervising licensed chiropractor to file information with the commission regarding the practice of chiropractic under this subsection, including the name and contact information of the student, the name and contact information of the supervising licensed chiropractor, and the location where the student will be practicing.

(3) The practice of chiropractic by a person serving a period of postgraduate chiropractic training in a program of clinical chiropractic training sponsored by a school of chiropractic accredited in this state if the practice is part of his or her duties as a clinical postgraduate trainee and the trainee is under the direct supervision and control of a chiropractor duly licensed pursuant to this chapter and approved by the commission.

(4) The practice of chiropractic by a person who is eligible and has applied to take the next available examination for licensing offered by the commission, except that the unlicensed chiropractor must provide all services under the direct control and supervision of a licensed chiropractor approved by the commission. The unlicensed chiropractor may continue to practice as provided by this subsection until the results of the next available examination are published, but in no case for a period longer than six months. The commission shall adopt rules necessary to effectuate the intent of this subsection.

Any provision of chiropractic services by any individual under subsection (1), (2), (3), or (4) of this section shall be subject to the jurisdiction of the commission as provided in chapter 18.130 RCW."

Correct the title.

Signed by Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers; Davis; DeBolt; Harris; Jinkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

March 27, 2019

2SSB 5846 Prime Sponsor, Committee on Ways & Means: Concerning the integration of international medical graduates into Washington's health care delivery system. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that a shortage of primary care health care providers has created significant provider access issues in Washington.

(2) The legislature further finds that international medical graduates residing in the state could provide increased access to primary care for state residents, but international medical graduates routinely face barriers to practice.

(3) Therefore, the legislature intends to establish the international medical graduate work group to study barriers to practice and make recommendations on how the state can implement an international medical graduate assistance program by January 1, 2022, to assist international medical graduates in integrating into the Washington health care delivery system.

NEW SECTION. Sec. 2. (1) Subject to the availability of amounts appropriated for this specific purpose, the international medical graduate work group is

established. The work group membership must consist of the following members appointed by the governor:

(a) A representative from the medical quality assurance commission;

(b) A representative from the department of health, health systems quality assurance division;

(c) A representative from the University of Washington school of medicine graduate medical education program;

(d) A representative from the Washington State University Elson S. Floyd college of medicine graduate medical education program;

(e) A representative from the Pacific Northwest University of Health Sciences college of osteopathic medicine graduate medical education program;

(f) A representative from a statewide association representing physicians;

(g) A representative from the Washington state family medicine residency network;

(h) A representative from a primary care health care employer in a rural or underserved area of Washington;

(i) A representative from a health carrier offering coverage in a rural or underserved area of Washington;

(j) A licensed physician with experience working with international medical graduates;

(k) A representative from an organization specializing in refugee advocacy in Washington;

(l) A representative from an organization serving refugee physicians and international medical graduates;

(m) A representative from an organization offering counseling and educational programs to internationally trained health professionals;

(n) A representative from an organization representing community and migrant health centers; and

(o) At least two international medical graduates.

(2) The work group must:

(a) Develop strategies and recommendations for reducing barriers for international medical graduates obtaining residency positions in Washington, including preridency training;

(b) Make recommendations for the appropriate number of residency positions to be designated for international medical graduates, and the locations and specialties of those positions; and

(c) Make recommendations on the postresidency service requirements for international medical graduates who graduate from a designated residency position.

(3) Staff support for the work group must be provided by the medical quality assurance commission.

(4) The work group must submit a report to the governor and the legislature with its recommendations by December 1, 2019.

(5) This section expires June 30, 2020."

Correct the title.

Signed by Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Calder, Assistant Ranking Minority Member; Chambers; Davis; DeBolt; Harris; Jinkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

Referred to Committee on Rules for second reading.

March 28, 2019

SSB 5885 Prime Sponsor, Committee on Law & Justice: Creating an exemption to hearsay for child sex trafficking victims. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Jinkins, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Goodman; Hansen; Kilduff; Kirby; Klippert; Orwall; Shea; Valdez and Walen.

Referred to Committee on Rules for second reading.

March 27, 2019

SSB 5889 Prime Sponsor, Committee on Health & Long Term Care: Concerning insurance communications confidentiality. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds and declares:

(1) All people deserve the right to choose the health services that are right for them, and the right to confidential access to those health services.

(2) When people are assured of the ability to confidentially access health care services, they are more likely to seek health services, disclose health risk behaviors to a clinician, and return for follow-up care.

(3) When denied confidential access to needed care, people may delay or forgo care, leading to higher rates of unprotected sex, unintended pregnancy, untreated sexually transmitted infections, and mental health issues, or they may turn to public health safety net funds or free clinics to receive confidential care—important resources that should be reserved for people who do not have insurance coverage.

**Sec. 2.** RCW 48.43.005 and 2016 c 65 s 2 are each amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Adverse benefit determination" means a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit, including a denial, reduction, termination, or failure to provide or make payment that is based on a determination of an enrollee's or applicant's eligibility to participate in a plan, and including, with respect to group health plans, a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit resulting from the application of any utilization review, as well as a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(3) "Applicant" means a person who applies for enrollment in an individual health plan as the subscriber or an enrollee, or the dependent or spouse of a subscriber or enrollee.

(4) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(5) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(6) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(7) "Board" means the governing board of the Washington health benefit exchange established in chapter 43.71 RCW.

(8)(a) For grandfathered health benefit plans issued before January 1, 2014, and renewed thereafter, "catastrophic health plan" means:

(i) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand seven hundred fifty dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand five hundred dollars, both amounts to be adjusted annually by the insurance commissioner; and

(ii) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least six thousand

dollars, both amounts to be adjusted annually by the insurance commissioner.

(b) In July 2008, and in each July thereafter, the insurance commissioner shall adjust the minimum deductible and out-of-pocket expense required for a plan to qualify as a catastrophic plan to reflect the percentage change in the consumer price index for medical care for a preceding twelve months, as determined by the United States department of labor. For a plan year beginning in 2014, the out-of-pocket limits must be adjusted as specified in section 1302(c)(1) of P.L. 111-148 of 2010, as amended. The adjusted amount shall apply on the following January 1st.

(c) For health benefit plans issued on or after January 1, 2014, "catastrophic health plan" means:

(i) A health benefit plan that meets the definition of catastrophic plan set forth in section 1302(e) of P.L. 111-148 of 2010, as amended; or

(ii) A health benefit plan offered outside the exchange marketplace that requires a calendar year deductible or out-of-pocket expenses under the plan, other than for premiums, for covered benefits, that meets or exceeds the commissioner's annual adjustment under (b) of this subsection.

(9) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(10) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(11) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(12) "Dependent" means, at a minimum, the enrollee's legal spouse and dependent children who qualify for coverage under the enrollee's health benefit plan.

(13) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition (a) placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, (b) serious impairment to bodily functions, or (c) serious dysfunction of any bodily organ or part.

(14) "Emergency services" means a medical screening examination, as required under section 1867 of the social security act (42 U.S.C. 1395dd), that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the

emergency department to evaluate that emergency medical condition, and further medical examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital, as are required under section 1867 of the social security act (42 U.S.C. 1395dd) to stabilize the patient. Stabilize, with respect to an emergency medical condition, has the meaning given in section 1867(e)(3) of the social security act (42 U.S.C. 1395dd(e)(3)).

(15) "Employee" has the same meaning given to the term, as of January 1, 2008, under section 3(6) of the federal employee retirement income security act of 1974.

(16) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(17) "Exchange" means the Washington health benefit exchange established under chapter 43.71 RCW.

(18) "Final external review decision" means a determination by an independent review organization at the conclusion of an external review.

(19) "Final internal adverse benefit determination" means an adverse benefit determination that has been upheld by a health plan or carrier at the completion of the internal appeals process, or an adverse benefit determination with respect to which the internal appeals process has been exhausted under the exhaustion rules described in RCW 48.43.530 and 48.43.535.

(20) "Grandfathered health plan" means a group health plan or an individual health plan that under section 1251 of the patient protection and affordable care act, P.L. 111-148 (2010) and as amended by the health care and education reconciliation act, P.L. 111-152 (2010) is not subject to subtitles A or C of the act as amended.

(21) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(22) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(23) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(24) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(25) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in the patient protection and affordable care act (P.L. 111-148).

(26) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 or 48.83 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit;

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage;

(l) Plans deemed by the insurance 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 or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner; and

(m) Civilian health and medical program for the veterans affairs administration (CHAMPVA).

(27) "Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(28) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(29) "Open enrollment" means a period of time as defined in rule to be held at the same time each year, during which applicants may enroll in a carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(30) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(31) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(32) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(33) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that employed an average of at least one but no more than fifty employees, during the previous calendar year and employed at least one employee on the first day of the plan year, is not formed primarily for purposes of buying health insurance, and in which a bona fide employer-employee relationship exists. In determining the number of employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor who is covered as a group of one must also: (a) Have been employed by the same small employer or small group for at least twelve months prior to application for small group coverage, and (b) verify that he or she derived at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has

attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year, except a self-employed individual or sole proprietor in an agricultural trade or business, must have derived at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year.

(34) "Special enrollment" means a defined period of time of not less than thirty-one days, triggered by a specific qualifying event experienced by the applicant, during which applicants may enroll in the carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(35) "Standard health questionnaire" means the standard health questionnaire designated under chapter 48.41 RCW.

(36) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(37) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

(38)(a) "Protected individual" means:

(i) An adult covered as a dependent on the enrollee's health benefit plan, including an individual enrolled on the health benefit plan of the individual's registered domestic partner; or

(ii) A minor who may obtain health care without the consent of a parent or legal guardian, pursuant to state or federal law.

(b) "Protected individual" does not include an individual deemed not competent to provide informed consent for care under RCW 11.88.010(1)(e).

(39) "Sensitive health care services" means health services related to reproductive health, sexually transmitted diseases, substance use disorder, gender dysphoria, gender affirming care, domestic violence, and mental health.

**Sec. 3.** RCW 48.43.505 and 2000 c 5 s 5 are each amended to read as follows:

(1) Health carriers and insurers shall adopt policies and procedures that conform administrative, business, and operational practices to protect an enrollee's and protected

individual's right to privacy or right to confidential health care services granted under state or federal laws.

(2) A health carrier may not require protected individuals to obtain the policyholder, primary subscriber, or other covered person's authorization to receive health care services or to submit a claim if the protected individual has the right to consent to care.

(3) A health carrier must recognize the right of a protected individual or enrollee to exclusively exercise rights granted under this section regarding health information related to care that the enrollee or protected individual has received.

(4) A health carrier or insurer must direct all communication regarding a protected individual's receipt of sensitive health care services directly to the protected individual receiving care, or to a physical or email address or telephone number specified by the protected individual. A carrier or insurer may not disclose nonpublic personal health information concerning sensitive health care services provided to a protected individual to any person, including the policyholder, the primary subscriber, or any plan enrollees other than the protected individual receiving care, without the express written consent or verbal authorization on a recorded telephone line of the protected individual receiving care. Communications subject to this limitation include the following written, verbal, or electronic communications:

(a) Bills and attempts to collect payment;

(b) A notice of adverse benefits determinations;

(c) An explanations of benefits notice;

(d) A carrier's request for additional information regarding a claim;

(e) A notice of a contested claim;

(f) The name and address of a provider, a description of services provided, and other visit information; and

(g) Any written, oral, or electronic communication from a carrier that contains protected health information.

(5) Protected individuals may request that health carrier communications regarding the receipt of sensitive health care services be sent to another individual, including the policyholder, primary subscriber, or a health care provider, for the purposes of appealing adverse benefits determinations.

(6) Health carriers shall:

(a) Limit disclosure of any information, including personal health information, about a protected individual who is the subject of the information and shall direct communications containing such information directly to the protected individual, or to a physical or email address or telephone number specified by the protected individual, if he or she requests such a limitation, regardless of whether the information pertains to sensitive services;

(b) Permit protected individuals to use the form described in section 4(2) of this act and must also allow

enrollees and protected individuals to make the request by telephone, email, or the internet;

(c) Ensure that requests for nondisclosure remain in effect until the protected individual revokes or modifies the request in writing;

(d) Limit disclosure of information under this subsection consistent with the protected individual's request; and

(e) Ensure that requests for nondisclosure are implemented no later than three business days after receipt of a request.

(7) Health carriers may not require a protected individual to waive any right to limit disclosure under this section as a condition of eligibility for or coverage under a health benefit plan.

(8) For the protection of patient confidentiality, any communication from a health carrier relating to the provision of health care services, if the communications disclose protected health information, including medical information or provider name and address, relating to receipt of sensitive services, must be provided in the form and format requested by the individual patient receiving care.

(9) A policyholder or primary subscriber may not be required by a health carrier or insurer to pay for charges for health care services if the policyholder or primary subscriber has not authorized the receipt of health care services for a protected individual who has instructed the health carrier or insurer to direct communications about the protected individual's receipt of health care services to a physical or email address other than that of the policyholder or primary subscriber.

(10) The commissioner may adopt rules to implement this section after considering relevant standards adopted by national managed care accreditation organizations and the national association of insurance commissioners, and after considering the effect of those standards on the ability of carriers to undertake enrollee care management and disease management programs.

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

(1) The commissioner shall:

(a) Develop a process for the regular collection of information from carriers on requests for confidential communications pursuant to RCW 48.43.505 for the purposes of monitoring compliance, including monitoring:

(i) The effectiveness of the process described in RCW 48.43.505 in allowing protected individuals to redirect insurance communications, the extent to which protected individuals are using the process, and whether the process is working properly; and

(ii) The education and outreach activities conducted by carriers to inform enrollees about their right to confidential communications.

- (b) Establish a process for ensuring compliance; and
- (c) Develop rules necessary to implement this act.

(2) The commissioner shall work with stakeholders to develop and make available to the public a standardized form that a protected individual may submit to a carrier to make a confidential communications request. At minimum, this form must:

- (a) Inform a protected individual about the protected individual's right to confidential communications;
- (b) Allow a protected individual to indicate where to redirect communications, including a specified physical or email address or specified telephone number; and
- (c) Include a disclaimer that it may take up to three business days from the date of receipt for a carrier to process the form.

**Sec. 5.** RCW 48.43.510 and 2012 c 211 s 26 are each amended to read as follows:

(1) A carrier that offers a health plan may not offer to sell a health plan to an enrollee or to any group representative, agent, employer, or enrollee representative without first offering to provide, and providing upon request, the following information before purchase or selection:

(a) A listing of covered benefits, including prescription drug benefits, if any, a copy of the current formulary, if any is used, definitions of terms such as generic versus brand name, and policies regarding coverage of drugs, such as how they become approved or taken off the formulary, and how consumers may be involved in decisions about benefits;

(b) A listing of exclusions, reductions, and limitations to covered benefits, and any definition of medical necessity or other coverage criteria upon which they may be based;

(c) A statement of the carrier's policies for protecting the confidentiality of health information;

(d) A statement of the cost of premiums and any enrollee cost-sharing requirements;

(e) A summary explanation of the carrier's review of adverse benefit determinations and grievance processes;

(f) A statement regarding the availability of a point-of-service option, if any, and how the option operates; and

(g) A convenient means of obtaining lists of participating primary care and specialty care providers, including disclosure of network arrangements that restrict access to providers within any plan network. The offer to provide the information referenced in this subsection (1) must be clearly and prominently displayed on any information provided to any prospective enrollee or to any prospective group representative, agent, employer, or enrollee representative.

(2) Upon the request of any person, including a current enrollee, prospective enrollee, or the insurance

commissioner, a carrier must provide written information regarding any health care plan it offers, that includes the following written information:

(a) Any documents, instruments, or other information referred to in the medical coverage agreement;

(b) A full description of the procedures to be followed by an enrollee for consulting a provider other than the primary care provider and whether the enrollee's primary care provider, the carrier's medical director, or another entity must authorize the referral;

(c) Procedures, if any, that an enrollee must first follow for obtaining prior authorization for health care services;

(d) A written description of any reimbursement or payment arrangements, including, but not limited to, capitation provisions, fee-for-service provisions, and health care delivery efficiency provisions, between a carrier and a provider or network;

(e) Descriptions and justifications for provider compensation programs, including any incentives or penalties that are intended to encourage providers to withhold services or minimize or avoid referrals to specialists;

(f) An annual accounting of all payments made by the carrier which have been counted against any payment limitations, visit limitations, or other overall limitations on a person's coverage under a plan; however, the individual requesting an annual accounting may only receive information about that individual's own care, and may not receive information pertaining to protected individuals who have requested confidential communications pursuant to RCW 48.43.505;

(g) A copy of the carrier's review of adverse benefit determinations grievance process for claim or service denial and its grievance process for dissatisfaction with care; and

(h) Accreditation status with one or more national managed care accreditation organizations, and whether the carrier tracks its health care effectiveness performance using the health employer data information set (HEDIS), whether it publicly reports its HEDIS data, and how interested persons can access its HEDIS data.

(3) Each carrier shall provide to all enrollees and prospective enrollees a list of available disclosure items.

(4) Nothing in this section requires a carrier or a health care provider to divulge proprietary information to an enrollee, including the specific contractual terms and conditions between a carrier and a provider.

(5) No carrier may advertise or market any health plan to the public as a plan that covers services that help prevent illness or promote the health of enrollees unless it:

(a) Provides all clinical preventive health services provided by the basic health plan, authorized by chapter 70.47 RCW;

(b) Monitors and reports annually to enrollees on standardized measures of health care and satisfaction of all

enrollees in the health plan. The state department of health shall recommend appropriate standardized measures for this purpose, after consideration of national standardized measurement systems adopted by national managed care accreditation organizations and state agencies that purchase managed health care services; and

(c) Makes available upon request to enrollees its integrated plan to identify and manage the most prevalent diseases within its enrolled population, including cancer, heart disease, and stroke.

(6) No carrier may preclude or discourage its providers from informing an enrollee of the care he or she requires, including various treatment options, and whether in the providers' view such care is consistent with the plan's health coverage criteria, or otherwise covered by the enrollee's medical coverage agreement with the carrier. No carrier may prohibit, discourage, or penalize a provider otherwise practicing in compliance with the law from advocating on behalf of an enrollee with a carrier. Nothing in this section shall be construed to authorize a provider to bind a carrier to pay for any service.

(7) No carrier may preclude or discourage enrollees or those paying for their coverage from discussing the comparative merits of different carriers with their providers. This prohibition specifically includes prohibiting or limiting providers participating in those discussions even if critical of a carrier.

(8) Each carrier must communicate enrollee information required in chapter 5, Laws of 2000 by means that ensure that a substantial portion of the enrollee population can make use of the information. Carriers may implement alternative, efficient methods of communication to ensure enrollees have access to information including, but not limited to, web site alerts, postcard mailings, and electronic communication in lieu of printed materials.

(9) The commissioner may adopt rules to implement this section. In developing rules to implement this section, the commissioner shall consider relevant standards adopted by national managed care accreditation organizations and state agencies that purchase managed health care services, as well as opportunities to reduce administrative costs included in health plans.

**Sec. 6.** RCW 48.43.530 and 2012 c 211 s 20 are each amended to read as follows:

(1) Each carrier and health plan must have fully operational, comprehensive grievance and appeal processes, and for plans that are not grandfathered, fully operational, comprehensive, and effective grievance and review of adverse benefit determination processes that comply with the requirements of this section and any rules adopted by the commissioner to implement this section. For the purposes of this section, the commissioner must consider applicable grievance and appeal or review of adverse benefit determination process standards adopted by national managed care accreditation organizations and state agencies that purchase managed health care services, and for health plans that are not grandfathered health plans as approved by

the United States department of health and human services or the United States department of labor. In the case of coverage offered in connection with a group health plan, if either the carrier or the health plan complies with the requirements of this section and RCW 48.43.535, then the obligation to comply is satisfied for both the carrier and the plan with respect to the health insurance coverage.

(2) Each carrier and health plan must process as a grievance an enrollee's expression of dissatisfaction about customer service or the quality or availability of a health service. Each carrier must implement procedures for registering and responding to oral and written grievances in a timely and thorough manner.

(3) Each carrier and health plan must provide written notice to an enrollee or the enrollee's designated representative, and the enrollee's provider, of its decision to deny, modify, reduce, or terminate payment, coverage, authorization, or provision of health care services or benefits, including the admission to or continued stay in a health care facility. Such notice must be sent directly to a protected individual receiving care when accessing sensitive health care services or when a protected individual has requested confidential communication pursuant to RCW 48.43.505(5).

(4) An enrollee's written or oral request that a carrier reconsider its decision to deny, modify, reduce, or terminate payment, coverage, authorization, or provision of health care services or benefits, including the admission to, or continued stay in, a health care facility must be processed as follows:

(a) When the request is made under a grandfathered health plan, the plan and the carrier must process it as an appeal;

(b) When the request is made under a health plan that is not grandfathered, the plan and the carrier must process it as a review of an adverse benefit determination; and

(c) Neither a carrier nor a health plan, whether grandfathered or not, may require that an enrollee file a complaint or grievance prior to seeking appeal of a decision or review of an adverse benefit determination under this subsection.

(5) To process an appeal, each plan that is not grandfathered and each carrier offering that plan must:

(a) Provide written notice to the enrollee when the appeal is received;

(b) Assist the enrollee with the appeal process;

(c) Make its decision regarding the appeal within thirty days of the date the appeal is received. An appeal must be expedited if the enrollee's provider or the carrier's medical director reasonably determines that following the appeal process response timelines could seriously jeopardize the enrollee's life, health, or ability to regain maximum function. The decision regarding an expedited appeal must be made within seventy-two hours of the date the appeal is received;

(d) Cooperate with a representative authorized in writing by the enrollee;

(e) Consider information submitted by the enrollee;

(f) Investigate and resolve the appeal; and

(g) Provide written notice of its resolution of the appeal to the enrollee and, with the permission of the enrollee, to the enrollee's providers. The written notice must explain the carrier's and health plan's decision and the supporting coverage or clinical reasons and the enrollee's right to request independent review of the carrier's decision under RCW 48.43.535.

(6) Written notice required by subsection (3) of this section must explain:

(a) The carrier's and health plan's decision and the supporting coverage or clinical reasons; and

(b) The carrier's and grandfathered plan's appeal or for plans that are not grandfathered, adverse benefit determination review process, including information, as appropriate, about how to exercise the enrollee's rights to obtain a second opinion, and how to continue receiving services as provided in this section.

(7) When an enrollee requests that the carrier or health plan reconsider its decision to modify, reduce, or terminate an otherwise covered health service that an enrollee is receiving through the health plan and the carrier's or health plan's decision is based upon a finding that the health service, or level of health service, is no longer medically necessary or appropriate, the carrier and health plan must continue to provide that health service until the appeal, or for health plans that are not grandfathered, the review of an adverse benefit determination, is resolved. If the resolution of the appeal, review of an adverse benefit determination, or any review sought by the enrollee under RCW 48.43.535 affirms the carrier's or health plan's decision, the enrollee may be responsible for the cost of this continued health service.

(8) Each carrier and health plan must provide a clear explanation of the grievance and appeal, or for plans that are not grandfathered, the process for review of an adverse benefit determination process upon request, upon enrollment to new enrollees, and annually to enrollees and subcontractors.

(9) Each carrier and health plan must ensure that each grievance, appeal, and for plans that are not grandfathered, grievance and review of adverse benefit determinations, process is accessible to enrollees who are limited English speakers, who have literacy problems, or who have physical or mental disabilities that impede their ability to file a grievance, appeal or review of an adverse benefit determination.

(10)(a) Each plan that is not grandfathered and the carrier that offers it must: Track each appeal until final resolution; maintain, and make accessible to the commissioner for a period of three years, a log of all appeals; and identify and evaluate trends in appeals.

(b) Each grandfathered plan and the carrier that offers it must: Track each review of an adverse benefit determination until final resolution; maintain and make

accessible to the commissioner, for a period of six years, a log of all such determinations; and identify and evaluate trends in requests for and resolution of review of adverse benefit determinations.

(11) In complying with this section, plans that are not grandfathered and the carriers offering them must treat a rescission of coverage, whether or not the rescission has an adverse effect on any particular benefit at that time, and any decision to deny coverage in an initial eligibility determination as an adverse benefit determination.

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

**NEW SECTION. Sec. 8.** This act takes effect January 1, 2020."

Correct the title.

Signed by Representatives Cody, Chair; Macri, Vice Chair; Caldier, Assistant Ranking Minority Member; Davis; Harris; Jinkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representative Schmick, Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representatives Chambers and DeBolt.

March 27, 2019

**SB 5923**

Prime Sponsor, Senator Hobbs: Establishing an emergency loan program to be administered by the county road administration board. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Barkis, Ranking Minority Member; Wylie, 1st Vice Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke; Chambers; Chapman; Dent; Doglio; Dufault; Entenman; Eslick; Goehner; Gregerson; Irwin; Kloba; Lovick; McCaslin; Mead; Orcutt; Ortiz-Self; Paul; Pellicciotti; Ramos; Riccelli; Shea; Shewmake and Van Werven.

Referred to Committee on Rules for second reading.

March 26, 2019

**SSB 5936**

Prime Sponsor, Committee on Ways & Means: Concerning use of industrial waste through industrial symbioses. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.31.545 and 1991 c 319 s 210 are each amended to read as follows:

(1) The department is the lead state agency to assist in establishing and improving markets for recyclable materials generated in the state.

(2) For purposes of this section:

(a) "Industrial waste" has the meaning as defined in RCW 82.34.010.

(b) "Materials" means any waste product that may be used in another process.

(c) "Waste heat" means any heat or energy that may be used in another process.

(d) "Wastewater" has the same meaning as defined in RCW 90.46.010.

(3)(a) By June 30, 2020, the department shall produce a proposal and recommendations for setting up an industrial symbiosis coordination and innovation program and deliver the proposal to relevant committees of the legislature. The department shall work with relevant industry stakeholders to assist in development of the proposal and must convene at least two meetings with industry stakeholders prior to producing the proposal.

(b) The proposal in this section must include:

(i) A strategy to develop inventories of industrial waste and wastewater innovation currently in operation;

(ii) Recommendations regarding data collection for material flows to generate potential industry waste and wastewater matches and opportunities;

(iii) Guidance and best practices for emerging local industrial resource innovation parks; and

(iv) Recommendations regarding performance metrics to track results of industrial resource innovation parks that measure the economic and environmental outcomes.

(4) Subject to the availability of amounts appropriated for this specific purpose, the department may:

(a) Make loans or grants for the development, demonstration, and deployment of projects that encourage and enhance projects to create a cooperative use of wastewater, waste heat, and materials and resource sharing among more than one industry, company, or facility, including utilization of industrial waste and recycled materials, waste heat, wastewater, byproducts, and renewable energy, to generate economic value and achieve positive environmental outcomes;

(b) Develop a method and criteria for the allocation of loans and grants and a provision for technical assistance through an industrial resource innovation accelerator.

(5) The department shall identify estimates of costs and benefits associated with the proposal and recommendations described in subsection (3) of this section.

(6) The department shall identify the sources of scientific, economic, or other technical information it relied on developing the proposal and recommendations described in subsection (3) of this section, including peer-reviewed science."

Correct the title.

Signed by Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; Shea, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke; Doglio; Fey; Mead; Peterson and Shewmake.

Referred to Committee on Appropriations.

March 27, 2019

SJM 8008

Prime Sponsor, Senator Bailey: Urging federal legislation to prohibit the sale of tobacco and vapor products to anyone under the age of twenty-one. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

On page 1, line 8, after "sale" insert "and use"

On page 1, line 13, after "sale" insert "and use"

On page 1, after line 14, insert the following:

"WHEREAS, Current Washington law may not prohibit the sales of tobacco and vapor products online, which may result in underage individuals being able to buy these products online;

WHEREAS, The prevent all cigarette trafficking (PACT) act of 2009 requires identification checks of online sales of tobacco by the delivery system, and 21 U.S.C. Sec. 387f prohibits the sale tobacco products to any person younger than eighteen years old;

WHEREAS, Without amendment to 15 U.S.C. Secs. 375 through 378 and to 21 U.S.C. Sec. 387f(d)(3)(a)(ii), the minimum age for sale and use of tobacco and vapor products would remain at eighteen years old;"

On page 1, line 17, after "sale" insert "and use"

On page 1, line 19, after "of" strike "Senate Bill No. 5057" and insert "Engrossed House Bill No. 1074"

Signed by Representatives Cody, Chair; Macri, Vice Chair; Davis; DeBolt; Harris; Jinkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representative Chambers.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick, Ranking Minority Member Caldier, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading.

There being no objection, the bills and memorials listed on the day's committee reports under the fifth order of business were referred to the committees so designated with the exception of ENGROSSED SUBSTITUTE SENATE BILL NO. 5311 which was referred to the Committee on Appropriations and SENATE BILL NO. 5490, SENATE BILL NO. 5764, SENATE BILL NO. 5817 and SUBSTITUTE SENATE BILL NO. 5889 which were placed on the second reading calendar.

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

## SECOND READING

**SUBSTITUTE SENATE BILL NO. 5627, by Senate Committee on Labor & Commerce (originally sponsored by Brown and Keiser)**

**Establishing the healthy energy workers board. Revised for 1st Substitute: Creating the healthy energy work group to develop the healthy energy workers board.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

## MOTIONS

On motion of Representative Griffey, Representatives DeBolt, Maycumber and Vick were excused.

On motion of Representative Riccelli, Representative Peterson was excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5627.

## ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5627, and the bill passed the House by the following vote: Yeas, 92; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers,

Chapman, Chopp, Cody, Davis, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Chandler and Corry.

Excused: Representatives DeBolt, Maycumber, Peterson and Vick.

SUBSTITUTE SENATE BILL NO. 5627, having received the necessary constitutional majority, was declared passed.

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

## THIRD READING

### MESSAGE FROM THE SENATE

March 28, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1870 with the following amendment:

Strike everything after the enacting clause and insert the following:

### "PART I

### DEFINITIONS

**Sec. 1.** RCW 48.43.005 and 2016 c 65 s 2 are each amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Adverse benefit determination" means a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit, including a denial, reduction, termination, or failure to provide or make payment that is based on a determination of an enrollee's or applicant's eligibility to participate in a plan, and including, with respect to group health plans, a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit resulting from the application

of any utilization review, as well as a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(3) "Applicant" means a person who applies for enrollment in an individual health plan as the subscriber or an enrollee, or the dependent or spouse of a subscriber or enrollee.

(4) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(5) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(6) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(7) "Board" means the governing board of the Washington health benefit exchange established in chapter 43.71 RCW.

(8)(a) For grandfathered health benefit plans issued before January 1, 2014, and renewed thereafter, "catastrophic health plan" means:

(i) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand seven hundred fifty dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand five hundred dollars, both amounts to be adjusted annually by the insurance commissioner; and

(ii) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least six thousand dollars, both amounts to be adjusted annually by the insurance commissioner.

(b) In July 2008, and in each July thereafter, the insurance commissioner shall adjust the minimum deductible and out-of-pocket expense required for a plan to qualify as a catastrophic plan to reflect the percentage change in the consumer price index for medical care for a preceding twelve months, as determined by the United States department of labor. For a plan year beginning in 2014, the out-of-pocket limits must be adjusted as specified in section 1302(c)(1) of P.L. 111-148 of 2010, as amended. The adjusted amount shall apply on the following January 1st.

(c) For health benefit plans issued on or after January 1, 2014, "catastrophic health plan" means:

(i) A health benefit plan that meets the definition of catastrophic plan set forth in section 1302(e) of P.L. 111-148 of 2010, as amended; or

(ii) A health benefit plan offered outside the exchange marketplace that requires a calendar year deductible or out-of-pocket expenses under the plan, other than for premiums, for covered benefits, that meets or exceeds the commissioner's annual adjustment under (b) of this subsection.

(9) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(10) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(11) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(12) "Dependent" means, at a minimum, the enrollee's legal spouse and dependent children who qualify for coverage under the enrollee's health benefit plan.

(13) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition (a) placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, (b) serious impairment to bodily functions, or (c) serious dysfunction of any bodily organ or part.

(14) "Emergency services" means a medical screening examination, as required under section 1867 of the social security act (42 U.S.C. 1395dd), that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate that emergency medical condition, and further medical examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital, as are required under section 1867 of the social security act (42 U.S.C. 1395dd) to stabilize the patient. Stabilize, with respect to an emergency medical condition, has the meaning given in section 1867(e)(3) of the social security act (42 U.S.C. 1395dd(e)(3)).

(15) "Employee" has the same meaning given to the term, as of January 1, 2008, under section 3(6) of the federal employee retirement income security act of 1974.

(16) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(17) "Exchange" means the Washington health benefit exchange established under chapter 43.71 RCW.

(18) "Final external review decision" means a determination by an independent review organization at the conclusion of an external review.

(19) "Final internal adverse benefit determination" means an adverse benefit determination that has been upheld by a health plan or carrier at the completion of the internal appeals process, or an adverse benefit determination with respect to which the internal appeals process has been exhausted under the exhaustion rules described in RCW 48.43.530 and 48.43.535.

(20) "Grandfathered health plan" means a group health plan or an individual health plan that under section 1251 of the patient protection and affordable care act, P.L. 111-148 (2010) and as amended by the health care and education reconciliation act, P.L. 111-152 (2010) is not subject to subtitles A or C of the act as amended.

(21) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(22) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(23) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(24) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(25) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in the patient protection and affordable care act (P.L. 111-148).

(26) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 or 48.83 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit;

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage;

(l) Plans deemed by the insurance 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 or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner; and

(m) Civilian health and medical program for the veterans affairs administration (CHAMPVA).

(27) "Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(28) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(29) "Open enrollment" means a period of time as defined in rule to be held at the same time each year, during which applicants may enroll in a carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(30) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(31) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health

plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(32) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(33) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that employed an average of at least one but no more than fifty employees, during the previous calendar year and employed at least one employee on the first day of the plan year, is not formed primarily for purposes of buying health insurance, and in which a bona fide employer-employee relationship exists. In determining the number of employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor who is covered as a group of one must also: (a) Have been employed by the same small employer or small group for at least twelve months prior to application for small group coverage, and (b) verify that he or she derived at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year, except a self-employed individual or sole proprietor in an agricultural trade or business, must have derived at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year.

(34) "Special enrollment" means a defined period of time of not less than thirty-one days, triggered by a specific qualifying event experienced by the applicant, during which applicants may enroll in the carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(35) "Standard health questionnaire" means the standard health questionnaire designated under chapter 48.41 RCW.

(36) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(37) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

(38) "Essential health benefit categories" means:

(a) Ambulatory patient services;

(b) Emergency services;

(c) Hospitalization;

(d) Maternity and newborn care;

(e) Mental health and substance use disorder services, including behavioral health treatment;

(f) Prescription drugs;

(g) Rehabilitative and habilitative services and devices;

(h) Laboratory services;

(i) Preventive and wellness services and chronic disease management; and

(j) Pediatric services, including oral and vision care.

## PART II

### GUARANTEED ISSUE AND ELIGIBILITY

**Sec. 2.** RCW 48.43.012 and 2011 c 315 s 3 are each amended to read as follows:

(1) No carrier may reject an individual for an individual or group health benefit plan based upon preexisting conditions of the individual (~~except as provided in RCW 48.43.018~~).

(2) No carrier may deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions (~~except as provided in this section~~) including, but not limited to, preexisting condition exclusions or waiting periods.

(3) (~~For an individual health benefit plan originally issued on or after March 23, 2000, preexisting condition waiting periods imposed upon a person enrolling in an individual health benefit plan shall be no more than nine months for a preexisting condition for which medical advice was given, for which a health care provider recommended or provided treatment, or for which a prudent layperson would have sought advice or treatment, within six months prior to the effective date of the plan. No carrier may impose a preexisting condition waiting period on an individual health~~

~~benefit plan issued to an eligible individual as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. 300gg 41(b)).~~

~~(4) Individual health benefit plan preexisting condition waiting periods shall not apply to prenatal care services.~~

~~(5)) No carrier may avoid the requirements of this section through the creation of a new rate classification or the modification of an existing rate classification. A new or changed rate classification will be deemed an attempt to avoid the provisions of this section if the new or changed classification would substantially discourage applications for coverage from individuals who are higher than average health risks. These provisions apply only to individuals who are Washington residents.~~

~~((6) For any person under age nineteen applying for coverage as allowed by RCW 48.43.0122(1) or enrolled in a health benefit plan subject to sections 1201 and 10103 of the patient protection and affordable care act (P.L. 111-148) that is not a grandfathered health plan in the individual market, a carrier must not impose a preexisting condition exclusion or waiting period or other limitations on benefits or enrollment due to a preexisting condition.))~~

(4) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement 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. 3. A new section is added to chapter 48.43 RCW to read as follows:

(1) A health carrier or health plan may not establish rules for eligibility, including continued eligibility, of any individual to enroll under the terms of the plan or coverage based on any of the following health status-related factors in relation to the individual or a dependent of the individual:

- (a) Health status;
- (b) Medical condition, including both physical and mental illnesses;
- (c) Claims experience;
- (d) Receipt of health care;
- (e) Medical history;
- (f) Genetic information;
- (g) Evidence of insurability, including conditions arising out of acts of domestic violence;
- (h) Disability; or
- (i) Any other health status-related factor determined appropriate by the commissioner.

(2) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement this section, consistent with federal rules and guidance in

effect on January 1, 2017, implementing the patient protection and affordable care act.

**Sec. 4.** RCW 48.21.270 and 2011 c 314 s 2 are each amended to read as follows:

(1) An insurer shall not require proof of insurability as a condition for issuance of the conversion policy.

(2) A conversion policy may not contain an exclusion for preexisting conditions for any applicant ~~((who is under age nineteen. For policies issued to those age nineteen and older, an exclusion for a preexisting condition is permitted only to the extent that a waiting period for a preexisting condition has not been satisfied under the group policy)).~~

(3) An insurer must offer at least three policy benefit plans that comply with the following:

- (a) A major medical plan with a five thousand dollar deductible per person;
- (b) A comprehensive medical plan with a five hundred dollar deductible per person; and
- (c) A basic medical plan with a one thousand dollar deductible per person.

(4) The insurance commissioner may revise the deductible amounts in subsection (3) of this section from time to time to reflect changing health care costs.

(5) The insurance commissioner shall adopt rules to establish minimum benefit standards for conversion policies.

(6) The commissioner shall adopt rules to establish specific standards for conversion policy provisions. These rules may include but are not limited to:

- (a) Terms of renewability;
- (b) Nonduplication of coverage;
- (c) Benefit limitations, exceptions, and reductions;
- and
- (d) Definitions of terms.

**Sec. 5.** RCW 48.44.380 and 2011 c 314 s 7 are each amended to read as follows:

(1) A health care service contractor shall not require proof of insurability as a condition for issuance of the conversion contract.

(2) A conversion contract may not contain an exclusion for preexisting conditions for any applicant ~~((who is under age nineteen. For policies issued to those age nineteen and older, an exclusion for a preexisting condition is permitted only to the extent that a waiting period for a preexisting condition has not been satisfied under the group contract)).~~

(3) A health care service contractor must offer at least three contract benefit plans that comply with the following:

(a) A major medical plan with a five thousand dollar deductible per person;

(b) A comprehensive medical plan with a five hundred dollar deductible per person; and

(c) A basic medical plan with a one thousand dollar deductible per person.

(4) The insurance commissioner may revise the deductible amounts in subsection (3) of this section from time to time to reflect changing health care costs.

(5) The insurance commissioner shall adopt rules to establish minimum benefit standards for conversion contracts.

(6) The commissioner shall adopt rules to establish specific standards for conversion contract provisions. These rules may include but are not limited to:

(a) Terms of renewability;

(b) Nonduplication of coverage;

(c) Benefit limitations, exceptions, and reductions; and

(d) Definitions of terms.

**Sec. 6.** RCW 48.46.460 and 2011 c 314 s 9 are each amended to read as follows:

(1) A health maintenance organization must offer a conversion agreement for comprehensive health care services and shall not require proof of insurability as a condition for issuance of the conversion agreement.

(2) A conversion agreement may not contain an exclusion for preexisting conditions for an applicant (~~who is under age nineteen. For policies issued to those age nineteen and older, an exclusion for a preexisting condition is permitted only to the extent that a waiting period for a preexisting condition has not been satisfied under the group agreement~~)).

(3) A conversion agreement need not provide benefits identical to those provided under the group agreement. The conversion agreement may contain provisions requiring the person covered by the conversion agreement to pay reasonable deductibles and copayments, except for preventive service benefits as defined in 45 C.F.R. 147.130 (2010), implementing sections 2701 through 2763, 2791, and 2792 of the public health service act (42 U.S.C. 300gg through 300gg-63, 300gg-91, and 300gg-92), as amended.

(4) The insurance commissioner shall adopt rules to establish minimum benefit standards for conversion agreements.

(5) The commissioner shall adopt rules to establish specific standards for conversion agreement provisions. These rules may include but are not limited to:

(a) Terms of renewability;

(b) Nonduplication of coverage;

(c) Benefit limitations, exceptions, and reductions; and

(d) Definitions of terms.

**NEW SECTION. Sec. 7.** The following acts or parts of acts are each repealed:

(1)RCW 48.43.015 (Health benefit plans—Preexisting conditions) and 2012 c 64 s 2, 2004 c 192 s 5, 2001 c 196 s 7, 2000 c 80 s 3, 2000 c 79 s 20, & 1995 c 265 s 5;

(2)RCW 48.43.017 (Organ transplant benefit waiting periods—Prior creditable coverage) and 2009 c 82 s 2;

(3)RCW 48.43.018 (Requirement to complete the standard health questionnaire—Exemptions—Results) and 2012 c 211 s 16, 2012 c 64 s 1, 2010 c 277 s 1, & 2009 c 42 s 1; and

(4)RCW 48.43.025 (Group health benefit plans—Preexisting conditions) and 2001 c 196 s 9, 2000 c 79 s 23, & 1995 c 265 s 6.

### PART III

#### PROHIBITING UNFAIR RESCISSIONS

**NEW SECTION. Sec. 8.** A new section is added to chapter 48.43 RCW to read as follows:

(1) A health plan or health carrier offering group or individual coverage may not rescind such coverage with respect to an enrollee once the enrollee is covered under the plan or coverage involved, except that this section does not apply to a covered person who has performed an act or practice that constitutes fraud or makes an intentional misrepresentation of material fact as prohibited by the terms of the plan or coverage. The plan or coverage may not be canceled except as permitted under RCW 48.43.035 or 48.43.038.

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

### PART IV

#### ESSENTIAL HEALTH BENEFITS

**Sec. 9.** RCW 48.43.715 and 2013 c 325 s 1 are each amended to read as follows:

(1) (~~Consistent with federal law,~~) The commissioner, in consultation with the board and the health care authority, shall, by rule, select the largest small group plan in the state by enrollment as the benchmark plan for the individual and small group market for purposes of establishing the essential health benefits in Washington state (~~under P.L. 111-148 of 2010, as amended~~)).

(2) If the essential health benefits benchmark plan for the individual and small group market does not include all of the ten essential health benefits categories (~~(specified by section 1302 of P.L. 111-148, as amended)~~), the commissioner, in consultation with the board and the health care authority, shall, by rule, supplement the benchmark plan benefits as needed (~~(to meet the minimum requirements of section 1302)~~).

(3) ~~((A))~~ All individual and small group health plans ~~((required to offer))~~ must cover the ten essential health benefits categories, other than a health plan offered through the federal basic health program, a grandfathered health plan, or medicaid (~~(under P.L. 111-148 of 2010, as amended)~~). Such a health plan may not be offered in the state unless the commissioner finds that it is substantially equal to the benchmark plan. When making this determination, the commissioner:

(a) Must ensure that the plan covers the ten essential health benefits categories (~~(specified in section 1302 of P.L. 111-148 of 2010, as amended)~~);

(b) May consider whether the health plan has a benefit design that would create a risk of biased selection based on health status and whether the health plan contains meaningful scope and level of benefits in each of the ten essential health benefits categories (~~(specified by section 1302 of P.L. 111-148 of 2010, as amended)~~);

(c) Notwithstanding (~~(the foregoing)~~) (a) and (b) of this subsection, for benefit years beginning January 1, 2015, (~~(and only to the extent permitted by federal law and guidance)~~) must establish by rule the review and approval requirements and procedures for pediatric oral services when offered in stand-alone dental plans in the nongrandfathered individual and small group markets outside of the exchange; and

(d) (~~(Unless prohibited by federal law and guidance)~~) Must allow health carriers to also offer pediatric oral services within the health benefit plan in the nongrandfathered individual and small group markets outside of the exchange.

(4) Beginning December 15, 2012, and every year thereafter, the commissioner shall submit to the legislature a list of state-mandated health benefits, the enforcement of which will result in federally imposed costs to the state related to the plans sold through the exchange because the benefits are not included in the essential health benefits designated under federal law. The list must include the anticipated costs to the state of each state-mandated health benefit on the list and any statutory changes needed if funds are not appropriated to defray the state costs for the listed mandate. The commissioner may enforce a mandate on the list for the entire market only if funds are appropriated in an omnibus appropriations act specifically to pay the state portion of the identified costs.

## PART V COST SHARING

NEW SECTION. Sec. 10. A new section is added to chapter 48.43 RCW to read as follows:

(1) For plan years beginning in 2020, the cost sharing incurred under a health plan for the essential health benefits may not exceed the following amounts:

(a) For self-only coverage:

(i) The amount required under federal law for the calendar year; or

(ii) If there are no cost-sharing requirements under federal law, eight thousand two hundred dollars increased by the premium adjustment percentage for the calendar year.

(b) For coverage other than self-only coverage:

(i) The amount required under federal law for the calendar year; or

(ii) If there are no cost-sharing requirements under federal law, sixteen thousand four hundred dollars increased by the premium adjustment percentage for the calendar year.

(2) Regardless of whether an enrollee is covered by a self-only plan or a plan that is other than self-only, the enrollee's cost sharing for the essential health benefits may not exceed the self-only annual limitation on cost sharing.

(3) For purposes of this section, "the premium adjustment percentage for the calendar year" means the percentage, if any, by which the average per capita premium for health insurance in Washington for the preceding year, as estimated by the commissioner no later than April 1st of such preceding year, exceeds such average per capita premium for 2020 as determined by the commissioner.

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

## PART VI OPEN ENROLLMENT PERIODS

Sec. 11. RCW 48.43.0122 and 2011 c 315 s 4 are each amended to read as follows:

(1) The commissioner shall adopt rules establishing and implementing requirements for the open enrollment periods and special enrollment periods that carriers must follow for individual health benefit plans (~~(and enrollment of persons under age nineteen)~~).

(2) The commissioner shall monitor the sale of individual health benefit plans and if a carrier refuses to sell guaranteed issue policies to persons (~~(under age nineteen)~~) in compliance with rules adopted by the commissioner pursuant to subsection (1) of this section, the commissioner may levy fines or suspend or revoke a certificate of authority as provided in chapter 48.05 RCW.

## PART VII

## LIFETIME LIMITS

NEW SECTION. Sec. 12. A new section is added to chapter 48.43 RCW to read as follows:

A health carrier may not impose annual or lifetime dollar limits on an essential health benefit, other than those permitted as reference-based limitations under rules adopted by the commissioner.

## PART VIII

### EXPLANATION OF COVERAGE

NEW SECTION. Sec. 13. A new section is added to chapter 48.43 RCW to read as follows:

(1) The commissioner shall develop standards for use by a health carrier offering individual or group coverage, in compiling and providing to applicants and enrollees a summary of benefits and coverage explanation that accurately describes the benefits and coverage under the applicable plan. In developing the standards, the commissioner must use the standards developed under 42 U.S.C. Sec. 300gg-15 in use on the effective date of this section.

(2) The standards must provide for the following:

(a) The standards must ensure that the summary of benefits and coverage is presented in a uniform format that does not exceed four pages in length and does not include print smaller than twelve-point font.

(b) The standards must ensure that the summary is presented in a culturally and linguistically appropriate manner and utilizes terminology understandable by the average plan enrollee.

(c) The standards must ensure that the summary of benefits and coverage includes:

(i) Uniform definitions of standard insurance and medical terms, consistent with the standard definitions developed under this section, so that consumers may compare health insurance coverage and understand the terms of coverage, or exceptions to such coverage;

(ii) A description of the coverage, including cost sharing for:

(A) The essential health benefits; and

(B) Other benefits identified by the commissioner;

(iii) The exceptions, reductions, and limitations on coverage;

(iv) The cost-sharing provisions, including deductible, coinsurance, and copayment obligations;

(v) The renewability and continuation of coverage provisions;

(vi) A coverage facts label that includes examples to illustrate common benefits scenarios, including pregnancy

and serious or chronic medical conditions and related cost sharing. The scenarios must be based on recognized clinical practice guidelines;

(vii) A statement of whether the plan:

(A) Provides minimum essential coverage under 26 U.S.C. Sec. 5000A(f); and

(B) Ensures that the plan share of the total allowed costs of benefits provided under the plan is no less than sixty percent of the costs;

(viii) A statement that the outline is a summary of the policy or certificate and that the coverage document itself should be consulted to determine the governing contractual provisions; and

(ix) A contact number for the consumer to call with additional questions and a web site where a copy of the actual individual coverage policy or group certificate of coverage may be reviewed and obtained.

(3) The commissioner shall periodically review and update the standards developed under this section.

(4) A health carrier must provide a summary of benefits and coverage explanation to:

(a) An applicant at the time of application;

(b) An enrollee prior to the time of enrollment or reenrollment, as applicable; and

(c) A policyholder or certificate holder at the time of issuance of the policy or delivery of the certificate.

(5) A health carrier may provide the summary of benefits and coverage either in paper or electronically.

(6) If a health carrier makes any material modification in any of the terms of the plan that is not reflected in the most recently provided summary of benefits and coverage, the carrier shall provide notice of the modification to enrollees no later than sixty days prior to the date on which the modification will become effective.

(7) A health carrier that fails to provide the information required under this section is subject to a fine of no more than one thousand dollars for each failure. A failure with respect to each enrollee constitutes a separate offense for purposes of this subsection.

(8) The commissioner shall, by rule, provide for the development of standards for the definitions of terms used in health insurance coverage, including the following:

(a) Insurance-related terms, including premium; deductible; coinsurance; copayment; out-of-pocket limit; preferred provider; nonpreferred provider; out-of-network copayments; usual, customary, and reasonable fees; excluded services; grievance; appeals; and any other terms the commissioner determines are important to define so that consumers may compare health insurance coverage and understand the terms of their coverage; and

(b) Medical terms, including hospitalization, hospital outpatient care, emergency room care, physician services, prescription drug coverage, durable medical

equipment, home health care, skilled nursing care, rehabilitation services, hospice services, emergency medical transportation, and any other terms the commissioner determines are important to define so that consumers may compare the medical benefits offered by health insurance and understand the extent of those medical benefits or exceptions to those benefits.

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

#### **PART IX**

#### **WAITING PERIODS FOR GROUP COVERAGE**

NEW SECTION. Sec. 14. A new section is added to chapter 48.43 RCW to read as follows:

(1) A group health plan and a health carrier offering group health coverage may not apply any waiting period that exceeds ninety days.

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

#### **PART X**

#### **PROHIBITING ISSUER AND HEALTH PLAN DISCRIMINATION**

NEW SECTION. Sec. 15. A new section is added to chapter 48.43 RCW to read as follows:

(1) A health carrier offering a nongrandfathered health plan in the individual or small group market 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, 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 from appropriately utilizing reasonable medical management techniques.

(3) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement 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. 16. A new section is added to chapter 43.71 RCW to read as follows:

(1) For qualified health plans, an issue offering a qualified health plan may not employ marketing practices or benefit designs that have the effect of discouraging enrollment in the plan by individuals with significant health needs.

(2) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement 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. 17. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 3 of the title, after "act;" strike the remainder of the title and insert "amending RCW 48.43.005, 48.43.012, 48.21.270, 48.44.380, 48.46.460, 48.43.715, and 48.43.0122; adding new sections to chapter 48.43 RCW; adding a new section to chapter 43.71 RCW; repealing RCW 48.43.015, 48.43.017, 48.43.018, and 48.43.025; prescribing penalties; and declaring an emergency."

and the same is herewith transmitted.

Sarah Bannister, Deputy, Secretary

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

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1870 and advanced the bill as amended by the Senate to final passage.

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

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

Representatives Schmick and Klippert spoke against the passage of the bill.

#### **MOTION**

On motion of Representative Griffey, Representative Volz was excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1870, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Substitute House Bill No. 1870, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 56; Nays, 37; Absent, 0; Excused, 5.

Voting yea: Representatives Appleton, Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives DeBolt, Maycumber, Peterson, Vick and Volz.

SUBSTITUTE HOUSE BILL NO. 1870, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

There being no objection, the House adjourned until 9:55 a.m., April 2, 2019, the 79th Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## SEVENTY NINTH DAY

House Chamber, Olympia, Tuesday, April 2, 2019

The House was called to order at 9:55 a.m. by the Speaker (Representative Orwall presiding).

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

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

## INTRODUCTION &amp; FIRST READING

HJM 4011 by Representatives Tarleton, Chandler, Ryu, Steele, Fey, Dye, Morris, Slatter, Wylie, Valdez and Van Werven

Requesting Congress to ratify the United States, Mexico, and Canada Agreement.

Referred to Committee on Innovation, Technology & Economic Development.

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

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

## REPORTS OF STANDING COMMITTEES

March 29, 2019

HB 1101 Prime Sponsor, Representative Tharinger: Concerning state general obligation bonds and related accounts. Reported by Committee on Capital Budget

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Tharinger, Chair; Sells; Santos; Riccelli; Morgan; Leavitt; Jenkin; Irwin; Gildon; Eslick; Dye; Davis; Corry; Callan; Steele, Assistant Ranking Minority Member; Smith, Assistant Ranking Minority Member; DeBolt, Ranking Minority Member; Peterson, Vice Chair; Stonier and Walsh.

March 29, 2019

HB 1102 Prime Sponsor, Representative Tharinger: Concerning the capital budget. Reported by Committee on Capital Budget

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Walsh; DeBolt, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Steele, Assistant Ranking Minority Member; Callan; Corry; Davis; Dye; Eslick; Gildon; Irwin; Jenkin; Leavitt; Morgan; Riccelli; Santos; Sells; Stonier; Peterson, Vice Chair Tharinger, Chair.

March 28, 2019

HB 1567 Prime Sponsor, Representative Doglio: Concerning the sale and installation of solid fuel burning devices. Reported by Committee on Environment & Energy

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Fitzgibbon, Chair; Doglio; Fey; Mead; Peterson; Shewmake Lekanoff, Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Shea, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke and DeBolt.

Referred to Committee on Appropriations.

March 28, 2019

ESSB 5024 Prime Sponsor, Committee on Local Government: Concerning the transparency of local taxing districts. Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 35.58 RCW to read as follows:

Any metropolitan municipal corporation must disclose the rates of each tax it collects on behalf of another political subdivision, if any. Metropolitan municipal corporations must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer. The disclosures required by this

section must occur through at least one of the following methods:

- (1) On regular billing statements provided electronically or in written form;
- (2) On the corporation's web site, if the corporation provides written notice to customers or taxpayers that such information is available on its web site; or
- (3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**NEW SECTION. Sec. 2.** A new section is added to chapter 54.04 RCW to read as follows:

Any public utility district must disclose the rates of each tax it collects on behalf of another political subdivision, if any. Public utility districts must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer. The disclosures required by this section must occur through at least one of the following methods:

- (1) On regular billing statements provided electronically or in written form;
- (2) On the district's web site, if the district provides written notice to customers or taxpayers that such information is available on its web site; or
- (3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**NEW SECTION. Sec. 3.** A new section is added to chapter 85.08 RCW to read as follows:

Any diking, drainage, and sewerage improvement district must disclose the rates of each tax it collects on behalf of another political subdivision, if any. Diking, drainage, and sewerage improvement districts must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer. The disclosures required by this section must occur through at least one of the following methods:

- (1) On regular billing statements provided electronically or in written form;
- (2) On the district's web site, if the district provides written notice to customers or taxpayers that such information is available on its web site; or
- (3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**NEW SECTION. Sec. 4.** A new section is added to chapter 36.58A RCW to read as follows:

Any solid waste collection district must disclose the rates of each tax it collects on behalf of another political subdivision, if any. Solid waste collection districts must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer.

The disclosures required by this section must occur through at least one of the following methods:

- (1) On regular billing statements provided electronically or in written form;
- (2) On the district's web site, if the district provides written notice to customers or taxpayers that such information is available on its web site; or
- (3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**NEW SECTION. Sec. 5.** A new section is added to chapter 36.58 RCW to read as follows:

Any solid waste disposal district must disclose the rates of each tax it collects on behalf of another political subdivision, if any. Solid waste disposal districts must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer. The disclosures required by this section must occur through at least one of the following methods:

- (1) On regular billing statements provided electronically or in written form;
- (2) On the district's web site, if the district provides written notice to customers or taxpayers that such information is available on its web site; or
- (3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**NEW SECTION. Sec. 6.** A new section is added to chapter 57.02 RCW to read as follows:

Any water-sewer district must disclose the rates of each tax it collects on behalf of another political subdivision, if any. Water-sewer districts must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer. The disclosures required by this section must occur through at least one of the following methods:

- (1) On regular billing statements provided electronically or in written form;
- (2) On the district's web site, if the district provides written notice to customers or taxpayers that such information is available on its web site; or
- (3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**NEW SECTION. Sec. 7.** A new section is added to chapter 35.92 RCW to read as follows:

Any city or town operating as a municipal utility must disclose the rates of each tax it collects on behalf of another political subdivision, if any. Municipal utilities must also disclose the method by which the tax rates are applied to the relevant service charges billed to the customer or taxpayer. The disclosures required by this section must occur through at least one of the following methods:

(1) On regular billing statements provided electronically or in written form;

(2) On the municipal utility's web site, if it provides written notice to customers or taxpayers that such information is available on its web site; or

(3) Through a billing insert, mailer, or other written or electronic communication provided to customers or taxpayers on either an annual basis or within thirty days of the effective date of any subsequent tax rate change.

**Sec. 8.** RCW 19.29A.030 and 1998 c 300 s 4 are each amended to read as follows:

Except as otherwise provided in RCW 19.29A.040, an electric utility ~~((shall))~~ must:

(1) Provide notice to all of its retail electric customers that the disclosures required in RCW 19.29A.020 are available without charge upon request. Such notice ~~((shall))~~ must be provided at the time service is established and either included as a prominent part of each customer's bill or in a written notice mailed to each customer at least once a year thereafter. Required disclosures ~~((shall))~~ must be provided without charge, in writing using plain language that is understandable to an ordinary customer, and presented in a form that is clear and conspicuous(-);

(2) Provide written or electronic notice of public hearings where changes in electricity rates will be considered or approved by the commission or governing body, in a form and manner as may be required by the commission or governing body;

(3) Disclose on each billing statement the rate of tax imposed upon the electric utility under RCW 35.21.870, if any, and the amount of such tax to be paid directly by the retail electric customer through the billing statement; and

(4) Disclose the following information in a prominent manner on all billing statements sent to retail electric customers, or by a separate written notice mailed to all retail electric customers at least quarterly and at the same time as a billing statement: "YOUR BILL INCLUDES CHARGES FOR ELECTRICITY, DELIVERY SERVICES, GENERAL ADMINISTRATION AND OVERHEAD, METERING, TAXES, CONSERVATION EXPENSES, AND OTHER ITEMS."

Correct the title.

Signed by Representatives Pollet, Chair; Peterson, Vice Chair; Kraft, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Appleton; Goehner and Senn.

Referred to Committee on Rules for second reading.

March 28, 2019

ESSB 5027 Prime Sponsor, Committee on Law & Justice: Concerning extreme risk protection orders. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 7.94.010 and 2017 c 3 s 1 are each amended to read as follows:

(1) Chapter 3, Laws of 2017 is designed to temporarily prevent individuals who are at high risk of harming themselves or others from accessing firearms by allowing family, household members, and police to obtain a court order when there is demonstrated evidence that the person poses a significant danger, including danger as a result of ~~((a dangerous mental health crisis))~~ threatening or violent behavior.

(2) Every year, over one hundred thousand people are victims of gunshot wounds and more than thirty thousand of those victims lose their lives. Over the last five years for which data is available, one hundred sixty-four thousand eight hundred twenty-one people in America were killed with firearms—an average of ninety-one deaths each day.

(3) Studies show that individuals who engage in certain dangerous behaviors are significantly more likely to commit violence toward themselves or others in the near future. These behaviors, which can include other acts or threats of violence, self-harm, or the abuse of drugs or alcohol, are warning signs that the person may soon commit an act of violence.

(4) Individuals who pose a danger to themselves or others often exhibit signs that alert family, household members, or law enforcement to the threat. Many mass shooters displayed warning signs prior to their killings, but federal and state laws provided no clear legal process to suspend the shooters' access to guns, even temporarily.

(5) In enacting ~~((this initiative [chapter 3, Laws of 2017]))~~ chapter 3, Laws of 2017, it is the purpose and intent of the people to reduce gun deaths and injuries, while respecting constitutional rights, by providing a court procedure for family, household members, and law enforcement to obtain an order temporarily restricting a person's access to firearms. Court orders are intended to be limited to situations in which the person poses a significant danger of harming themselves or others by possessing a firearm and include standards and safeguards to protect the rights of respondents and due process of law.

**Sec. 2.** RCW 7.94.030 and 2017 c 3 s 4 are each amended to read as follows:

There shall exist an action known as a petition for an extreme risk protection order.

(1) A petition for an extreme risk protection order may be filed by (a) a family or household member of the respondent or (b) a law enforcement officer or agency.

(2) A petition for an extreme risk protection order may be brought against a respondent under the age of eighteen years. No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter if such respondent is sixteen years of age or older. If a guardian ad litem is appointed for the petitioner or respondent, the petitioner must not be required to pay any fee associated with such appointment.

(3) An action under this chapter must be filed in the county where the petitioner resides or the county where the respondent resides.

~~((3))~~ (4) A petition must:

(a) Allege that the respondent poses a significant danger of causing personal injury to self or others by having in his or her custody or control, purchasing, possessing, accessing, or receiving a firearm, and be accompanied by an affidavit made under oath stating the specific statements, actions, or facts that give rise to a reasonable fear of future dangerous acts by the respondent;

(b) Identify the number, types, and locations of any firearms the petitioner believes to be in the respondent's current ownership, possession, custody, access, or control;

(c) Identify whether there is a known existing protection order governing the respondent, under chapter 7.90, 7.92, 10.14, 9A.46, 10.99, 26.50, or 26.52 RCW or under any other applicable statute; and

(d) Identify whether there is a pending lawsuit, complaint, petition, or other action between the parties to the petition under the laws of Washington.

~~((4))~~ (5) The court administrator shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A petition for an extreme risk protection order may be granted whether or not there is a pending action between the parties. Relief under this chapter must not be denied or delayed on the grounds that relief is available in another action.

~~((5))~~ (6) If the petitioner is a law enforcement officer or agency, the petitioner shall make a good faith effort to provide notice to a family or household member of the respondent and to any known third party who may be at risk of violence. The notice must state that the petitioner intends to petition the court for an extreme risk protection order or has already done so, and include referrals to appropriate resources, including ~~((mental))~~ behavioral health, domestic violence, and counseling resources. The petitioner must attest in the petition to having provided such notice, or attest to the steps that will be taken to provide such notice.

~~((6))~~ (7) If the petition states that disclosure of the petitioner's address would risk harm to the petitioner or any member of the petitioner's family or household, the petitioner's address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address under this subsection, the petitioner must designate an alternative address at which the respondent may serve notice of any motions. If the petitioner is a law enforcement officer or agency, the address of record must be that of the law enforcement agency.

~~((7))~~ (8) Within ninety days of receipt of the master copy from the administrative office of the courts, all court clerk's offices shall make available the standardized forms, instructions, and informational brochures required by RCW 7.94.150. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

~~((8))~~ (9) No fees for filing or service of process may be charged by a court or any public agency to petitioners

seeking relief under this chapter. Petitioners shall be provided the necessary number of certified copies, forms, and instructional brochures free of charge.

~~((9))~~ (10) A person is not required to post a bond to obtain relief in any proceeding under this section.

~~((10))~~ (11) The superior courts of the state of Washington have jurisdiction over proceedings under this chapter. The juvenile court may hear a proceeding under this chapter if the respondent is under the age of eighteen years. Additionally, district and municipal courts have limited jurisdiction over issuance and enforcement of ex parte extreme risk protection orders issued under RCW 7.94.050. The district or municipal court shall set the full hearing provided for in RCW 7.94.040 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court has concurrent jurisdiction with the superior court to extend the ex parte extreme risk protection order.

(12)(a) Any person restrained by an extreme risk protection order against a respondent under the age of eighteen may petition the court to have the court records sealed from public view at the time of issuance of the full order, at any time during the life of the order, or at any time after its expiration.

(b) The court shall seal the court records from public view if there are no other active protection orders against the restrained party, no pending violations of the order, and evidence of full compliance with the relinquishment of firearms as ordered by the extreme risk protection order.

(c) Nothing in this subsection changes the requirement for the order to be entered into and maintained in computer-based systems as required in RCW 7.94.110.

(13) The court shall give law enforcement priority at any extreme risk protection order calendar because of the importance of immediate temporary removal of firearms in situations of extreme risk and the goal of minimizing the time law enforcement must otherwise wait for a particular case to be called, which can hinder their other patrol and supervisory duties. In the alternative, the court may allow a law enforcement petitioner to participate telephonically, or allow another representative from that law enforcement agency or the prosecutor's office to present the information to the court if personal presence of the petitioning officer is not required for testimonial purposes.

(14) Recognizing that an extreme risk protection order may need to be issued outside of normal business hours, courts shall allow law enforcement petitioners to petition after-hours for an ex parte extreme risk protection order using an on-call, after-hours judge, as is done for approval of after-hours search warrants.

**Sec. 3.** RCW 7.94.040 and 2017 c 3 s 5 are each amended to read as follows:

(1) Upon receipt of the petition, the court shall order a hearing to be held not later than fourteen days from the date of the order and issue a notice of hearing to the respondent for the same.

(a) The court may schedule a hearing by telephone pursuant to local court rule, to reasonably accommodate a disability, or in exceptional circumstances to protect a petitioner from potential harm. The court shall require

assurances of the petitioner's identity before conducting a telephonic hearing.

(b) The court clerk shall cause a copy of the notice of hearing and petition to be forwarded on or before the next judicial day to the appropriate law enforcement agency for service upon the respondent.

(c) Personal service of the notice of hearing and petition shall be made upon the respondent by a law enforcement officer not less than five court days prior to the hearing. Service issued under this section takes precedence over the service of other documents, unless the other documents are of a similar emergency nature. If timely personal service cannot be made, the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication or mail as provided in RCW 7.94.070. The court shall not require more than two attempts at obtaining personal service and shall permit service by publication or mail after two attempts at obtaining personal service unless the petitioner requests additional time to attempt personal service. If the court issues an order permitting service by publication or mail, the court shall set the hearing date not later than twenty-four days from the date the order issues.

(d) The court may, as provided in RCW 7.94.050, issue an ex parte extreme risk protection order pending the hearing ordered under this subsection (1). Such ex parte order must be served concurrently with the notice of hearing and petition.

(2) Upon hearing the matter, if the court finds by a preponderance of the evidence that the respondent poses a significant danger of causing personal injury to self or others by having in his or her custody or control, purchasing, possessing, or receiving a firearm, the court shall issue an extreme risk protection order for a period of one year.

(3) In determining whether grounds for an extreme risk protection order exist, the court may consider any relevant evidence including, but not limited to, any of the following:

(a) A recent act or threat of violence by the respondent against self or others, whether or not such violence or threat of violence involves a firearm;

(b) A pattern of acts or threats of violence by the respondent within the past twelve months including, but not limited to, acts or threats of violence by the respondent against self or others;

(c) Any ~~dangerous mental health issues of the respondent~~ behaviors that present an imminent threat of harm to self or others;

(d) A violation by the respondent of a protection order or a no-contact order issued under chapter 7.90, 7.92, 10.14, 9A.46, 10.99, 26.50, or 26.52 RCW;

(e) A previous or existing extreme risk protection order issued against the respondent;

(f) A violation of a previous or existing extreme risk protection order issued against the respondent;

(g) A conviction of the respondent for a crime that constitutes domestic violence as defined in RCW 10.99.020;

(h) A conviction of the respondent under RCW 9A.36.080;

(i) The respondent's ownership, access to, or intent to possess firearms;

~~((j))~~ (i) The unlawful or reckless use, display, or brandishing of a firearm by the respondent;

~~((k))~~ (k) The history of use, attempted use, or threatened use of physical force by the respondent against another person, or the respondent's history of stalking another person;

~~((l))~~ (l) Any prior arrest of the respondent for a felony offense or violent crime;

~~((m))~~ (m) Corroborated evidence of the abuse of controlled substances or alcohol by the respondent; and

~~((n))~~ (n) Evidence of recent acquisition of firearms by the respondent.

(4) The court may:

(a) Examine under oath the petitioner, the respondent, and any witnesses they may produce, or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent, and any witnesses they may produce; and

(b) Ensure that a reasonable search has been conducted for criminal history records related to the respondent.

(5) In a hearing under this chapter, the rules of evidence apply to the same extent as in a domestic violence protection order proceeding under chapter 26.50 RCW.

(6) During the hearing, the court shall consider whether a ~~(mental)~~ behavioral health evaluation ~~(or chemical dependency evaluation)~~ is appropriate, and may order such evaluation if appropriate.

(7) An extreme risk protection order must include:

(a) A statement of the grounds supporting the issuance of the order;

(b) The date and time the order was issued;

(c) The date and time the order expires;

(d) Whether a ~~(mental)~~ behavioral health evaluation ~~(or chemical dependency evaluation)~~ of the respondent is required;

(e) The address of the court in which any responsive pleading should be filed;

(f) A description of the requirements for relinquishment of firearms under RCW 7.94.090; and

(g) The following statement: "To the subject of this protection order: This order will last until the date and time noted above. If you have not done so already, you must surrender to the (insert name of local law enforcement agency) all firearms in your custody, control, or possession and any concealed pistol license issued to you under RCW 9.41.070 immediately. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a firearm while this order is in effect. You have the right to request one hearing to terminate this order every twelve-month period that this order is in effect, starting from the date of this order and continuing through any renewals. You may seek the advice of an attorney as to any matter connected with this order."

(8) When the court issues an extreme risk protection order, the court shall inform the respondent that he or she is entitled to request termination of the order in the manner prescribed by RCW 7.94.080. The court shall provide the respondent with a form to request a termination hearing.

(9) If the court declines to issue an extreme risk protection order, the court shall state the particular reasons for the court's denial.

**Sec. 4.** RCW 7.94.060 and 2017 c 3 s 7 are each amended to read as follows:

(1) An extreme risk protection order issued under RCW 7.94.040 must be personally served upon the respondent, except as otherwise provided in this chapter.

(2) The law enforcement agency with jurisdiction in the area in which the respondent resides shall serve the respondent personally, unless the petitioner elects to have the respondent served by a private party.

(3) If service by a law enforcement agency is to be used, the clerk of the court shall cause a copy of the order issued under this chapter to be forwarded on or before the next judicial day to the law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter takes precedence over the service of other documents, unless the other documents are of a similar emergency nature.

(4) If the law enforcement agency cannot complete service upon the respondent within ten days, the law enforcement agency shall notify the petitioner. The petitioner shall provide information sufficient to permit such notification.

(5) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(6) If the court previously entered an order allowing service of the notice of hearing and petition, or an ex parte extreme risk protection order, by publication or mail under RCW 7.94.070, or if the court finds there are now grounds to allow such alternate service, the court may permit service by publication or mail of the extreme risk protection order issued under this chapter as provided in RCW 7.94.070. The court order must state whether the court permitted service by publication or service by mail.

(7)(a) When an extreme risk protection order is issued against a minor under the age of eighteen, a copy of the order must be served on the parent or guardian of the minor at any address where the minor resides, or the department of children, youth, and families in the case where the minor is the subject of a dependency or court approved out-of-home placement.

(b) The court shall provide written notice of the legal obligation to safely secure any firearm on the premises and the potential for criminal prosecution if a prohibited person were to obtain access to the firearm as provided in RCW 9.41.360, which shall be served by law enforcement on the parent or guardian of the minor at any address where the minor resides, or the department of children, youth, and families in the case where the minor is the subject of a dependency or court approved out-of-home placement. Notice may be provided at the time the parent or guardian of the respondent appears in court or may be served along with a copy of the order.

(8) Returns of service under this chapter must be made in accordance with the applicable court rules.

**Sec. 5.** RCW 7.94.150 and 2017 c 3 s 16 are each amended to read as follows:

(1) The administrative office of the courts shall develop and prepare instructions and informational

brochures, standard petitions and extreme risk protection order forms, and a court staff handbook on the extreme risk protection order process. The standard petition and order forms must be used after June 1, 2017, for all petitions filed and orders issued under this chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation with interested persons, including representatives of gun violence prevention groups, judges, and law enforcement personnel. Materials must be based on best practices and available electronically online to the public.

(a) The instructions must be designed to assist petitioners in completing the petition, and must include a sample of a standard petition and order for protection forms.

(b) The instructions and standard petition must include a means for the petitioner to identify, with only lay knowledge, the firearms the respondent may own, (~~possesses~~ ~~[possess]~~) possess, receive, or have in his or her custody or control. The instructions must provide pictures of types of firearms that the petitioner may choose from to identify the relevant firearms, or an equivalent means to allow petitioners to identify firearms without requiring specific or technical knowledge regarding the firearms.

(c) The informational brochure must describe the use of and the process for obtaining, modifying, and terminating an extreme risk protection order under this chapter, and provide relevant forms.

(d) The extreme risk protection order form must include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, and the following statement: "You have the sole responsibility to avoid or refrain from violating this order's provisions. Only the court can change the order and only upon written application."

(e) The court staff handbook must allow for the addition of a community resource list by the court clerk.

(2) All court clerks may create a community resource list of crisis intervention, (~~mental~~) behavioral health, (~~substance abuse~~) interpreter, counseling, and other relevant resources serving the county in which the court is located. The court may make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.

(3) The administrative office of the courts shall distribute a master copy of the petition and order forms, instructions, and informational brochures to all court clerks and shall distribute a master copy of the petition and order forms to all superior, district, and municipal courts. Distribution of all documents shall, at a minimum, be in an electronic format or formats accessible to all courts and court clerks in the state.

(4) For purposes of this section, "court clerks" means court administrators in courts of limited jurisdiction and elected court clerks.

(5) The administrative office of the courts shall determine the significant non-English-speaking or limited-English-speaking populations in the state. The administrator shall then arrange for translation of the instructions and informational brochures required by this section, which shall contain a sample of the standard petition and order for protection forms, into the languages spoken by those

significant non-English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to all court clerks by December 1, 2017.

(6) The administrative office of the courts shall update the instructions, brochures, standard petition and extreme risk protection order forms, and court staff handbook as necessary, including when changes in the law make an update necessary.

(7) Consistent with the provisions of this section, the administrative office of the courts shall develop and prepare:

(a) A standard petition and order form for an extreme risk protection order sought against a respondent under eighteen years of age, titled "Extreme Risk Protection Order - Respondent Under 18 Years";

(b) Pattern forms to assist in streamlining the process for those persons who are eligible to seal records relating to an order under (a) of this subsection, including:

(i) A petition and declaration the respondent can complete to ensure that requirements for public sealing have been met; and

(ii) An order sealing the court records relating to that order; and

(c) An informational brochure to be served on any respondent who is subject to a temporary or full order under (a) of this subsection.

**Sec. 6.** RCW 10.31.100 and 2017 c 336 s 3 and 2017 c 223 s 1 are each reenacted and amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of an officer, except as provided in subsections (1) through (11) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW

26.44.063, imposing any other restrictions or conditions upon the person; ~~((e))~~

(b) An extreme risk protection order has been issued against the person under RCW 7.94.040, the person has knowledge of the order, and the person has violated the terms of the order prohibiting the person from having in his or her custody or control, purchasing, possessing, accessing, or receiving a firearm or concealed pistol license;

(c) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

~~((e))~~ (d) The person is eighteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (A) The intent to protect victims of domestic violence under RCW 10.99.010; (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;

(f) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(g) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a

motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

(6) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(7) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(8) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(9) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(10) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(11) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(12) A law enforcement officer having probable cause to believe that a person has committed a violation under RCW 77.15.160(~~(4)~~) (5) may issue a citation for an infraction to the person in connection with the violation.

(13) A law enforcement officer having probable cause to believe that a person has committed a criminal violation under RCW 77.15.809 or 77.15.811 may arrest the person in connection with the violation.

(14) Except as specifically provided in subsections (2), (3), (4), and (7) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(15) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or (9) of this section if the police officer acts in good faith and without malice.

(16)(a) Except as provided in (b) of this subsection, a police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer: (i) Has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years; or (ii) has knowledge, based on a review of the information available to the officer at the time of arrest, that the person is charged with or is awaiting arraignment for an offense that would qualify as a prior offense as defined in RCW 46.61.5055 if it were a conviction.

(b) A police officer is not required to keep in custody a person under (a) of this subsection if the person requires immediate medical attention and is admitted to a hospital."

Correct the title.

Signed by Representatives Jinkins, Chair; Thai, Vice Chair; Goodman; Hansen; Kilduff; Kirby; Orwall; Valdez and Walen.

MINORITY recommendation: Do not pass. Signed by Representatives Irwin, Ranking Minority Member; Klippert and Shea.

Referred to Committee on Rules for second reading.

March 28, 2019

ESSB 5051

Prime Sponsor, Committee on Financial Institutions, Economic Development & Trade: Incentivizing the development of commercial office space in cities with a population of greater than fifty thousand and located in a county with a population of less than one million five hundred thousand. (REVISED FOR ENGROSSED: Incentivizing the development of commercial office space in cities located in a county with a population of less than one million five hundred thousand. ) Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that the cost of developing high-quality, commercial office space is prohibitive in cities located outside of a major metropolitan area. The legislature finds these cities have designated urban centers and plan to locate high-quality, commercial office space within those urban centers. The legislature also finds that solely planning for commercial

office space within urban centers is inadequate and an incentive should be created to stimulate the development of new commercial office space in urban centers. The legislature intends to provide these cities with local options to incentivize the development of commercial office space in urban centers with access to transit, high capacity transportation systems, and other amenities.

(2) The joint legislative audit and review committee is directed to study the effectiveness of any local sale and use tax exemption or local property tax exemption authorized and adopted pursuant to this chapter, and submit a report as provided in subsection (4) of this section.

(3) The report must include, but is not limited to, an assessment of the local sales and use tax exemption and local property tax exemption programs authorized under this chapter including an evaluation of the degree to which the preferences led to:

(a) The development of class A commercial office space;

(b) Family wage job creation; and

(c) Lowered traffic congestion.

(4) By October 1, 2028, and in compliance with RCW 43.01.036, the joint legislative audit and review committee must submit to the appropriate legislative committees of the legislature a final report with their findings and recommendations under this section.

(5) This section expires December 31, 2028.

**NEW SECTION. Sec. 2.** (1) A governing authority of a city may adopt a local sales and use tax exemption program to incentivize the development of class A commercial office space in urban centers with access to transit, high capacity transportation systems, and other amenities.

(2) A governing authority of a city may adopt a local property tax exemption program to incentivize the development of class A commercial office space in urban centers with access to transit, high capacity transportation systems, and other amenities.

**NEW SECTION. Sec. 3.** In order to use the sales and use tax exemption authorized in section 2 of this act, a city must:

(1) Obtain written agreement for the use of the local sales tax exemption from any taxing authority that imposes a sales or use tax under chapters 82.14 or 81.104 RCW. The agreement must be authorized by the governing body of such participating taxing authorities;

(2) Hold a public hearing on the proposed use of the exemption.

(a) Notice of the hearing must be published in a legal newspaper of general circulation at least ten days before the public hearing and posted in at least six conspicuous public places located within one mile of the proposed location of a qualifying project.

(b) Notices must describe the qualifying project and estimate the amount of revenue exempted under this section.

(c) The public hearing may be held by either the governing body of a city, or a committee of the governing

body that includes at least a majority of the whole governing body;

(3)(a) Establish criteria for a qualifying project exempted under section 6 of this act. Criteria must include:

(i) A minimum number of new family living wage jobs for location within the qualifying project; and

(ii) The physical characteristics, features, and amenities necessary for a qualifying project to be defined as class A commercial office space.

(b) Criteria may also include height, density, public benefit features, quality of amenities, number and size of proposed development, parking, employment targets, percent occupied, or other adopted requirements indicated necessary by the city; and

(4) Adopt an ordinance announcing the use of the sales and use tax exemptions under sections 6 and 7 of this act. The ordinance must:

(a) Describe the qualifying project, including a physical description of proposed building or buildings, a list of features and amenities, cost of construction, length that the qualifying project will be under construction, and final use such as residential, commercial, or mixed use;

(b) Estimate the amount of local sales tax revenue that will be exempted under sections 6 and 7 of this act;

(c) Provide the approximate date that the local sales tax revenue will be remitted to a taxpayer; and

(d) Certify the criteria under this section by which a qualifying project can later receive certification under sections 6(3) and 7(3) of this act confirming that a taxpayer is eligible for the remittance.

**NEW SECTION. Sec. 4.** (1) In order to use the property tax exemption authorized under section 2 of this act, a city must:

(a) Establish the criteria under which property can qualify for the exemption under section 9 of this act. Criteria:

(i) Must include: (A) A minimum number of new family living wage jobs for location within the qualifying project;

(B) The physical characteristics, features, and amenities necessary for a qualifying project to be defined as class A commercial office space;

(C) A location in a designated commercial office development targeted area; and

(ii) May also include height, density, public benefit features, quality of amenities, number and size of proposed development, parking, employment targets, percent occupied, or other adopted requirements indicated necessary by the city;

(b) Designate an area as a commercial office development targeted area. The following criteria must be met before an area may be designated as a commercial office development targeted area:

(i) The area must be within an urban center, as determined by the governing authority;

(ii) The area must lack, as determined by the governing authority, sufficient available, desirable, high-quality, and convenient commercial office space to provide jobs in the urban center, if the desirable, attractive, and convenient commercial office space was available;

(iii) The providing of additional commercial office space development opportunities in the area, as determined by the governing authority, will assist in achieving one or more of the stated purposes of this chapter; and

(iv) The use of the incentive in this chapter is not expected to be used for the purpose of relocating a business from outside of the commercial office development targeted area, but within the state, to within the commercial office development targeted area. The incentive may be used for the expansion of a business, including the development of additional offices or satellite facilities.

(2) For the purpose of designating a commercial office development targeted area or areas, the governing authority must adopt a resolution of intention to so designate an area as generally described in the resolution. The resolution must state the time and place of a hearing to be held by the governing authority to consider the designation of the area and must include, at a minimum, findings as to the number of commercial office buildings that will be newly constructed or rehabilitated within the proposed commercial office development targeted areas, estimated construction costs of the new construction or rehabilitation, estimated local taxes generated, and jobs produced within the targeted area in a period of ten years from the date of the hearing, and may include such other information pertaining to the designation of the area as the governing authority determines to be appropriate to apprise the public of the action intended.

(3) The governing authority must give notice of a hearing held under this chapter by publication of the notice once each week for two consecutive weeks, not less than seven days, nor more than thirty days before the date of the hearing in a paper having a general circulation in the city or county where the proposed commercial office development targeted area is located. The notice must state the time, date, place, and purpose of the hearing and generally identify the area proposed to be designated as a commercial office development targeted area.

(4) Following the hearing, the governing authority may designate all or a portion of the area described in the resolution of intent as a commercial office development targeted area if it finds, in its sole discretion, that the criteria in subsections (1) and (2) of this section have been met.

(5) After designation of a commercial office development targeted area, the governing authority must adopt and implement standards and guidelines to be utilized in considering applications and making the determinations required under section 12 of this act. The standards and guidelines must establish basic requirements for both new construction and rehabilitation, which must include:

(a) Application process and procedures;

(b) Requirements that address demolition of existing structures and site utilization;

(c) Building requirements that may include elements addressing parking, height, density, environmental impact, and compatibility with the existing surrounding property and such other amenities as will attract and keep commercial tenants and that will properly enhance the commercial office development targeted area in which they are to be located; and

(d) Guidelines regarding individual units that are part of a qualifying project that may meet the requirements

of the exemption in chapter 84.-- RCW (the new chapter created in section 21 of this act).

**NEW SECTION. Sec. 5.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "City" means a city located in a county with a population of less than one million five hundred thousand.

(2) "Class A" means among the most competitive and highest quality building or buildings in the local market, as determined by a city's governing authority. High quality must be reflected in the finishes, construction, and infrastructure of the project building. The building or buildings must be at least fifty thousand square feet, and at least three stories. The building must be centrally located in a city, provide close access to public transportation and freeways, be managed professionally, and offer amenities and advanced technology options to tenants.

(3) "Commercial office development targeted area" means an area within an urban center or urban growth area that has been designated by the governing authority as a commercial office development targeted area in accordance with this chapter.

(4) "County" means a county with a population of less than one million five hundred thousand.

(5) "Family living wage job" means a job with a wage that is sufficient for raising a family. A family living wage job must have an average wage of eighteen dollars an hour or more, working two thousand eighty hours per year, as adjusted annually by the consumer price index. The family living wage may be increased by the local authority based on regional factors and wage conditions.

(6) "Governing authority" means the local legislative authority of a city or a county having jurisdiction over the property for which an exemption may be applied for under this chapter.

(7) "Mixed use" means any building or buildings containing a combination of residential and commercial units, whether title to the entire property is held in single or undivided ownership or title to individual units is held by owners who also, directly or indirectly through an association, own real property in common with the other unit owners.

(8) "Qualifying project" means new construction or rehabilitation of a building or group of buildings intended for use as class A office space. Projects may include mixed use buildings, not solely intended to be used as office space, but does not include any portion of a project intended for residential use. A "qualifying project" may include new construction, or the rehabilitation of an existing building, which includes an area intended to be used for child care facilities at or near the commercial office space.

(9) "Rehabilitation" means modifications to an existing building or buildings made to achieve substantial improvements such that the building or buildings can be categorized as class A.

(10) "Rehabilitation improvements" means modifications to an existing building or buildings made to achieve substantial improvements in quality, features, or amenities, such that the building or buildings can be

categorized as class A as determined by a city's governing authority.

(11) "Relocating a business" means the closing of a business and the reopening of that business, or the opening of a new business that engages in the same activities as the previous business, in a different location within a one-year period, when an individual or entity has an ownership interest in the business at the time of closure and at the time of opening or reopening. "Relocating a business" does not include the closing and reopening of a business in a new location where the business has been acquired and is under entirely new ownership at the new location, or the closing and reopening of a business in a new location as a result of the exercise of the power of eminent domain.

(12) "Urban center" means a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain:

(a) Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, and governmental agencies;

(b) Adequate public facilities including streets, sidewalks, lighting transit, domestic water, and sanitary sewer systems; and

(c) A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office use, or both commercial and office use.

**NEW SECTION. Sec. 6.** A new section is added to chapter 82.14 RCW to read as follows:

(1) Subject to the requirements of this section and section 3 of this act, a taxpayer is eligible for an exemption from the sales and use taxes imposed under the authority of this chapter on:

(a) The sale of or charge made for labor and services rendered in respect to construction or rehabilitation of a qualifying project located in a city; and

(b) The sale or use of tangible personal property that will be incorporated as an ingredient or component of a qualifying project located in a city during the course of the constructing or rehabilitating.

(2)(a) The exemption in this section is in the form of a remittance. A taxpayer claiming an exemption under this section must pay all applicable state and local sales and use taxes on all activities qualifying for the exemption.

(b) The amount of the exemption is one hundred percent of the local sales and use taxes paid under the authority of this chapter for activities qualifying under subsection (1) of this section, if the taxing authorities imposing taxes authorized under this chapter have authorized the use of the exemption to the governing authority of a city as provided under section 3(1) of this act.

(3)(a) After the qualifying project has been operationally complete for four years, but not later than five years after all state and local sales and use tax for activities qualifying under subsection (1) of this section has been paid, a taxpayer may apply to the department for a remittance of local sales and use taxes.

(b) A taxpayer requesting a remittance under this section must obtain certification from the governing

authority of a city verifying that the qualifying project has satisfied the criteria in section 3 of this act.

(c) The taxpayer must specify the amount of exempted tax claimed and the qualifying activities for which the exemption is claimed. The taxpayer must retain, in adequate detail, records to enable the department to determine whether the taxpayer is entitled to an exemption under this section, including invoices, proof of tax paid, and construction contracts.

(d) The department must determine eligibility under this section based on information provided by the taxpayer, which is subject to audit verification by the department.

(4) The definitions in section 5 of this act apply to this section.

**NEW SECTION. Sec. 7.** A new section is added to chapter 81.104 RCW to read as follows:

(1) Subject to the requirements of this section and section 3 of this act, a taxpayer is eligible for an exemption from the tax imposed under the authority of RCW 81.104.170.

(2)(a) The exemption in this section is in the form of a remittance. A taxpayer claiming an exemption under this section must pay all applicable state and local sales taxes imposed or authorized under RCW 82.08.020, 82.12.020, section 6 of this act, and this chapter on all activities qualifying for the exemption as described in section 6(1) of this act.

(b) The amount of the exemption is one hundred percent of the local sales and use taxes paid under this chapter for activities qualifying under (a) of this subsection, if the taxing authorities imposing sales and use taxes authorized under this chapter have authorized the use of the exemption to the governing authority of a city as provided under section 3(1) of this act.

(3)(a) After the qualifying project has been operationally complete for four years, but not later than five years after all local sales and use tax for activities qualifying under subsection (2)(a) of this section has been paid, a taxpayer may apply to the department for a remittance of local sales and use taxes.

(b) A taxpayer requesting a remittance under this section must obtain certification from the governing authority of a city verifying that the qualifying project has satisfied the criteria in section 3 of this act.

(c) The taxpayer must specify the amount of exempted tax claimed and the qualifying activities for which the exemption is claimed. The taxpayer must retain, in adequate detail, records to enable the department to determine whether the taxpayer is entitled to an exemption under this section, including invoices, proof of tax paid, and construction contracts.

(d) The department must determine eligibility under this section based on information provided by the taxpayer, which is subject to audit verification by the department.

(4) The definitions in section 5 of this act apply to this section.

**Sec. 8.** RCW 81.104.170 and 2015 3rd sp.s. c 44 s 320 are each amended to read as follows:

(1) Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, public transportation benefit areas, high capacity transportation corridor areas, and regional transit authorities may submit an authorizing proposition to the voters and if approved by a majority of persons voting, fix and impose a sales and use tax in accordance with the terms of this chapter, solely for the purpose of providing high capacity transportation service.

(2) The tax authorized pursuant to this section is in addition to the tax authorized by RCW 82.14.030 and must be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing district.

(a) Except for the tax imposed under (b) of this subsection by regional transit authorities that include a county with a population of more than one million five hundred thousand, the maximum rate of such tax must be approved by the voters and may not exceed one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax). The maximum rate of such tax that may be imposed may not exceed nine-tenths of one percent in any county that imposes a tax under RCW 82.14.340, or within a regional transit authority if any county within the authority imposes a tax under RCW 82.14.340.

(b) The maximum rate of such tax that may be imposed by a regional transit authority that includes a county with a population of more than one million five hundred thousand must be approved by the voters and may not exceed 1.4 percent. If a regional transit authority imposes the tax authorized under this subsection (2)(b) in excess of 0.9 percent, the authority may not receive any state grant funds provided in an omnibus transportation appropriations act except transit coordination grants created in chapter 11, Laws of 2015 3rd sp. sess.

(3)(a) The exemptions in RCW 82.08.820 and 82.12.820 are for the state portion of the sales and use tax and do not extend to the tax authorized in this section.

(b) The exemptions in RCW 82.08.962 and 82.12.962 are for the state and local sales and use taxes and include the tax authorized by this section.

(c) The exemptions in section 7 of this act are for the local sales and use taxes and include the tax authorized by this section.

**NEW SECTION. Sec. 9.** (1) In a city that has met the requirements of section 4 of this act, the value of new construction and rehabilitation improvements of real property qualifying under this chapter is exempt from the city share of ad valorem property taxation for a period of ten successive years beginning January 1st of the calendar year immediately following the calendar year in which a certificate of tax exemption is filed with the county assessor in accordance with section 13 of this act.

(2) Upon approval by a county legislative authority, the value of new construction and rehabilitation improvements of real property qualifying under this chapter is exempt from all property taxes levied by a county legislative authority for a period of ten successive years beginning January 1st of the calendar year immediately following the calendar year in which a certificate of tax

exemption is filed with the county assessor in accordance with section 13 of this act.

(3) The exemptions provided in subsections (1) and (2) of this section do not include the value of land or improvements not qualifying under this chapter.

(4) When a local government adopts guidelines pursuant to section 4 of this act and includes conditions that must be satisfied with respect to individual commercial units, rather than with respect to the qualifying project as a whole or some minimum portion thereof, the exemption may, at the local government's discretion, be limited to the value of the improvements allocable to those individual commercial units that meet the local guidelines.

(5) In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to the submission of the application required under this chapter.

(6) This chapter does not apply to increases in assessed valuation made by the assessor on nonqualifying portions of building and value of land nor to increases made by lawful order of a county board of equalization, the department of revenue, or a county to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.

(7) At the conclusion of the exemption period, the new or rehabilitated property must be considered as new construction for the purposes of chapter 84.55 RCW.

(8) The incentive provided by this chapter is in addition to any other incentives, tax credits, grants, or other incentives provided by law.

**NEW SECTION. Sec. 10.** An owner of property making application under this chapter must meet the following requirements:

(1) The qualifying project must be located in an urban center as designated by the city or county;

(2) The qualifying project must meet criteria as adopted by the governing authority under section 4 of this act that may include height, density, public benefit features, quality of amenities, number and size of proposed development, parking, and other adopted requirements indicated necessary by the city or county. The required amenities should be relative to the size of the project and tax benefit to be obtained;

(3) A qualifying project must be completed within three years from the date of approval of the application;

(4) The applicant must enter into a contract with the city approved by the governing authority, or an administrative official or commission authorized by the governing authority, under which the applicant has agreed to the implementation of the development on terms and conditions satisfactory to the governing authority.

**NEW SECTION. Sec. 11.** An owner of property seeking tax incentives under this chapter must complete the following procedures:

(1) In the case of rehabilitation or where demolition or new construction is required, the owner must secure from the governing authority or duly authorized representative,

before commencement of rehabilitation improvements or new construction, verification of property noncompliance with applicable building codes;

(2) The owner must apply to the city on forms adopted by the governing authority. The application must contain the following:

(a) Information setting forth the grounds supporting the requested exemption including information indicated on the application form or in the guidelines;

(b) A statement of the expected number of new family living wage jobs to be created;

(c) A description of the project and site plan; and

(d) A statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the incentive provided under this chapter;

(3) The applicant must verify the application by oath or affirmation; and

(4) The application may be accompanied by the application fee, if any, required under section 14 of this act. The governing authority may permit the applicant to revise an application before final action by the governing authority.

**NEW SECTION. Sec. 12.** The duly authorized administrative official or committee of the city may approve the application if it finds that:

(1) The proposed qualifying project meets the criteria as defined by the city in section 4 of this act, including the minimum number of new family living wage jobs to be created for permanent location in the qualifying project within one year of building occupancy;

(2) The proposed project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved;

(3) The owner has complied with all standards and guidelines adopted by the city under section 4 of this act; and

(4) The site is located in a commercial office development targeted area of an urban center or urban growth area that has been designated by the governing authority in accordance with procedures and guidelines indicated under section 4 of this act.

**NEW SECTION. Sec. 13.** (1) The governing authority or an administrative official or commission authorized by the governing authority must approve or deny an application filed under this chapter within ninety days after receipt of the application.

(2) If the application is approved, the city must issue the owner of the property a conditional certificate of acceptance of tax exemption. The certificate must contain a statement by a duly authorized administrative official of the governing authority that the property has complied with the required findings indicated in section 12 of this act.

(3) If the application is denied by the authorized administrative official or commission authorized by the governing authority, the deciding administrative official or commission must state in writing the reasons for denial and send the notice to the applicant at the applicant's last known address within ten days of the denial.

(4) Upon denial by a duly authorized administrative official or commission, an applicant may appeal the denial

to the governing authority within thirty days after issuance of the denial. The appeal before the governing authority must be based upon the record made before the administrative official with the burden of proof on the applicant to show that there was no substantial evidence to support the administrative official's decision. The decision of the governing body in denying or approving the application is final.

**NEW SECTION. Sec. 14.** The governing authority may establish an application fee. This fee may not exceed an amount determined to be required to cover the cost to be incurred by the governing authority and the assessor in administering this chapter. The application fee must be paid at the time the application for limited exemption is filed. If the application is approved, the governing authority shall pay the application fee to the county assessor for deposit in the county current expense fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application. If the application is denied, the governing authority may retain that portion of the application fee attributable to its own administrative costs and refund the balance to the applicant.

**NEW SECTION. Sec. 15.** (1) Upon completion of rehabilitation or new construction for which an application for a limited tax exemption under this chapter has been approved and after issuance of the certificate of occupancy, the owner must file with the city the following:

(a) A statement of the amount of rehabilitation or construction expenditures made;

(b) A statement of the new family living wage jobs to be created for location at the qualifying project;

(c) A description of the work that has been completed and a statement that the rehabilitation improvements or new construction on the owner's property qualify the property for limited exemption under this chapter;

(d) If applicable, a statement that the project meets the local requirements as described in section 10 of this act; and

(e) A statement that the work has been completed within three years of the issuance of the conditional certificate of tax exemption.

(2) Within thirty days after receipt of the statements required under subsection (1) of this section, the authorized representative of the city must determine whether the work completed, and the affordability of the units, is consistent with the application and the contract approved by the city and is qualified for a limited tax exemption under this chapter. The city must also determine which specific improvements completed meet the requirements and required findings.

(3) If the rehabilitation or construction is completed within three years of the date the application for a limited tax exemption is filed under this chapter, or within an authorized extension of this time limit, and the authorized representative of the city determines that improvements were constructed consistent with the application and other applicable requirements, and the owner's property is

qualified for a limited tax exemption under this chapter, the city must file the certificate of tax exemption with the county assessor within ten days of the expiration of the thirty-day period provided under subsection (2) of this section.

(4) The authorized representative of the city must notify the applicant that a certificate of tax exemption is not going to be filed if the authorized representative determines that:

(a) The rehabilitation or new construction was not completed within three years of the application date, or within any authorized extension of the time limit;

(b) The improvements were not constructed consistent with the application or other applicable requirements;

(c) If applicable, the additional criteria related to a qualifying project under section 4 of this act were not met; or

(d) The owner's property is otherwise not qualified for limited exemption under this chapter.

(5) If the authorized representative finds that construction or rehabilitation of a qualifying project was not completed within the required time period due to circumstances beyond the control of the owner and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, the governing authority or the city official authorized by the governing authority may extend the deadline for completion of construction or rehabilitation for a period not to exceed twenty-four consecutive months.

(6) The governing authority may provide by ordinance for an appeal of a decision by the deciding officer or authority that an owner is not entitled to a certificate of tax exemption to the governing authority, a hearing examiner, or other city officer authorized by the governing authority to hear the appeal in accordance with such reasonable procedures and time periods as provided by ordinance of the governing authority. The owner may appeal a decision by the deciding officer or authority that is not subject to local appeal or a decision by the local appeal authority that the owner is not entitled to a certificate of tax exemption in superior court under RCW 34.05.510 through 34.05.598, if the appeal is filed within thirty days of notification by the governing authority to the owner of the decision being challenged.

**NEW SECTION. Sec. 16.** (1) Thirty days after the anniversary of the date of the certificate of tax exemption and each year for the tax exemption period, the owner of the rehabilitated or newly constructed property must file with a designated authorized representative of the city or the governing authority an annual report indicating the following:

(a) A statement of the family living wage jobs at the qualifying project as of the anniversary date;

(b) A certification by the owner that the property has not changed use and, if applicable, that the property has been in compliance with all criteria under sections 4 and 11 of this act since the date of the certificate approved by the governing authority;

(c) A description of changes or improvements constructed after issuance of the certificate of tax exemption; and

(d) Any additional information requested by the governing authority in regards to the units receiving a tax exemption.

(2) All cities, which issue certificates of tax exemption for class A commercial office space that conform to the requirements of this chapter, must publish on the city's web site, or in another format that is easily available to the public, annually by December 31st of each year, beginning in 2019, the following information:

(a) The number of tax exemption certificates granted;

(b) A description of the new construction and rehabilitation improvements of any qualifying projects;

(c) The value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted;

(d) The number of family living wage jobs located at the qualifying project; and

(e) A comparison of the data required in this section with the data included in the findings developed when the commercial office development targeted area was established.

**NEW SECTION. Sec. 17.** (1) If improvements have been exempted under this chapter, the improvements continue to be exempted for the applicable period under this chapter, so long as they are not converted to another use and continue to satisfy all applicable conditions. If the owner intends to convert the qualifying project to another use or, if applicable, if the owner intends to discontinue compliance with criteria established under section 4(1) of this act or any other condition to exemption, the owner must notify the assessor within sixty days of the change in use or intended discontinuance. If, after a certificate of tax exemption has been filed with the county assessor, the authorized representative of the governing authority discovers that the property or a portion of the property no longer qualifies according to the requirements of this chapter as previously approved or agreed upon by contract between the city and the owner and that the qualifying project, or a portion of the qualifying project, no longer qualifies for the exemption, the tax exemption must be canceled and the following must occur:

(a) Additional real property tax must be imposed upon the value of the nonqualifying improvements in the amount that would normally be imposed, plus a penalty must be imposed amounting to twenty percent. This additional tax is calculated based upon the difference between the property tax paid and the property tax that would have been paid if it had included the value of the nonqualifying improvements dated back to the date that the improvements were converted to a use that no longer qualifies them for the exemption;

(b) The tax must include interest upon the amounts of the additional tax at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the improvements had been assessed at a value without regard to this chapter; and

(c) The additional tax owed together with interest and penalty must become a lien on the land and attach at the time that the property or portion of the property no longer qualifies for the exemption, and has priority to and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent ad valorem property taxes.

(2) Upon a determination that a tax exemption is to be canceled for a reason stated in this section, the governing authority or authorized representative must notify the record owner of the property as shown by the tax rolls by mail, return receipt requested, of the determination to cancel the exemption. The owner may appeal the determination to the governing authority or authorized representative, within thirty days by filing a notice of appeal with the clerk of the governing authority, which notice must specify the factual and legal basis on which the determination of cancellation is alleged to be erroneous. The governing authority or a hearing examiner or other official authorized by the governing authority may hear the appeal. At the hearing, all affected parties may be heard and all competent evidence received. After the hearing, the deciding body or officer must either affirm, modify, or repeal the decision of cancellation of exemption based on the evidence received. An aggrieved party may appeal the decision of the deciding body or officer to the superior court under RCW 34.05.510 through 34.05.598.

**NEW SECTION. Sec. 18.** (1) If a property exempted under section 9 of this act changes ownership, the property must continue to qualify for the exemption provided that the new owner complies with all application procedures, terms, conditions, and reporting requirements under this chapter, and meets all criteria established by a city under section 4 of this act.

(2) The exemption is limited to ten successive years, beginning the January 1st immediately following the calendar year in which a certificate of tax exemption is filed by the city with the county assessor in accordance with section 13 of this act.

**NEW SECTION. Sec. 19.** The definitions in section 5 of this act apply to this chapter.

**NEW SECTION. Sec. 20.** Sections 2 through 5 of this act constitute a new chapter in Title 35 RCW.

**NEW SECTION. Sec. 21.** Sections 9 through 19 of this act constitute a new chapter in Title 84 RCW.

**NEW SECTION. Sec. 22.** Sections 6 and 7 of this act apply to sales and use taxes due on or after October 1, 2019.

**NEW SECTION. Sec. 23.** Sections 9 through 18 of this act apply to taxes levied for collection in 2020 and thereafter."

Correct the title.

Signed by Representatives Senn; Goehner; Appleton; Griffey, Assistant Ranking Minority Member; Kraft, Ranking Minority Member; Peterson, Vice Chair Pollet, Chair.

Referred to Committee on Finance.

March 28, 2019

**2SSB 5082** Prime Sponsor, Committee on Ways & Means: Promoting and expanding social emotional learning. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the social emotional learning committee is created to promote and expand social-emotional learning. Social-emotional learning will help students build awareness and skills in managing emotions, setting goals, establishing relationships, and making responsible decisions that support success in school and life.

(2) At a minimum, the committee shall:

(a) Develop and implement a statewide framework for social-emotional learning that is trauma-informed, culturally sustaining, and developmentally appropriate;

(b) Review and update as needed the standards and benchmarks for social-emotional learning and the developmental indicators for grades kindergarten through twelve and confirm they are evidence-based;

(c) Align the standards and benchmarks for social-emotional learning with other relevant standards and guidelines including the health and physical education K-12 learning standards and the early learning and development guidelines;

(d) Advise the office of the superintendent of public instruction's duty under section 2 of this act;

(e) Identify best practices or guidance for schools implementing the standards, benchmarks, and developmental indicators for social-emotional learning;

(f) Identify professional development opportunities for teachers and educational staff and review, update, and align as needed the social-emotional learning online education module;

(g) Consider systems for collecting data about social-emotional learning and monitoring implementation efforts;

(h) Identify strategies to improve coordination between early learning, K-12 education, youth-serving community partners and culturally-based providers, and higher education regarding social-emotional learning; and

(i) Engage with stakeholders and seek feedback.

(3) The committee must consist of the following members:

(a) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans; and

(b) One representative from the educational opportunity gap oversight and accountability committee created in RCW 28A.300.136.

(4) The governor and the tribes are encouraged to jointly designate a total of two members to serve on the committee who have experience working in and with schools: One member from east of the crest of the Cascade mountains; and one member from west of the crest of the Cascade mountains.

(5) Additional members of the committee must be appointed by the office of the superintendent of public instruction to serve on the committee. Additional members must include:

(a) One representative from the department of children, youth, and families;

(b) Two representatives from the office of the superintendent of public instruction: One with expertise in student support services; and one with expertise in curriculum and instruction;

(c) One representative from the office of the education ombuds;

(d) One representative from the state board of education;

(e) One representative from the health care authority's division of behavioral health and recovery;

(f) One higher educational faculty member with expertise in social-emotional learning;

(g) One currently employed K-12 educator;

(h) One currently employed K-12 administrator;

(i) One school psychologist;

(j) One school social worker;

(k) One school counselor;

(l) One school nurse;

(m) One mental health counselor;

(n) One representative from a school parent organization;

(o) One member from a rural school district;

(p) One representative from the educational service districts;

(q) One representative from a coalition of members who educate about and advocate for access to social-emotional learning and skill development;

(r) One representative from a statewide expanded learning opportunities intermediary;

(s) One representative from a nonprofit organization with expertise in developing social-emotional curricula;

(t) One representative from a foundation that supports social-emotional learning; and

(u) One representative from a coalition of youth-serving organizations working together to improve outcomes for young people.

(6) The members of the committee shall select the chairs or cochairs of the committee.

(7) In addition to other meetings, the committee shall have a joint meeting once a year with the educational opportunity gap oversight and accountability committee created in RCW 28A.300.136.

(8) The office of the superintendent of public instruction shall provide staff support for the committee.

(9) Members of the committee shall serve without compensation but must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(10) Beginning June 1, 2021, and annually thereafter, the committee shall provide a progress report, in compliance with RCW 43.01.036, to the governor and appropriate committees of the legislature. The report must include accomplishments, state-level data regarding implementation of social-emotional learning, identification of systemic barriers or policy changes necessary to promote and expand social-emotional learning, and recommendations.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction shall adopt the standards and benchmarks recommended by the social-emotional learning benchmarks work group in its October 1, 2016, final report titled "addressing social emotional learning in Washington's K-12 public schools."

(2) The office of the superintendent of public instruction shall align the programs it oversees with the standards for social-emotional learning and integrate the standards where appropriate.

**Sec. 3.** RCW 28A.410.270 and 2017 3rd sp.s. c 26 s 4 are each amended to read as follows:

(1)(a) The Washington professional educator standards board shall adopt a set of articulated teacher knowledge, skill, and performance standards for effective teaching that are evidence-based, measurable, meaningful, and documented in high quality research as being associated with improved student learning. The standards shall be calibrated for each level along the entire career continuum.

(b) In developing the standards, the board shall, to the extent possible, incorporate standards for cultural competency along the entire continuum. For the purposes of this subsection, "cultural competency" includes knowledge of student cultural histories and contexts, as well as family norms and values in different cultures; knowledge and skills in accessing community resources and community and parent outreach; and skills in adapting instruction to students' experiences and identifying cultural contexts for individual students.

~~((b))~~ **(c) By January 1, 2020, in order to ensure that teachers can recognize signs of emotional or behavioral**

distress in students and appropriately refer students for assistance and support, the Washington professional educator standards board shall incorporate along the entire continuum the social-emotional learning standards and benchmarks recommended by the social emotional learning benchmarks work group in its October 1, 2016, final report titled, "addressing social emotional learning in Washington's K-12 public schools." In incorporating the social-emotional learning standards and benchmarks, the Washington professional educator standards board must include related competencies, such as trauma-informed practices, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices.

(2) The Washington professional educator standards board shall adopt a definition of master teacher, with a comparable level of increased competency between professional certification level and master level as between professional certification level and national board certification. Within the definition established by the Washington professional educator standards board, teachers certified through the national board for professional teaching standards shall be considered master teachers.

~~((2))~~ (3) The Washington professional educator standards board shall maintain a uniform, statewide, valid, and reliable classroom-based means of evaluating teacher effectiveness as a culminating measure at the preservice level that is to be used during the student-teaching field experience. This assessment shall include multiple measures of teacher performance in classrooms, evidence of positive impact on student learning, and shall include review of artifacts, such as use of a variety of assessment and instructional strategies, and student work.

~~((3))~~ (4) Award of a professional certificate shall be based on a minimum of two years of successful teaching experience as defined by the board, and may not require candidates to enroll in a professional certification program.

~~((4))~~ (5) Educator preparation programs approved to offer the residency teaching certificate shall be required to demonstrate how the program produces effective teachers as evidenced by the measures established under this section and other criteria established by the Washington professional educator standards board.

**NEW SECTION. Sec. 4.** A new section is added to chapter 28A.410 RCW to read as follows:

By January 1, 2020, in order to ensure that principals can recognize signs of emotional or behavioral distress in students and appropriately refer students for assistance and support, the Washington professional educator standards board shall incorporate into principal knowledge, skill, and performance standards the social-emotional learning standards, benchmarks, and related competencies described in RCW 28A.410.270.

**Sec. 5.** RCW 28A.413.050 and 2017 c 237 s 6 are each amended to read as follows:

(1) The board shall adopt state standards of practice for paraeducators that are based on the recommendations of

the paraeducator work group established in chapter 136, Laws of 2014. These standards must include:

~~((+))~~ (a) Supporting instructional opportunities;

~~((2))~~ (b) Demonstrating professionalism and ethical practices;

~~((3))~~ (c) Supporting a positive and safe learning environment;

~~((4))~~ (d) Communicating effectively and participating in the team process; and

~~((5))~~ (e) Demonstrating cultural competency aligned with standards developed by the professional educator standards board under RCW 28A.410.270.

(2) By January 1, 2020, in order to ensure that paraeducators can recognize signs of emotional or behavioral distress in students and appropriately refer students for assistance and support, the board shall incorporate into the standards of practice for paraeducators adopted under subsection (1) of this section the social-emotional learning standards, benchmarks, and related competencies described in RCW 28A.410.270.

**NEW SECTION. Sec. 6.** A new section is added to chapter 28A.300 RCW to read as follows:

The office of the superintendent of public instruction must create and publish on its web site a list of resources available for professional development of school district staff on the following topics: Social-emotional learning, trauma-informed practices, recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices. The office of the superintendent of public instruction must include in the list the professional development opportunities and resources identified by the social emotional learning committee created under section 1 of this act.

**NEW SECTION. Sec. 7.** A new section is added to chapter 28A.415 RCW to read as follows:

Beginning in the 2020-21 school year, and every other school year thereafter, school districts must use one of the professional learning days funded under RCW 28A.150.415 to train school district staff on one or more of the following topics: Social-emotional learning, trauma-informed practices, using the model plan developed under RCW 28A.320.1271 related to recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices.

**NEW SECTION. Sec. 8.** A new section is added to chapter 28A.410 RCW to read as follows:

The Washington professional educator standards board must periodically review approved preparation programs to assess whether and to what extent the programs are meeting knowledge, skill, and performance standards, and publish on its web site the results of the review in a format that facilitates program comparison."

Correct the title.

Signed by Representatives Santos, Chair; Valdez; Thai; Stonier; Ortiz-Self; Kilduff; Callan; Bergquist; Paul, Vice Chair Dolan, Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Kraft; Corry; Caldier; Volz, Assistant Ranking Minority Member McCaslin, Assistant Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representatives Steele, Ranking Minority Member; Harris and Rude.

Referred to Committee on Appropriations.

March 27, 2019

SB 5119 Prime Sponsor, Senator Palumbo: Including highway workers employed on a transportation project by a contractor in the tuition and fee exemption for children and surviving spouses of highway workers. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass. Signed by Representatives Hansen, Chair; Slatter; Sells; Pollet; Paul; Mead; Bergquist; Leavitt, Vice Chair; Entenman, Vice Chair and Ramos.

MINORITY recommendation: Do not pass. Signed by Representatives Kraft; Graham, Assistant Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Van Werven, Ranking Minority Member; Young; Rude and Sutherland.

Referred to Committee on Rules for second reading.

March 28, 2019

SSB 5166 Prime Sponsor, Committee on Higher Education & Workforce Development: Providing religious accommodations for postsecondary students. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.10.039 and 2014 c 168 s 4 are each amended to read as follows:

~~((Institutions of higher education))~~ (1) Postsecondary educational institutions must develop policies to accommodate student absences ~~((for up to two days per academic year.))~~ to allow students to take holidays for reasons of faith or conscience or for organized activities conducted under the auspices of a religious denomination,

church, or religious organization, so that students' grades are not adversely impacted by the absences.

(2) The institution's policy must require faculty to reasonably accommodate students who, due to the observance of religious holidays, expect to be absent or endure a significant hardship during certain days of the course or program. "Reasonably accommodate" means coordinating with the student on scheduling examinations or other activities necessary for completion of the program and includes rescheduling examinations or activities or offering different times for examinations or activities.

(3) A postsecondary educational institution shall provide notice to students of its policy by publishing the policy on the institution's web site and including either the policy or a link to the policy in course or program syllabi. The notice to students must also include notification of the institution's grievance procedure.

(4) A postsecondary educational institution may not require a student to pay any fees for seeking reasonable accommodations under this section.

(5) For the purposes of this section, "postsecondary educational institution" means an institution of higher education as defined in RCW 28B.10.016, a degree-granting institution as defined in RCW 28B.85.010, a private vocational school as defined in RCW 28C.10.020, school as defined in RCW 18.16.020, and any entity offering academic credit for an apprenticeship program under RCW 49.04.150.

NEW SECTION. Sec. 2. RCW 28B.10.039 is recodified as a section in a new chapter in Title 28B RCW." Correct the title.

Signed by Representatives Slatter; Sells; Ramos; Pollet; Paul; Mead; Bergquist; Leavitt, Vice Chair; Entenman, Vice Chair Hansen, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Young; Sutherland; Rude; Kraft; Gildon, Assistant Ranking Minority Member Van Werven, Ranking Minority Member.

Referred to Committee on Rules for second reading.

March 28, 2019

SSB 5212 Prime Sponsor, Committee on Higher Education & Workforce Development: Concerning the adoption of dogs and cats used for science or research purposes. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 18.92 RCW to read as follows:

(1) A higher education facility that receives public money, including tax exempt status, or a facility that provides research in collaboration with a higher education facility, that utilizes dogs or cats for scientific, educational, or research purposes, upon conclusion of a dog or cat's use for scientific, educational, or research purposes shall:

(a) Have the facility's attending veterinarian or designee assess the health of the dog or cat and determine if the dog or cat is suitable for adoption, consistent with guidelines promulgated by the American veterinary medical association; and

(b) Make reasonable efforts to offer the dog or cat for adoption, when the dog or cat is deemed suitable for adoption, through the facility's own adoption program or through an animal care and control agency or an animal rescue group as defined in RCW 82.04.040. A facility that offers dogs or cats for adoption to an animal care and control agency or an animal rescue group under this section may enter into an agreement to facilitate adoptions.

(2) Nothing in this section shall:

(a) Create a duty upon an animal care and control agency or an animal rescue group to accept a dog or cat offered for adoption by a research facility; or

(b) Prohibit a facility from completing scientific research or educational use prior to making a suitability for adoption determination.

(3) A research facility that provides a dog or cat for adoption pursuant to this section is immune from any civil liability for acts or omissions relating to the adoption of a dog or cat pursuant to subsection (1) of this section, other than acts constituting willful or wanton misconduct.

NEW SECTION. Sec. 2. This act may be known and cited as the homes for animal heroes act."

Correct the title.

Signed by Representatives Hansen, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Van Werven, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Bergquist; Kraft; Mead; Paul; Pollet; Ramos; Rude; Sells; Slatter and Sutherland.

MINORITY recommendation: Without recommendation. Signed by Representative Young.

Referred to Committee on Rules for second reading.

March 28, 2019

ESSB 5228 Prime Sponsor, Committee on Local Government: Concerning the authorization to impose special excise taxes on the sale of lodging. (REVISED FOR ENGROSSED: Concerning the authorization to impose special excise taxes on the sale of lodging in certain counties. ) Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Pollet, Chair; Peterson, Vice Chair; Appleton and Senn.

MINORITY recommendation: Do not pass. Signed by Representatives Kraft, Ranking Minority Member; Griffey, Assistant Ranking Minority Member and Goehner.

Referred to Committee on Finance.

March 27, 2019

2SSB 5236 Prime Sponsor, Committee on Ways & Means: Encouraging apprenticeships. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass. Signed by Representatives Hansen, Chair; Sutherland; Slatter; Sells; Rude; Ramos; Pollet; Young; Paul; Bergquist; Graham, Assistant Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Van Werven, Ranking Minority Member; Leavitt, Vice Chair; Entenman, Vice Chair and Mead.

MINORITY recommendation: Without recommendation. Signed by Representative Kraft.

Referred to Committee on Appropriations.

March 26, 2019

E2SSB 5290 Prime Sponsor, Committee on Ways & Means: Eliminating the use of the valid court order exception to place youth in detention for noncriminal behavior. Reported by Committee on Human Services & Early Learning

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that it is a goal of our state to divert juveniles who have committed status offenses, behaviors that are prohibited under law only because of an individual's status as a minor, away from the juvenile justice system because a stay in detention is a predictive factor for future criminal justice system involvement. The legislature finds that Washington has been using the valid court order exception of the juvenile justice and delinquency prevention act, a loophole in federal law allowing judges to detain status offenders for disobeying court orders, more than any other state in the country. The legislature finds that use of the valid court order exception to detain youth for acts like truancy, breaking curfew, or running away from home is counterproductive and may worsen outcomes for at-risk youth.

(2) The legislature further finds that these youth should not be confined with or treated with the same interventions as criminal offenders. The legislature also finds that studies show a disproportionality in race, gender, and socioeconomic status of youth referred to courts or detained, or both. Likewise, the legislature finds that community-based interventions are more effective at addressing underlying causes of status offenses than detention and can reduce court caseloads and lower system costs. As a result, it is the intent of the legislature to strengthen and fund community-based programs that are culturally relevant and focus on addressing disproportionality of youth of color, especially at-risk youth.

**NEW SECTION. Sec. 2.** A new section is added to chapter 7.21 RCW to read as follows:

(1) It is the policy of the state of Washington to eliminate the use of juvenile detention as a remedy for contempt of a valid court order for youth under chapters 13.34 and 28A.225 RCW and child in need of services petition youth under chapter 13.32A RCW. As of July 1, 2019, such youth may not be committed to juvenile detention as a contempt sanction under chapter 13.32A, 13.34, or 28A.225 RCW, and a warrant may not be issued for such youth for failure to appear at a court hearing that requires commitment of such youth to juvenile detention.

(2)(a) It is also the policy of the state of Washington to entirely phase out the use of juvenile detention as a remedy for contempt of a valid court order for at-risk youth under chapter 13.32A RCW by July 1, 2022. After this date, at-risk youth may not be committed to juvenile detention as a contempt sanction under chapter 13.32A RCW, and a warrant may not be issued for failure to appear at a court hearing that requires commitment of the at-risk youth to juvenile detention.

(b) Until July 1, 2022, any at-risk youth committed to juvenile detention as a sanction for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, must be detained in such a manner so that no direct communication or physical contact may be made between the youth and any youth who is detained to juvenile detention pursuant to a violation of criminal law, unless these separation requirements would result in a youth being detained in solitary confinement.

(c) After July 1, 2022, at-risk youth may be committed to a secure residential program with intensive wraparound services, subject to the requirements under RCW 13.32A.250, as a remedial sanction for contempt under chapter 13.32A RCW or for failure to appear at a court hearing under chapter 13.32A RCW.

**Sec. 3.** RCW 7.21.030 and 2001 c 260 s 6 are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In at-risk youth petition cases only under chapter ~~(s)~~ 13.32A ~~(, 13.34, and 28A.225)~~ RCW and subject to the requirements under RCW 13.32A.250, commitment to juvenile detention for a period of time not to exceed ~~((seven days))~~ seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(ii) Until July 1, 2022, prior to committing any at-risk youth to juvenile detention as a sanction for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, the court must:

(A) Consider, on-the-record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth;

(iii) Until July 1, 2022, detention periods for at-risk youth sanctioned to juvenile detention for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, shall be:

(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order

issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

**Sec. 4.** RCW 7.21.030 and 2019 c ... s 3 (section 3 of this act) are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In at-risk youth petition cases only under chapter 13.32A RCW, and subject to the requirements under RCW 13.32A.250, commitment to ~~((juvenile detention for a period of time not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction))~~ a secure residential program with intensive wraparound services.

(ii) ~~((Until))~~ Beginning July 1, 2022, prior to committing any at-risk youth to ((juvenile detention)) a secure residential program with intensive wraparound services as a sanction for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, the court must:

(A) Consider, on-the-record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth((;

~~((iii))~~ Until July 1, 2022, detention periods for at-risk youth sanctioned to juvenile detention for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, shall be:

~~((A))~~ No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

~~((B))~~ Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period).

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

**Sec. 5.** RCW 13.32A.250 and 2000 c 162 s 14 are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter and the possible consequences thereof, including confinement when applicable. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party in an at-risk youth proceeding to comply with an order entered under this chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3) For at-risk youth proceedings only:

(a) If the child fails to comply with the court order, the court may impose:

(i) Community restitution;

(ii) Residential and nonresidential programs with intensive wraparound services;

(iii) A requirement that the child meet with a mentor for a specified number of times; or

(iv) Other services and interventions that the court deems appropriate.

~~((b))~~ (i) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement for up to ((seven days)) seventy-two hours, or both for contempt of court under this section if (A) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none of the less restrictive alternatives is available. The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period.

~~((4))~~ (ii) A child placed in confinement for contempt under this section shall be placed in confinement

only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

~~((5))~~ (c) A child involved in a child in need of services proceeding may not be placed in confinement under this section.

(4) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

~~((6))~~ (5) For at-risk youth proceedings only, whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court must direct the court clerk to command the presence of the child by the issuance of a summons or other method approved by local court rule instead of a warrant, unless the court finds probable cause to believe that the child would not appear in response to the command or finds probable cause to believe that the arrest is necessary to prevent serious bodily harm to the juvenile or another, in which case the court may issue a warrant. A warrant of arrest must be supported by an affidavit or sworn testimony, which must be recorded electronically or by stenographer, establishing the grounds for issuing the warrant. The warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present if the child named in the warrant is a pupil at the school. The court must communicate the summons to the child through mail, telephone, text message, or other method of communication needed in order to ensure the child has received the information. If the child fails to appear via the summons or other method, the court may issue an order directing law enforcement to pick up and take the child to detention. ((The order may be entered ex parte without prior notice to the child or other parties. Following the child's admission to detention, a detention review hearing must be held in accordance with RCW 13.32A.065.))

**Sec. 6.** RCW 13.32A.250 and 2019 c ... s 5 (section 5 of this act) are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter and the possible consequences thereof, including confinement when applicable. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party in an at-risk youth proceeding to comply with an order entered under this chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3) For at-risk youth proceedings only:

(a) If the child fails to comply with the court order, the court may impose:

(i) Community restitution;

(ii) Residential and nonresidential programs with intensive wraparound services;

(iii) A requirement that the child meet with a mentor for a specified number of times; or

(iv) Other services and interventions that the court deems appropriate.

(b)(i) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement ~~((for up to seventy-two hours))~~ to a secure residential program with intensive wraparound services, or both, for contempt of court under this section if (A) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none of the less restrictive alternatives is available. ~~((The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period.))~~

(ii) A child placed in confinement for contempt under this section ~~((shall))~~ may be placed in ((confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county)) a secure crisis residential center as defined in RCW 13.32A.030, or any program approved by the department offering secure confinement and intensive wraparound services appropriate to the needs of the child. The child may not be placed in a detention facility as defined in RCW 13.40.020. Secure residential programs with intensive wraparound services as used in this section may be defined as secure juvenile correctional facilities for the purposes of federal law only.

(c) A child involved in a child in need of services proceeding may not be placed in confinement under this section.

(4) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

(5) For at-risk youth proceedings only, whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court must direct the court clerk to command the presence of the child by the issuance of a summons or other method approved by local court rule instead of a warrant, unless the court finds probable cause to believe that the child would not appear in response to the command or finds probable cause to believe that the arrest is necessary to prevent serious bodily harm to the juvenile or another, in which case the court may issue a warrant. A warrant of arrest must be supported by an affidavit or sworn testimony, which must be recorded electronically or by stenographer, establishing the grounds for issuing the warrant. The warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present if the child named in the warrant is a pupil at the school. The court must communicate the summons to the child through mail, telephone, text message, or other method of communication needed in order to ensure the child has received the information. If the child fails to appear via the summons or other method, the court may issue an order

directing law enforcement to pick up and take the child to detention.

**Sec. 7.** RCW 13.32A.150 and 2000 c 123 s 17 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the juvenile court shall not accept the filing of a child in need of services petition by the child or the parents or the filing of an at-risk youth petition by the parent, unless verification is provided that the department has completed a family assessment. The family assessment shall involve the multidisciplinary team if one exists. The family assessment or plan of services developed by the multidisciplinary team shall be aimed at family reconciliation, reunification, and avoidance of the out-of-home placement of the child. ~~((If the department is unable to complete an assessment within two working days following a request for assessment the child or the parents may proceed under subsection (2) of this section or the parent may proceed under RCW 13.32A.191.))~~

(2) A child or a child's parent may file with the juvenile court a child in need of services petition to approve an out-of-home placement for the child before completion of a family assessment. The department shall, when requested, assist either a parent or child in the filing of the petition. The petition must be filed in the county where the parent resides. The petition shall allege that the child is a child in need of services and shall ask only that the placement of a child outside the home of his or her parent be approved. The filing of a petition to approve the placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent, and confers upon the court a special jurisdiction to approve or disapprove an out-of-home placement under this chapter.

(3) A petition may not be filed if the child is the subject of a proceeding under chapter 13.34 RCW.

**Sec. 8.** RCW 13.34.165 and 2000 c 122 s 21 are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is civil contempt of court as provided in RCW 7.21.030(2)~~((e))~~.

~~((2))~~ ~~((The maximum term of confinement that may be imposed as a remedial sanction for contempt of court under this section is confinement for up to seven days.~~

~~((3))~~ ~~((A child held for contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.~~

~~((4))~~ A motion for contempt may be made by a parent, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order entered pursuant to this chapter.

~~((5))~~ (3)(a) Subject to (b) of this subsection, whenever the court finds probable cause to believe, based upon consideration of a motion ~~((for contempt))~~ and the information set forth in a supporting declaration, that a child ~~((has violated a placement order entered under this chapter))~~ is missing from care, the court may issue an order directing law enforcement to pick up and ~~((take))~~ return the child to ~~((detention))~~ department custody. ~~((The order may be entered ex parte without prior notice to the child or other~~

~~parties. Following the child's admission to detention, a detention review hearing must be held in accordance with RCW 13.32A.065.))~~

(b) If the department is notified of the child's whereabouts and authorizes the child's location, the court must withdraw the order directing law enforcement to pick up and return the child to department custody.

**Sec. 9.** RCW 28A.225.090 and 2017 c 291 s 5 are each amended to read as follows:

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

(a) Attend the child's current school, and set forth minimum attendance requirements, which shall not consider a suspension day as an unexcused absence;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Submit to a substance abuse assessment if the court finds on the record that such assessment is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any assessment, including a urinalysis test ordered under this subsection indicates the use of controlled substances or alcohol, order the minor to abstain from the unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the substance abuse assessment at no expense to the school; or

(e) Submit to a mental health evaluation or other diagnostic evaluation and adhere to the recommendations of the drug assessment, at no expense to the school, if the court finds on the court records that such evaluation is appropriate to the circumstances and behavior of the child, and will facilitate the child's compliance with the mandatory attendance law.

~~((f))~~ If the child fails to comply with the court order, the court may impose:

~~((g))~~ (a) Community restitution;

~~((h))~~ (b) Nonresidential programs with intensive wraparound services;

~~((iii))~~ (c) A requirement that the child meet with a mentor for a specified number of times; or

~~((iv))~~ (d) Other services and interventions that the court deems appropriate.

~~((b) If the child continues to fail to comply with the court order and the court makes a finding that other measures to secure compliance have been tried but have been unsuccessful and no less restrictive alternative is available, the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e). Failure by a child to comply with an order issued under this subsection shall not be subject to detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW. Detention ordered under this subsection may be for no longer than seven days. Detention ordered under this subsection shall preferably be served at a secure crisis residential center close to the child's home rather than in a juvenile detention facility. A warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present.))~~

(3) Any parent violating any of the provisions of either RCW 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. The court shall remit fifty percent of the fine collected under this section to the child's school district. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community restitution instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

(4) If a child continues to be truant after entering into a court-approved order with the truancy board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may ~~((order the child to be subject to detention, as provided in RCW 7.21.030(2)(e), or may))~~ impose alternatives to detention ~~((such as meaningful community restitution. Failure by a child to comply with an order issued under this subsection may not subject a child to detention for a period greater than that permitted under a civil contempt proceeding against a child under chapter 13.32A RCW))~~ consistent with best practice models for reengagement with school.

(5) Subsections (1), (2), and (4) of this section shall not apply to a six or seven year old child required to attend public school under RCW 28A.225.015.

**Sec. 10.** RCW 43.185C.260 and 2018 c 58 s 61 are each amended to read as follows:

(1) A law enforcement officer shall take a child into custody:

(a) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(b) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or

(c) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement~~((; or~~

~~((d) If a law enforcement agency has been notified by the juvenile court that the court finds probable cause exists to believe that the child has violated a court placement order issued under this chapter or chapter 13.34 RCW or that the court has issued an order for law enforcement pick-up of the child under this chapter or chapter 13.34 RCW)).~~

(2) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination. Law enforcement custody continues until the law enforcement officer transfers custody to a person, agency, or other authorized entity under this chapter, or releases the child because no placement is available. Transfer of custody is not complete unless the person, agency, or entity to whom the child is released agrees to accept custody.

(3) If a law enforcement officer takes a child into custody pursuant to either subsection (1)(a) or (b) of this section and transports the child to a crisis residential center, the officer shall, within twenty-four hours of delivering the child to the center, provide to the center a written report detailing the reasons the officer took the child into custody. The center shall provide the department of children, youth, and families with a copy of the officer's report if the youth is in the care of or receiving services from the department of children, youth, and families.

(4) If the law enforcement officer who initially takes the juvenile into custody or the staff of the crisis residential center have reasonable cause to believe that the child is absent from home because he or she is abused or neglected, a report shall be made immediately to the department of children, youth, and families.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

(6) If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored in violation of RCW 13.32A.080, the officer shall remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 43.185C.265.

(7) No child may be placed in a secure facility except as provided in this chapter.

**Sec. 11.** RCW 43.185C.265 and 2015 c 69 s 14 are each amended to read as follows:

(1) An officer taking a child into custody under RCW 43.185C.260(1) (a) or (b) shall inform the child of the reason for such custody and shall:

(a) Transport the child to his or her home or to a parent at his or her place of employment, if no parent is at home. The parent may request that the officer take the child to the home of an adult extended family member, responsible adult, crisis residential center, the department of ~~((social and health services))~~ children, youth, and families, or a licensed youth shelter. In responding to the request of the parent, the officer shall take the child to a requested place which, in the officer's belief, is within a reasonable distance of the parent's home. The officer releasing a child into the custody of a parent, an adult extended family member, responsible adult, or a licensed youth shelter shall inform the person receiving the child of the reason for taking the child into custody and inform all parties of the nature and location of appropriate services available in the community; or

(b) After attempting to notify the parent, take the child to a designated crisis residential center's secure facility or a center's semi-secure facility if a secure facility is full, not available, or not located within a reasonable distance if:

(i) The child expresses fear or distress at the prospect of being returned to his or her home which leads the officer to believe there is a possibility that the child is experiencing some type of abuse or neglect;

(ii) It is not practical to transport the child to his or her home or place of the parent's employment; or

(iii) There is no parent available to accept custody of the child; or

(c) After attempting to notify the parent, if a crisis residential center is full, not available, or not located within a reasonable distance, request the department of ~~((social and health services))~~ children, youth, and families to accept custody of the child. If the department of ~~((social and health services))~~ children, youth, and families determines that an appropriate placement is currently available, the department of ~~((social and health services))~~ children, youth, and families shall accept custody and place the child in an out-of-home placement. Upon accepting custody of a child from the officer, the department of ~~((social and health services))~~ children, youth, and families may place the child in an out-of-home placement for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, without filing a child in need of services petition, obtaining parental consent, or obtaining an order for placement under chapter 13.34 RCW. Upon transferring a child to the department of ~~((social and health services))~~ children, youth, and families' custody, the officer shall provide written documentation of the reasons and the statutory basis for taking the child into custody. If the department of ~~((social and health services))~~ children, youth, and families declines to accept custody of the child, the officer may release the child after attempting to take the child to the following, in the order listed: The home of an adult extended family member; a responsible adult; or a licensed youth shelter. The officer shall immediately notify the department of ~~((social and health services))~~ children, youth, and families if no placement option is available and the child is released.

(2) An officer taking a child into custody under RCW 43.185C.260(1)(c) ~~((or (d)))~~ shall inform the child of the reason for custody. An officer taking a child into custody under RCW 43.185C.260(1)(c) may release the child to the supervising agency, may return the child to the placement authorized by the supervising agency, or shall take the child

to a designated crisis residential ~~((center's secure facility. If the secure facility is not available, not located within a reasonable distance, or full, the officer shall take the child to a semi-secure crisis residential center. An officer taking a child into custody under RCW 43.185C.260(1)(d) may place the child in a juvenile detention facility as provided in RCW 43.185C.270 or a secure facility, except that the child shall be taken to detention whenever the officer has been notified that a juvenile court has entered a detention order under this chapter or chapter 13.34 RCW))~~ center.

(3) Every officer taking a child into custody shall provide the child and his or her parent or parents or responsible adult with a copy of the statement specified in RCW 43.185C.290(6).

(4) Whenever an officer transfers custody of a child to a crisis residential center or the department of ~~((social and health services))~~ children, youth, and families, the child may reside in the crisis residential center or may be placed by the department of ~~((social and health services))~~ children, youth, and families in an out-of-home placement for an aggregate total period of time not to exceed seventy-two hours excluding Saturdays, Sundays, and holidays. Thereafter, the child may continue in out-of-home placement only if the parents have consented, a child in need of services petition has been filed, or an order for placement has been entered under chapter 13.34 RCW.

(5) The department of ~~((social and health services))~~ children, youth, and families shall ensure that all law enforcement authorities are informed on a regular basis as to the location of all designated secure and semi-secure facilities within centers in their jurisdiction, where children taken into custody under RCW 43.185C.260 may be taken.

**Sec. 12.** RCW 2.56.032 and 2016 c 205 s 19 are each amended to read as follows:

(1)(a) To accurately track the extent to which courts order youth into a secure detention facility in Washington state for the violation of a court order related to a truancy, at-risk youth, or a child in need of services petition, all juvenile courts shall transmit youth-level secure detention data to the administrative office of the courts.

(b) Data may either be entered into the statewide management information system for juvenile courts or securely transmitted to the administrative office of the courts at least monthly. Juvenile courts shall provide, at a minimum, the name and date of birth for the youth, the court case number assigned to the petition, the reasons for admission to the juvenile detention facility, the date of admission, the date of exit, and the time the youth spent in secure confinement.

(c) Courts are also encouraged to report individual-level data reflecting whether a detention alternative, such as electronic monitoring, was used, and the time spent in detention alternatives.

(d) The administrative office of the courts and the juvenile court administrators must work to develop uniform data standards for detention.

(2) The administrative office of the courts shall deliver an annual statewide report to the legislature that details the number of Washington youth who are placed into detention facilities during the preceding calendar year. The

first report shall be delivered by March 1, 2017, and shall detail the most serious reason for detention and youth gender, race, and ethnicity. The report must have a specific emphasis on youth who are detained for reasons relating to a truancy, at-risk youth, or a child in need of services petition. The report must:

(a) Consider the written findings described in RCW 7.21.030(2)(e)(ii)(B), and provide an analysis of the rationale and evidence used and the less restrictive options considered;

(b) Monitor the utilization of alternatives to detention;

(c) Track trends in the use of at-risk youth petitions;

(d) Beginning July 1, 2022, track trends in the use of secure residential programs with intensive wraparound services; and

(e) Track the race and gender of youth with at-risk petitions.

**NEW SECTION. Sec. 13.** The following acts or parts of acts are each repealed:

(1)RCW 43.185C.270 (Youth services—Officer taking child into custody—Placing in detention—Detention review hearing—Hearing on contempt) and 2015 c 69 s 15; and

(2)1998 c 296 s 35 (uncodified).

**NEW SECTION. Sec. 14.** Except for sections 4 and 6 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

**NEW SECTION. Sec. 15.** Sections 4 and 6 of this act take effect July 1, 2022."

Correct the title.

Signed by Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Goodman; Kilduff; Lovick and Ortiz-Self.

MINORITY recommendation: Do not pass. Signed by Representatives Dent, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Corry and Klippert.

Referred to Committee on Rules for second reading.

March 28, 2019

ESSB 5322 Prime Sponsor, Committee on Environment, Energy & Technology: Ensuring compliance with the federal clean water act by prohibiting certain discharges into waters of the state. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that under RCW 90.48.260, the department of ecology is directed to implement and comply with the federal clean water act. The legislature further finds that Washington state, unlike other states and the environmental protection agency, has taken no action to regulate or limit water quality impacts from motorized or gravity siphon aquatic mining. The legislature also finds that federal courts have determined that discharges from this activity require regulation under the clean water act and that Washington's attorney general has supported such regulations in other states as necessary to protect water quality and fish species, even though such protections do not exist in Washington state. The legislature further finds that harmful water quality impacts are occurring in areas designated as critical habitat for threatened or endangered steelhead, salmon, and bull trout, including spawning areas for chinook salmon relied on by southern resident orcas.

**NEW SECTION. Sec. 2.** A new section is added to chapter 90.48 RCW to read as follows:

(1) A discharge to waters of the state from a motorized or gravity siphon aquatic mining operation is subject to the department's authority under this chapter and the federal clean water act. The department shall evaluate whether the number of dischargers subject to this section warrants the adoption of a general permit for motorized or gravity siphon aquatic mining. If so, the department is directed to minimize the cost to permit applicants by basing general permit provisions on existing general permits adopted in other states to comply with the federal clean water act.

(2) The following act or acts are prohibited: Motorized or gravity siphon aquatic mining or discharge of effluent from such activity to any waters of the state that has been designated under the endangered species act as critical habitat, or would impact critical habitat for salmon, steelhead, or bull trout. This includes all fresh waters with designated uses of: Salmonid spawning, rearing, and migration.

(3) A person commits the offense of unlawful motorized or gravity siphon aquatic mining if the person engages in such an activity in violation of this chapter or the federal clean water act. Such an offense is subject to enforcement under this chapter.

(4) For the purposes of this section, "motorized or gravity siphon aquatic mining" means mining using any form of motorized equipment, including but not limited to a motorized suction dredge, or a gravity siphon suction dredge, for the purpose of extracting gold, silver, or other precious metals, that involves a discharge to waters of the state.

(5) This section does not apply to:

(a) Aquatic mining using nonmotorized methods, such as gold panning, if the nonmotorized method does not involve use of a gravity siphon suction dredge;

(b) Mining operations where no part of the operation or discharge of effluent from the operation is to waters of the state;

(c) Surface mining operations regulated by the department of natural resources under Title 78 RCW;

(d) Metals mining and milling operations as defined in chapter 78.56 RCW;

(e) Activities related to an industrial facility, dredging related to navigability, or activities subject to a clean water act section 404 individual permit; or

(f) Dredging operations undertaken by a diking or drainage district pursuant to Title 85 RCW.

**Sec. 3.** RCW 77.55.011 and 2012 1st sp.s. c 1 s 101 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) "Bed" means the land below the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, stormwater runoff devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered artificially.

(2) "Board" means the pollution control hearings board created in chapter 43.21B RCW.

(3) "Commission" means the state fish and wildlife commission.

(4) "Date of receipt" has the same meaning as defined in RCW 43.21B.001.

(5) "Department" means the department of fish and wildlife.

(6) "Director" means the director of the department of fish and wildlife.

(7) "Emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(8) "Emergency permit" means a verbal hydraulic project approval or the written follow-up to the verbal approval issued to a person under RCW 77.55.021(12).

(9) "Expedited permit" means a hydraulic project approval issued to a person under RCW 77.55.021 (14) and (16).

(10) "Forest practices hydraulic project" means a hydraulic project that requires a forest practices application or notification under chapter 76.09 RCW.

(11) "Hydraulic project" means the construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or freshwaters of the state.

(12) "Imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

(13) "Marina" means a public or private facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

(14) "Marine terminal" means a public or private commercial wharf located in the navigable water of the state and used, or intended to be used, as a port or facility for the

storing, handling, transferring, or transporting of goods to and from vessels.

(15) "Multiple site permit" means a hydraulic project approval issued to a person under RCW 77.55.021 for hydraulic projects occurring at more than one specific location and which includes site-specific requirements.

(16) "Ordinary high water line" means the mark on the shores of all water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years as to mark upon the soil or vegetation a character distinct from the abutting upland. Provided, that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater is the line of mean higher high water and the ordinary high water line adjoining freshwater is the elevation of the mean annual flood.

(17) "Pamphlet hydraulic project" means a hydraulic project for the removal or control of aquatic noxious weeds conducted under the aquatic plants and fish pamphlet authorized by RCW 77.55.081, or for mineral prospecting and mining conducted under the gold and fish pamphlet authorized by RCW 77.55.091.

(18) "Permit" means a hydraulic project approval permit issued under this chapter.

(19) "Permit modification" means a hydraulic project approval issued to a person under RCW 77.55.021 that extends, renews, or changes the conditions of a previously issued hydraulic project approval.

(20) "Sandbars" includes, but is not limited to, sand, gravel, rock, silt, and sediments.

(21) "Small scale prospecting and mining" means the use of only the following methods: Pans; nonmotorized sluice boxes; nonmotorized concentrators; and minirocker boxes for the discovery and recovery of minerals, but does not include metals mining and milling operations as defined in RCW 78.56.020.

(22) "Spartina," "purple loosestrife," and "aquatic noxious weeds" have the same meanings as defined in RCW 17.26.020.

(23) "Stream bank stabilization" means those projects that prevent or limit erosion, slippage, and mass wasting. These projects include, but are not limited to, bank resloping, log and debris relocation or removal, planting of woody vegetation, bank protection using rock or woody material or placement of jetties or groins, gravel removal, or erosion control.

(24) "Tide gate" means a one-way check valve that prevents the backflow of tidal water.

(25) "Waters of the state" and "state waters" means all salt and freshwaters waterward of the ordinary high water line and within the territorial boundary of the state.

(26) "Motorized or gravity siphon aquatic mining" means mining using any form of motorized equipment including, but not limited to, a motorized suction dredge or a gravity siphon suction dredge, for the purpose of extracting gold, silver, or other precious metals, that involves a discharge to waters of the state, but does not include metals mining and milling operations as defined in RCW 78.56.020.

**Sec. 4.** RCW 77.55.021 and 2012 1st sp.s. c 1 s 102 are each amended to read as follows:

(1) Except as provided in RCW 77.55.031, 77.55.051, 77.55.041, and 77.55.361, in the event that any person or government agency desires to undertake a hydraulic project, the person or government agency shall, before commencing work thereon, secure the approval of the department in the form of a permit as to the adequacy of the means proposed for the protection of fish life.

(2) A complete written application for a permit may be submitted in person or by registered mail and must contain the following:

(a) General plans for the overall project;

(b) Complete plans and specifications of the proposed construction or work within the mean higher high water line in saltwater or within the ordinary high water line in freshwater;

(c) Complete plans and specifications for the proper protection of fish life;

(d) Notice of compliance with any applicable requirements of the state environmental policy act, unless otherwise provided for in this chapter; and

(e) ~~((Payment of all applicable application fees charged by the department under RCW 77.55.321))~~ In the event that any person or government agency desires to undertake mineral prospecting or mining using motorized or gravity siphon equipment or desires to discharge effluent from such an activity to waters of the state, the person or government agency must also provide proof of compliance with the requirements of the federal clean water act as administered by the department of ecology.

(3) The department may establish direct billing accounts or other funds transfer methods with permit applicants to satisfy the fee payment requirements of RCW 77.55.321.

(4) The department may accept complete, written applications as provided in this section for multiple site permits and may issue these permits. For multiple site permits, each specific location must be identified.

(5) With the exception of emergency permits as provided in subsection (12) of this section, applications for permits must be submitted to the department's headquarters office in Olympia. Requests for emergency permits as provided in subsection (12) of this section may be made to the permitting biologist assigned to the location in which the emergency occurs, to the department's regional office in which the emergency occurs, or to the department's headquarters office.

(6) Except as provided for emergency permits in subsection (12) of this section, the department may not proceed with permit review until all fees are paid in full as required in RCW 77.55.321.

(7)(a) Protection of fish life is the only ground upon which approval of a permit may be denied or conditioned. Approval of a permit may not be unreasonably withheld or unreasonably conditioned.

(b) Except as provided in this subsection and subsections (12) through (14) and (16) of this section, the department has forty-five calendar days upon receipt of a complete application to grant or deny approval of a permit. The forty-five day requirement is suspended if:

(i) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;

(ii) The site is physically inaccessible for inspection;

(iii) The applicant requests a delay; or

(iv) The department is issuing a permit for a stormwater discharge and is complying with the requirements of RCW 77.55.161(3)(b).

(c) Immediately upon determination that the forty-five day period is suspended under (b) of this subsection, the department shall notify the applicant in writing of the reasons for the delay.

(d) The period of forty-five calendar days may be extended if the permit is part of a multiagency permit streamlining effort and all participating permitting agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.

(8) If the department denies approval of a permit, the department shall provide the applicant a written statement of the specific reasons why and how the proposed project would adversely affect fish life.

(a) Except as provided in (b) of this subsection, issuance, denial, conditioning, or modification of a permit shall be appealable to the board within thirty days from the date of receipt of the decision as provided in RCW 43.21B.230.

(b) Issuance, denial, conditioning, or modification of a permit may be informally appealed to the department within thirty days from the date of receipt of the decision. Requests for informal appeals must be filed in the form and manner prescribed by the department by rule. A permit decision that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(9)(a) The permittee must demonstrate substantial progress on construction of that portion of the project relating to the permit within two years of the date of issuance.

(b) Approval of a permit is valid for up to five years from the date of issuance, except as provided in (c) of this subsection and in RCW 77.55.151.

(c) A permit remains in effect without need for periodic renewal for hydraulic projects that divert water for agricultural irrigation or stock watering purposes and that involve seasonal construction or other work. A permit for stream bank stabilization projects to protect farm and agricultural land as defined in RCW 84.34.020 remains in effect without need for periodic renewal if the problem causing the need for the stream bank stabilization occurs on an annual or more frequent basis. The permittee must notify the appropriate agency before commencing the construction or other work within the area covered by the permit.

(10) The department may, after consultation with the permittee, modify a permit due to changed conditions. A modification under this subsection is not subject to the fees provided under RCW 77.55.321. The modification is appealable as provided in subsection (8) of this section. For a hydraulic project that diverts water for agricultural irrigation or stock watering purposes, when the hydraulic project or other work is associated with stream bank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the department to show

that changed conditions warrant the modification in order to protect fish life.

(11) A permittee may request modification of a permit due to changed conditions. The request must be processed within forty-five calendar days of receipt of the written request and payment of applicable fees under RCW 77.55.321. A decision by the department is appealable as provided in subsection (8) of this section. For a hydraulic project that diverts water for agricultural irrigation or stock watering purposes, when the hydraulic project or other work is associated with stream bank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the permittee to show that changed conditions warrant the requested modification and that such a modification will not impair fish life.

(12)(a) The department, the county legislative authority, or the governor may declare and continue an emergency. If the county legislative authority declares an emergency under this subsection, it shall immediately notify the department. A declared state of emergency by the governor under RCW 43.06.010 shall constitute a declaration under this subsection.

(b) The department, through its authorized representatives, shall issue immediately, upon request, verbal approval for a stream crossing, or work to remove any obstructions, repair existing structures, restore stream banks, protect fish life, or protect property threatened by the stream or a change in the streamflow without the necessity of obtaining a written permit prior to commencing work. Conditions of the emergency verbal permit must be reduced to writing within thirty days and complied with as provided for in this chapter.

(c) The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(d) The department may not charge a person requesting an emergency permit any of the fees authorized by RCW 77.55.321 until after the emergency permit is issued and reduced to writing.

(13) All state and local agencies with authority under this chapter to issue permits or other authorizations in connection with emergency water withdrawals and facilities authorized under RCW 43.83B.410 shall expedite the processing of such permits or authorizations in keeping with the emergency nature of such requests and shall provide a decision to the applicant within fifteen calendar days of the date of application.

(14) The department or the county legislative authority may determine an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to remove any obstructions, repair existing structures, restore banks, protect fish resources, or protect property. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy

act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(15)(a) For any property, except for property located on a marine shoreline, that has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway, the county legislative authority may determine that a chronic danger exists. The county legislative authority shall notify the department, in writing, when it determines that a chronic danger exists. In cases of chronic danger, the department shall issue a permit, upon request, for work necessary to abate the chronic danger by removing any obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish resources, or protecting property. Permit requests must be made and processed in accordance with subsections (2) and (7) of this section.

(b) Any projects proposed to address a chronic danger identified under (a) of this subsection that satisfies the project description identified in RCW 77.55.181(1)(a)(ii) are not subject to the provisions of the state environmental policy act, chapter 43.21C RCW. However, the project is subject to the review process established in RCW 77.55.181(3) as if it were a fish habitat improvement project.

(16) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection."

Correct the title.

Signed by Representatives Shewmake; Peterson; Mead; Fey; Doglio; Lekanoff, Vice Chair Fitzgibbon, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Boehnke; Dye, Assistant Ranking Minority Member; Shea, Ranking Minority Member and DeBolt.

Referred to Committee on Rules for second reading.

March 28, 2019

E2SSB 5327 Prime Sponsor, Committee on Ways & Means: Expanding career connected learning opportunities. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature recognizes that in Washington's fast-growing economy local employers need access to a pool of diverse, skilled talent, but too few people are prepared for the career opportunities available. Across the state, there are persistent opportunity gaps in education and employment. Even in today's thriving economy, the path to economic self-sufficiency and fulfillment is difficult for many people.

(2) The legislature intends to scale up high-quality career connected learning opportunities that address persistent educational opportunity gaps and meet the talent needs of employers. Through career connected learning opportunities that are available across communities and regions, individuals can advance their academic learning and build awareness of, exposure to, and preparation for, career opportunities.

(3) In order to create a statewide, sustainable career connected learning system, three areas must be addressed:

(a) Statewide system development through cross-sector coordination;

(b) Directing resources to K-12 and higher education partners to support enrollment in career launch and registered apprenticeship programs and other career connected learning opportunities; and

(c) Support for regional leadership and coordination to facilitate connections between industry and education, implement career connected learning programs, and help young adults and employers to navigate these opportunities.

**NEW SECTION. Sec. 2.** (1) A career connected learning cross-agency work group is established to scale up and expand high-quality career connected learning opportunities, as "career connected learning" is defined in section 6 of this act, in communities across the state.

(2) The purpose of the work group is to coordinate agency functions and external partnerships and carry out the duties and responsibilities set forth in section 3 of this act.

(3) The governor shall select the chair of the work group.

(4) The governor's office may consult or contract with entities with expertise in industry and education partnerships to provide staffing support and guidance on industry talent needs. The governor's office may convene additional ad hoc committees that include industry sector advisory groups and leaders including, but not limited to, high-level representatives from education, industry, philanthropy, as well as students, parents, and community partners.

(5) The work group must consist of, but is not limited to, representatives from the following offices and agencies:

(a) The department of labor and industries in consultation with the regulatory apprenticeship council under RCW 49.04.010;

(b) The department of social and health services, including the division of vocational rehabilitation;

(c) The department of children, youth, and families;

(d) The education research and data center at the office of financial management;

(e) The employment security department;

(f) The office of the superintendent of public instruction;

(g) The state board of education;

(h) The state board for community and technical colleges;

(i) The student achievement council;

(j) The workforce training and education coordinating board;

(k) One representative of the public baccalaureate institutions;

(l) One representative of the independent four-year institutions of higher education;

(m) The office of the lieutenant governor;

(n) One representative from an organization representing the trades involved in the construction industry;

(o) One representative from a business involved in the construction industry; and

(p) The office of the governor.

(6) The office of the governor may establish subcommittees of the work group to plan and execute the duties and responsibilities under section 3 of this act.

(7) The work group shall:

(a) Meet at least six times during the calendar year; and

(b) Report progress to the governor and appropriate committees of the legislature by September 1st annually.

**NEW SECTION. Sec. 3.** The career connected learning cross-agency work group established in section 2 of this act shall have the duties and responsibilities described in this section. Subject to the availability of amounts appropriated for this specific purpose, the work group may:

(1) Advance and promote the career connect Washington vision to create a statewide system for career connected learning and the need for joint action as follows:

(a) Create, and periodically update, clear guidance for endorsing career launch programs to guide quality assurance for the purpose of expanding enrollments by August 1, 2019. Registered apprenticeships as approved by the Washington apprenticeship and training council at the department of labor and industries are considered endorsed career launch programs;

(b) Prioritize activities including coordinating cross-agency and industry sector leadership to advance strategic priorities;

(c) Implement a marketing and communications agenda;

(d) Mobilize private sector and philanthropic leadership and resources to support system building;

(e) Build systemic functions in key agencies and existing systems;

(f) Create a statewide inventory that identifies existing support programs to promote equitable participation in career connected learning, including resources for populations to reengage with educational opportunities;

(g) Develop web sites and other resources, and coordinate current resources managed by the workforce training and education coordinating board, the student achievement council, and the employment security department, to inform students, employers, and the public about career connected learning opportunities;

(h) Develop financial and other support services to increase access and success in career connected learning for students facing barriers or living in underserved communities;

(i) Address transfer and articulation issues to ensure career launch program participants receive high school and college credit in programs initiated in K-12 or dropout reengagement programs, or college credit in postsecondary programs and registered apprenticeships, and work to expand the portability of credits to the maximum extent possible;

(j) With respect to the portability of credit for the purposes of postsecondary degree attainment, coordinate when appropriate with the complete Washington program;

(k) Establish clear targets for equity to guide state data development and action by regional partners related to program design and expansion, including specific equity-focused criteria within grant funding processes and strategies; and

(l) Develop data systems and protocols for career connected learning planning and evaluation purposes;

(2) By September 1, 2019, and by each September 1st thereafter, make budget recommendations to the office of financial management, to direct resources to education programs for career connected learning as follows:

(a) Support the K-12 system and the office of the superintendent of public instruction to increase student participation in career connected learning programs that include career awareness and exploration, career preparation, and career launch;

(b) Support expansion of innovative program design in registered apprenticeships, year-round and summer programs, and equitable access to dual credit;

(c) Support two-year and four-year institutions of higher education to expand career connected learning enrollments, and specifically:

(i) Build capacity at community and technical colleges to support innovative design in career launch and registered apprenticeship programs, as well as program participation by high school graduates or out-of-school youth;

(ii) Align the use of work-study to support career launch and registered apprenticeship programs; and

(iii) Clarify financial aid eligibility and exclusions from financial aid caps for career launch and registered apprenticeship programs;

(d) Promote innovation in equivalency and credentialing within endorsed career launch and registered apprenticeship programs including, but not limited to, offering guidance and technical assistance to school districts and local education agencies to ensure students take advantage of flexibility in the twenty-four-credit diploma and earn high school credit for career launch and registered apprenticeship programs;

(e) Expand the number of portable credits and credit for prior learning to ensure that career launch programs transfer for high school or college credit to the maximum extent possible; and

(f) Support the registered apprenticeship system and the department of labor and industries to build capacity to expand registered apprenticeship and preapprenticeship programs;

(3) Support regional leadership, program intermediaries, and career connected learning navigation and coordination to expand participation in career connected learning opportunities and the implementation of the career connected learning grant program established in section 5 of this act;

(4) Support the formation and operation of regional networks in both rural and urban areas to guide career connected learning opportunities that are both tailored to the local needs of students and employers, and designed for portable credentials across education settings and across an industry;

(5) Develop a data enclave for career connected learning to measure progress and ensure equity of opportunity for career connected learning, led by the education research and data center at the office of financial management, as follows:

(a) Develop program codes for career connected learning opportunities in K-12 and postsecondary education in order to track those programs that are designated as career connected learning programs for each of the three categories set forth in the definition of "career connected learning" in section 6 of this act; and

(b) Collect and disaggregate program participation and outcomes data by race, gender, income, rurality, ability, foster youth, homeless youth, English language learner, and other relevant categories.

NEW SECTION. **Sec. 4.** The educational service districts established in chapter 28A.310 RCW shall each employ one full-time equivalent employee to support the expansion of career connected learning opportunities.

NEW SECTION. **Sec. 5.** (1) Subject to the availability of amounts appropriated for this specific purpose, the career connected learning grant program is established as a competitive grant program to advance the strategic plan in section 3 of this act. The program shall be administered by the employment security department. The governor's office shall work with the employment security department to establish grant criteria and guide the process for selection with consultation from the career connected learning cross-agency work group.

(2) The purpose of the career connected learning grant program is to create career connected learning opportunities, including career awareness and exploration, career preparation, and career launch programs, that are both tailored to the local needs of students and employers and designed so that students may receive high school or college credit across industries and regions of the state to the maximum extent possible. The program funds shall be used for two overarching purposes:

(a) Support regional career connected learning networks in both rural and urban areas under subsection (3) of this section; and

(b) Support career connected learning program intermediaries working within and across regions who partner with multiple employers, labor partners, and educational institutions, work with K-12 and postsecondary career representatives to develop curricula for new and

innovative programs, and scale existing career awareness and exploration, career preparation, and endorsed career launch programs.

(3) The program administrator shall consult with the governor's office to develop a formal request for proposal for both the regional career connected learning networks and the program intermediaries.

(4)(a) Proposals for regional career connected learning networks and intermediaries may be sought from applicants within the geographic areas of the nine educational service districts. Successful applicants shall convene and manage regional, cross-industry networks that will lead to the expansion of career connected learning opportunities.

(b) Regional career connected learning network applicants must demonstrate regional knowledge and status as a trusted partner of industry and education stakeholders, a track record of success with career connected learning and aligned initiatives, and a commitment to equity. Regional networks may include, but are not limited to, regional education networks, school districts, educational service districts, higher education institutions, workforce development councils, chambers of commerce, industry associations, joint labor management councils, multiemployer training partnerships, economic development councils, and nonprofit organizations.

(5)(a) Funds provided to program intermediaries are for the purpose of creating career connected learning programs through a competitive grant process.

(b) Program intermediaries shall work with regional networks, career connected learning coordinators, and industry and education partners to expand the use of current curricula or further develop or build new curricula for career connected learning programs. Curricula built with public funds for career connected learning programs is open source curricula.

(c) Eligible program intermediary applicants may include, but are not limited to, new or existing industry associations, joint labor management councils, regional networks, postsecondary education and training institutions working with multiple employer partners, state agencies, and other community-based organizations and expanded learning partners.

(6) Subject to the availability of amounts appropriated for this specific purpose, the employment security department, as the administrator of the program, has the authority to utilize funds deposited in the career connected learning account for the purposes of the program.

**NEW SECTION. Sec. 6.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Career awareness and exploration" means programs, activities, and events that provide early exposure to jobs and industries. "Career awareness and exploration" are structured programs that include job fairs, guest speakers, job shadows, job site tours, and other similar activities.

(2) "Career connected learning" means a learning experience that is integrated with work-related content and skills in the following three categories: (a) Career awareness

and exploration; (b) career preparation; and (c) career launch.

(3)(a) "Career launch programs" means registered apprenticeships and programs that combine the following three elements:

(i) Supervised paid work experience;

(ii) Aligned classroom learning to academic and employer standards; and

(iii) Culmination in a valuable credential beyond a high school diploma or forty-five college credits towards a two-year or four-year postsecondary credential.

(b) "Career launch programs" include the elements in (a) of this subsection and may be achieved through, but are not limited to one or more of the following:

(i) A state approved career and technical education sequence of courses or program of study that include requirements in alignment with RCW 28A.700.030;

(ii) A qualifying degree or credential earned through a community or technical college or university.

(c) "Career launch programs" may be initiated in a secondary education system and completed in a postsecondary education system, or first year of paid employment, as long as all parties jointly plan the program.

(d) "Career launch programs" must be endorsed through the process under section 3(1)(a) of this act.

(e) "Career launch programs" must include programs that would prepare a person for a career in the trades involved in the construction industry.

(4) "Career preparation programs" means programs that give students hands-on skills and knowledge experience within a particular business, career track, or industry, and help prepare students to work in a professional setting. "Career preparation programs" include career and technical education courses, on-site internships, preapprenticeship programs, and other similar opportunities.

(5) "Complete Washington program" means the program established in the 2018 omnibus appropriations act, section 117, chapter 299, Laws of 2018, for the purpose of connecting prior learning with postsecondary degree completion.

(6) "Work group" means the career connected learning cross-agency work group established in section 2 of this act.

**NEW SECTION. Sec. 7.** Where applicable, career awareness and exploration, career connected learning, career launch programs, and career preparation programs are subject to RCW 49.12.121 and 49.12.123 regarding employing minors.

**NEW SECTION. Sec. 8.** The career connected learning account is created in the state treasury. All receipts from public or private sources provided for the purpose of funding grants under section 5 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for career connected learning grants.

**NEW SECTION. Sec. 9.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the state board for community and technical colleges, the state universities, the regional universities, and the state college shall employ career connected learning coordinators. Career connected learning coordinators shall coordinate with the regional career connected learning networks and program intermediaries under section 5 of this act to expand career connected learning preparation and career launch programs offered at community and technical colleges, and to facilitate transfer of career launch program credits.

(2) Career connected learning coordinators shall:

(a) Engage faculty and other relevant institution leadership and staff for the purpose of working with regional networks and program intermediaries to create new career preparation and career launch program curricula and opportunities, scaling current programs, and facilitating the endorsement of career launch programs; and

(b) Work with appropriate faculty and staff at the state universities, the regional universities, and the state college, and K-12 education representatives, to expand the number of career launch program credits that may be articulated and transferred to postsecondary degree programs.

**NEW SECTION. Sec. 10.** A new section is added to chapter 28A.700 RCW to read as follows:

(1) Beginning in the 2019-20 school year, to allow students to engage in learning outside of the school day or in a summer program, school districts shall be funded up to one and two-tenths full-time equivalents for career launch programs, as defined in section 6 of this act. The requirement to provide funding up to one and two-tenths full-time equivalents for career launch programs is subject to the availability of amounts appropriated for this specific purpose.

(2) The office of the superintendent of public instruction shall develop procedures to ensure that school districts do not report any student for more than one and two-tenths full-time equivalent students, combining both the student's high school enrollment and career launch enrollment.

**Sec. 11.** RCW 28C.18.060 and 2017 c 39 s 4 are each amended to read as follows:

The board, in cooperation with the operating agencies of the state training system and private career schools and colleges, shall:

(1) Concentrate its major efforts on planning, coordination evaluation, policy analysis, and recommending improvements to the state's training system;

(2) Advocate for the state training system and for meeting the needs of employers and the workforce for workforce education and training;

(3) Establish and maintain an inventory of the programs of the state training system, and related state programs, and perform a biennial assessment of the vocational education, training, and adult basic education and

literacy needs of the state; identify ongoing and strategic education needs; and assess the extent to which employment, training, vocational and basic education, rehabilitation services, and public assistance services represent a consistent, integrated approach to meet such needs;

(4) Develop and maintain a state comprehensive plan for workforce training and education, including but not limited to, goals, objectives, and priorities for the state training system, and review the state training system for consistency with the state comprehensive plan. In developing the state comprehensive plan for workforce training and education, the board shall use, but shall not be limited to: Economic, labor market, and populations trends reports in office of financial management forecasts; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome, net-impact and cost-benefit evaluations; the needs of employers as evidenced in formal employer surveys and other employer input; and the needs of program participants and workers as evidenced in formal surveys and other input from program participants and the labor community;

(5) In consultation with the student achievement council, review and make recommendations to the office of financial management and the legislature on operating and capital facilities budget requests for operating agencies of the state training system for purposes of consistency with the state comprehensive plan for workforce training and education;

(6) Provide for coordination among the different operating agencies and components of the state training system at the state level and at the regional level;

(7) Develop a consistent and reliable database on vocational education enrollments, costs, program activities, and job placements from publicly funded vocational education programs in this state;

(8)(a) Establish standards for data collection and maintenance for the operating agencies of the state training system in a format that is accessible to use by the board. The board shall require a minimum of common core data to be collected by each operating agency of the state training system;

(b) Develop requirements for minimum common core data in consultation with the office of financial management and the operating agencies of the training system;

(9) Establish minimum standards for program evaluation for the operating agencies of the state training system, including, but not limited to, the use of common survey instruments and procedures for measuring perceptions of program participants and employers of program participants, and monitor such program evaluation;

(10) Every two years administer scientifically based outcome evaluations of the state training system, including, but not limited to, surveys of program participants, surveys of employers of program participants, and matches with employment security department payroll and wage files. Every five years administer scientifically based net-impact and cost-benefit evaluations of the state training system;

(11) In cooperation with the employment security department, provide for the improvement and maintenance of quality and utility in occupational information and

forecasts for use in training system planning and evaluation. Improvements shall include, but not be limited to, development of state-based occupational change factors involving input by employers and employees, and delineation of skill and training requirements by education level associated with current and forecasted occupations;

(12) Provide for the development of common course description formats, common reporting requirements, and common definitions for operating agencies of the training system;

(13) Provide for effectiveness and efficiency reviews of the state training system;

(14) In cooperation with the student achievement council, facilitate transfer of credit policies and agreements between institutions of the state training system, and encourage articulation agreements for programs encompassing two years of secondary workforce education and two years of postsecondary workforce education;

(15) In cooperation with the student achievement council, facilitate transfer of credit policies and agreements between private training institutions and institutions of the state training system;

(16) Develop policy objectives for the workforce innovation and opportunity act, P.L. 113-128, or its successor; develop coordination criteria for activities under the act with related programs and services provided by state and local education and training agencies; and ensure that entrepreneurial training opportunities are available through programs of each local workforce development board in the state;

(17) Ensure that the expansion of K-12 and postsecondary opportunities for career connected learning, as defined in section 6 of this act, is incorporated into the state plan adopted for the purposes of the Carl D. Perkins career and technical education improvement act, P.L. 109-270;

(18) Make recommendations to the commission of student assessment, the state board of education, and the superintendent of public instruction, concerning basic skill competencies and essential core competencies for K-12 education. Basic skills for this purpose shall be reading, writing, computation, speaking, and critical thinking, essential core competencies for this purpose shall be English, math, science/technology, history, geography, and critical thinking. The board shall monitor the development of and provide advice concerning secondary curriculum which integrates vocational and academic education;

~~((18))~~ (19) Establish and administer programs for marketing and outreach to businesses and potential program participants;

~~((19))~~ (20) Facilitate the location of support services, including but not limited to, child care, financial aid, career counseling, and job placement services, for students and trainees at institutions in the state training system, and advocate for support services for trainees and students in the state training system;

~~((20))~~ (21) Facilitate private sector assistance for the state training system, including but not limited to: Financial assistance, rotation of private and public personnel, and vocational counseling;

~~((21))~~ (22) Facilitate the development of programs for school-to-work transition that combine classroom

education and on-the-job training, including entrepreneurial education and training, in industries and occupations without a significant number of apprenticeship programs;

~~((22))~~ (23) Include in the planning requirements for local workforce development boards a requirement that the local workforce development boards specify how entrepreneurial training is to be offered through the one-stop system required under the workforce innovation and opportunity act, P.L. 113-128, or its successor;

~~((23))~~ (24) Encourage and assess progress for the equitable representation of racial and ethnic minorities, women, and people with disabilities among the students, teachers, and administrators of the state training system. Equitable, for this purpose, shall mean substantially proportional to their percentage of the state population in the geographic area served. This function of the board shall in no way lessen more stringent state or federal requirements for representation of racial and ethnic minorities, women, and people with disabilities;

~~((24))~~ (25) Participate in the planning and policy development of governor set-aside grants under P.L. 97-300, as amended;

~~((25))~~ (26) Administer veterans' programs, licensure of private vocational schools, the job skills program, and the Washington award for vocational excellence;

~~((26))~~ (27) Allocate funding from the state job training trust fund;

~~((27))~~ (28) Work with the director of commerce to ensure coordination among workforce training priorities and economic development and entrepreneurial development efforts, including but not limited to assistance to industry clusters;

~~((28))~~ (29) Conduct research into workforce development programs designed to reduce the high unemployment rate among young people between approximately eighteen and twenty-four years of age. In consultation with the operating agencies, the board shall advise the governor and legislature on policies and programs to alleviate the high unemployment rate among young people. The research shall include disaggregated demographic information and, to the extent possible, income data for adult youth. The research shall also include a comparison of the effectiveness of programs examined as a part of the research conducted in this subsection in relation to the public investment made in these programs in reducing unemployment of young adults. The board shall report to the appropriate committees of the legislature by November 15, 2008, and every two years thereafter. Where possible, the data reported to the legislative committees should be reported in numbers and in percentages;

~~((29))~~ (30) Adopt rules as necessary to implement this chapter.

The board may delegate to the director any of the functions of this section.

NEW SECTION. Sec. 12. Sections 1 through 8 of this act constitute a new chapter in Title 28C RCW."

Correct the title.

Signed by Representatives Hansen, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Van Werven, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Bergquist; Kraft; Mead; Paul; Pollet; Ramos; Rude; Sells; Slatter and Sutherland.

MINORITY recommendation: Without recommendation. Signed by Representative Young.

Referred to Committee on Appropriations.

March 28, 2019

2SSB 5433 Prime Sponsor, Committee on Ways & Means: Providing postsecondary education opportunities to enhance public safety. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** 2017 c 120 s 1 (uncodified) is amended to read as follows:"

(1) The legislature finds that studies clearly and consistently demonstrate that incarcerated adults who obtain ~~((associate degree))~~ postsecondary education and training are more likely to be employed following release, which leads to a dramatic reduction in recidivism rates, significant improvements in public safety, and a major return on investment. The legislature finds that reducing recidivism would decrease the financial burden to taxpayers and the emotional burden of victims.

(2) The legislature finds that research indicates that ~~((associate degree))~~ postsecondary education and training is an effective evidence-based practice for reducing recidivism. An analysis commissioned by the United States department of justice determined that adults who received such education while incarcerated were forty-three percent less likely to recidivate.

(3) Ninety-five percent of incarcerated adults ultimately return to their communities to obtain employment and contribute to society. The legislature finds that according to the bureau of labor statistics, unemployment rates for people with only a high school education are twice that of those with an associate degree. Research has shown that adults who participated in such education while incarcerated were thirteen percent more likely to be employed.

(4) The legislature further finds that correctional education is cost-effective. A 2014 study by the Washington state institute for public policy estimated that the state received a return on investment of twenty dollars for every dollar invested in correctional education.

(5) It is the intent of the legislature to enhance public safety ~~((by reducing))~~, reduce crime ~~((and increasing))~~, and increase employment rates in a cost-effective manner by ~~((authorizing associate degree))~~ exploring benefits and costs

associated with providing postsecondary education degree opportunities and training ((of)) to incarcerated adults through expanded partnerships between the community and technical colleges and the department of corrections.

~~((The legislature does not intend to provide additional funding to the department of corrections with chapter 120, Laws of 2017 and intends that the department of corrections incorporate associate degree education into its available educational and vocational opportunities for offenders within existing funds set aside for this purpose.))~~ It is the intent of the legislature to support exploring the use of secure internet connections expressly for the purposes of furthering postsecondary education degree opportunities and training of incarcerated adults. The legislature intends for the department to be able to provide complete assurance that all offender-used internet connections are secure.

NEW SECTION. Sec. 2. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of corrections, the state board for community and technical colleges, and the office of the chief information officer shall submit, in compliance with RCW 43.01.036, a report to the governor and the appropriate committees of the legislature by December 1, 2019, including the following:

(a) A plan for implementing secure internet connections to achieve the purposes of this act;

(b) The barriers and costs associated with implementing secure internet connections for the purpose of postsecondary education and training of incarcerated individuals;

(c) A review of the fiscal impacts, including any estimated capital and operating costs associated with expanding current educational opportunities to include providing postsecondary education degree opportunities and training to incarcerated adults through expanded partnerships between the community and technical colleges and the department of corrections;

(d) A plan for implementing the expansion of postsecondary education degree opportunities, specifying the estimated period of time necessary for implementation, within the estimated costs associated with the fiscal impacts reviewed in (c) of this subsection.

(2) The department may conduct a proof of concept pilot at one correctional institution for a new secure internet connection for offender postsecondary education. Results of the proof of concept pilot must be used to inform the report required in subsection (1) of this section.

(3) This section expires December 31, 2019."

Correct the title.

Signed by Representatives Young; Sutherland; Slatter; Sells; Rude; Ramos; Pollet; Paul; Mead; Bergquist; Leavitt, Vice Chair; Entenman, Vice Chair Hansen, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Kraft; Gildon, Assistant Ranking Minority Member Van Werven, Ranking Minority Member.

Referred to Committee on Rules for second reading.

March 28, 2019

E2SSB 5444 Prime Sponsor, Committee on Ways & Means: Providing timely competency evaluations and restoration services to persons suffering from behavioral health disorders within the framework of the forensic mental health care system consistent with the requirements agreed to in the Trueblood settlement agreement. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature recognizes that there has been a nationwide increase in the number of individuals with behavioral health disorders in the criminal justice system. The legislature also recognizes that reforms must be made to our own behavioral health systems and services to meet the increasing demands in our state, to provide timely competency evaluations and restoration services, and to comply with federal court orders issued in *A.B., by and through Trueblood, et al., v. DSHS, et al.*, No. 15-35462 ("Trueblood"). The legislature acknowledges that these reforms will require the support of a broad range of stakeholders, including local law enforcement, prosecuting attorneys, defense attorneys, community members, and health care providers. The legislature further acknowledges the significant efforts of the parties to the Trueblood litigation to establish a roadmap and framework within their settlement agreement for proposed systemic reforms to the forensic mental health care system. It is the intent of the legislature to enact appropriate reforms consistent with the goals agreed to in the Trueblood settlement agreement, to continue to engage with stakeholders and community partners to address the needs of this vulnerable population, and to ensure that the public safety needs of our communities are met.

NEW SECTION. **Sec. 2.** A new section is added to chapter 10.77 RCW to read as follows:

(1) Subject to the limitations described in this section, a court may appoint an impartial forensic navigator employed by or contracted by the department to assist individuals who have been referred for competency evaluation.

(2) A forensic navigator must assist the individual to access services related to diversion and community outpatient competency restoration. The forensic navigator must assist the individual, prosecuting attorney, defense attorney, and the court to understand the options available to the individual and be accountable as an officer of the court

for faithful execution of the responsibilities outlined in this section.

(3) The duties of the forensic navigator include, but are not limited to, the following:

(a) To collect relevant information about the individual, including behavioral health services and supports available to the individual that might support placement in outpatient restoration, diversion, or some combination of these;

(b) To meet with, interview, and observe the individual;

(c) To present information to the court in order to assist the court in understanding the treatment options available to the individual to support the entry of orders for diversion from the forensic mental health system or for community outpatient competency restoration, and to facilitate that transition; and

(d) When the individual is ordered to receive community outpatient restoration, to provide services to the individual including:

(i) Assisting the individual with attending appointments and classes relating to outpatient competency restoration;

(ii) Coordinating access to housing for the individual;

(iii) Meeting with the individual on a regular basis;

(iv) Providing information to the court concerning the individual's progress and compliance with court-ordered conditions of release, which may include appearing at court hearings to provide information to the court;

(v) Coordinating the individual's access to community case management services and mental health services;

(vi) Assisting the individual with obtaining prescribed medication and encouraging adherence with prescribed medication;

(vii) Planning for a coordinated transition of the individual to a case manager in the community behavioral health system;

(viii) Attempting to follow up with the individual to check whether the meeting with a community-based case manager took place;

(ix) When the individual is a high utilizer, attempting to connect the individual with high utilizer services; and

(x) Attempting to check up on the individual at least once per month for up to sixty days after coordinated transition to community behavioral health services, without duplicating the services of the community-based case manager.

(4) Forensic navigators may submit nonclinical recommendations to the court regarding treatment and restoration options for the individual, which the court may consider and weigh in conjunction with the recommendations of all of the parties.

(5) Forensic navigators shall be deemed officers of the court for the purpose of immunity from civil liability.

(6) The signed order for competency evaluation from the court shall serve as authority for the forensic navigator to be given access to all records held by a behavioral health, educational, or law enforcement agency or a correctional facility that relates to an individual.

Information that is protected by state or federal law, including health information, shall not be entered into the court record without the consent of the individual or their defense attorney.

(7) Admissions made by the individual in the course of receiving services from the forensic navigator may not be used against the individual in the prosecution's case in chief.

(8) A court may not issue an order appointing a forensic navigator unless the department certifies that there is adequate forensic navigator capacity to provide these services at the time the order is issued.

**Sec. 3.** RCW 10.31.110 and 2014 c 225 s 57 are each amended to read as follows:

(1) When a police officer has reasonable cause to believe that the individual has committed acts constituting a ~~((nonfelony))~~ crime ~~((that is not a serious offense as identified in RCW 10.77.092))~~, and the individual is known by history or consultation with the behavioral health organization, managed care organization, behavioral health administrative services organization, crisis hotline, or local crisis services providers to suffer from a mental disorder, in addition to existing authority under state law, as an alternative to arrest, the arresting officer ~~((may))~~ is authorized and encouraged to:

(a) Take the individual to a crisis stabilization unit as defined in RCW 71.05.020~~((6))~~. Individuals delivered to a crisis stabilization unit pursuant to this section may be held by the facility for a period of up to twelve hours. The individual must be examined by a mental health professional within three hours of arrival;

(b) Take the individual to a triage facility as defined in RCW 71.05.020. An individual delivered to a triage facility which has elected to operate as an involuntary facility may be held up to a period of twelve hours. The individual must be examined by a mental health professional within three hours of arrival;

(c) Refer the individual to a mental health professional for evaluation for initial detention and proceeding under chapter 71.05 RCW; or

(d) Release the individual upon agreement to voluntary participation in outpatient treatment.

(2) If the individual is released to the community, the mental health provider shall make reasonable efforts to inform the arresting officer of the planned release ~~((within a reasonable period of time after the))~~ prior to release if the arresting officer has specifically requested notification and provided contact information to the provider.

(3) In deciding whether to refer the individual to treatment under this section, the police officer ~~((shall))~~ must be guided by ~~((standards))~~ local law enforcement diversion guidelines for behavioral health developed and mutually agreed upon with the prosecuting authority ~~((, which))~~ with an opportunity for consultation and comment by the defense bar and disability community. These guidelines must address, at a minimum, the length, seriousness, and recency of the known criminal history of the individual, the mental health history of the individual, ~~((where))~~ if available, the opinions of a mental health professional, if available, and the circumstances surrounding the commission of the alleged offense. The guidelines must include a process for clearing

outstanding warrants or referring the individual for assistance in clearing outstanding warrants, if any, and issuing a new court date, if appropriate, without booking or incarcerating the individual or disqualifying him or her from referral to treatment under this section, and define the circumstances under which such action is permissible.

(4) Any agreement to participate in treatment shall not require individuals to stipulate to any of the alleged facts regarding the criminal activity as a prerequisite to participation in a mental health treatment alternative. The agreement is inadmissible in any criminal or civil proceeding. The agreement does not create immunity from prosecution for the alleged criminal activity.

(5) If an individual violates such agreement and the mental health treatment alternative is no longer appropriate:

(a) The mental health provider shall inform the referring law enforcement agency of the violation; and

(b) The original charges may be filed or referred to the prosecutor, as appropriate, and the matter may proceed accordingly.

(6) The police officer is immune from liability for any good faith conduct under this section.

**Sec. 4.** RCW 10.77.086 and 2015 1st sp.s. c 7 s 5 are each amended to read as follows:

(1)(a)(i) If the defendant is charged with a felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, but in any event for a period of no longer than ninety days, the court~~((:~~

~~((A))~~ shall commit the defendant to the custody of the secretary ~~((who shall place such defendant in an appropriate facility of the department for evaluation and treatment; or~~

~~((B))~~ May alternatively order the defendant to undergo evaluation and treatment at some other facility or provider as determined by the department, or under the guidance and control of a professional person. The facilities or providers may include community mental health providers or other local facilities that contract with the department and are willing and able to provide treatment under this section. During the 2015-2017 fiscal biennium, the department may contract with one or more cities or counties to provide competency restoration services in a city or county jail if the city or county jail is willing and able to serve as a location for competency restoration services and if the secretary determines that there is an emergent need for beds and documents the justification, including a plan to address the emergency. Patients receiving competency restoration services in a city or county jail must be physically separated from other populations at the jail and restoration treatment services must be provided as much as possible within a therapeutic environment.) for competency restoration. Based on a recommendation from a forensic navigator and input from the parties, the court may order the defendant to receive inpatient competency restoration or outpatient competency restoration.

(A) To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:

(I) Adhere to medications or receive prescribed intravenous medication; and

(II) Abstain from alcohol and unprescribed drugs.

(B) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration.

(C) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The health care authority must establish conditions of participation in the outpatient competency restoration program which must include the defendant being subject to medication management and regular urinalysis, as clinically appropriate. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

(D) If a defendant fails to comply with the restrictions of the outpatient restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the department shall remove the defendant from the outpatient restoration program and place the defendant instead in an appropriate facility of the department for inpatient competency restoration for no longer than the remaining time period authorized in the original court order, in addition to reasonable time for transport to or from the facility. The department shall notify the court and parties of the change in placement before the close of the next judicial day. The court shall schedule a hearing within five days to review the placement and conditions of release of the defendant and issue appropriate orders. The standard of proof shall be a preponderance of the evidence, and the court may in its discretion render its decision based on written submissions, live testimony, or remote testimony.

(E) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient competency restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

(ii) The ninety day period for ~~((evaluation and treatment))~~ competency restoration under this subsection (1) includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

(b) For a defendant whose highest charge is a class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial period of commitment for competency restoration is forty-five days. The forty-five day period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

(c) If the court determines or the parties agree that the defendant is unlikely to regain competency, the court

may dismiss the charges without prejudice without ordering the defendant to undergo restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in subsection (4) of this section.

(2) On or before expiration of the initial period of commitment under subsection (1) of this section the court shall conduct a hearing, at which it shall determine whether or not the defendant is incompetent.

(3) If the court finds by a preponderance of the evidence that a defendant charged with a felony is incompetent, the court shall have the option of extending the order of commitment or alternative treatment for an additional period of ninety days, but the court must at the time of extension set a date for a prompt hearing to determine the defendant's competency before the expiration of the second restoration period. The defendant, the defendant's attorney, or the prosecutor has the right to demand that the hearing be before a jury. No extension shall be ordered for a second or third restoration period as provided in subsection (4) of this section if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension. The ninety-day period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

(4) For persons charged with a felony, at the hearing upon the expiration of the second restoration period or at the end of the first restoration period in the case of a defendant with a developmental disability, if the jury or court finds that the defendant is incompetent, or if the court or jury at any stage finds that the defendant is incompetent and the court determines that the defendant is unlikely to regain competency, the charges shall be dismissed without prejudice, and the court shall order the defendant be committed to a state hospital as defined in RCW 72.23.010 for up to seventy-two hours starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition under chapter 71.05 RCW. The criminal charges shall not be dismissed if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. In the event that the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months. The six-month period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

**Sec. 5.** RCW 10.77.088 and 2016 sp.s. c 29 s 411 are each amended to read as follows:

(1)~~((a))~~ If the defendant is charged with a nonfelony crime which is a serious offense as identified in RCW 10.77.092 and found by the court to be not competent, then the court:

(a) Shall dismiss the proceedings without prejudice and detain the defendant for sufficient time to allow the

designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW, unless the prosecutor objects to the dismissal and provides notice of a motion for an order for competency restoration, in which case the court shall schedule a hearing within seven days to determine whether to enter an order of competency restoration.

(b) At the hearing, the prosecuting attorney must establish that there is a compelling state interest to order competency restoration treatment for the defendant. The court may consider prior criminal history, prior history in treatment, prior history of violence, the quality and severity of the pending charges, any history that suggests whether or not competency restoration treatment is likely to be successful, in addition to the factors listed under RCW 10.77.092. If the prosecuting attorney proves by a preponderance of the evidence that there is a compelling state interest in ordering competency restoration, then the court shall order competency restoration in accordance with subsection (2)(a) of this section.

(2)(a) If a court finds pursuant to subsection (1)(b) of this section that there is a compelling state interest in pursuing competency restoration treatment, then the court ((+)) shall commit the defendant to the custody of the secretary ((who shall place such defendant in an appropriate facility of the department for evaluation and treatment;

(ii) May alternatively order the defendant to undergo evaluation and treatment at some other facility or provider as determined by the department, or under the guidance and control of a professional person. The facilities or providers may include community mental health providers or other local facilities that contract with the department and are willing and able to provide treatment under this section. During the 2015-2017 fiscal biennium, the department may contract with one or more cities or counties to provide competency restoration services in a city or county jail if the city or county jail is willing and able to serve as a location for competency restoration services and if the secretary determines that there is an emergent need for beds and documents the justification, including a plan to address the emergency. Patients receiving competency restoration services in a city or county jail must be physically separated from other populations at the jail and restoration treatment services must be provided as much as possible within a therapeutic environment.)) for competency restoration. Based on a recommendation from a forensic navigator and input from the parties, the court may order the defendant to receive inpatient competency restoration or outpatient competency restoration.

(i) To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:

(A) Adhere to medications or receive prescribed intravenous medication; and

(B) Abstain from alcohol and unprescribed drugs.

(ii) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration under (b) of this subsection.

(iii) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in

approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The health care authority shall establish conditions of participation in the outpatient competency restoration program which must include the defendant being subject to medication management and regular urinalysis, as clinically appropriate. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

(iv) If a defendant fails to comply with the restrictions of the outpatient competency restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the department shall remove the defendant from the outpatient restoration program and place the defendant instead in an appropriate facility of the department for inpatient competency restoration for no longer than the remaining time period authorized in the original court order, in addition to reasonable time for transport to or from the facility. The department shall notify the court and parties of the change in placement before the close of the next judicial day. The court shall schedule a hearing within five days to review the placement and conditions of release of the defendant and issue appropriate orders. The standard of proof shall be a preponderance of the evidence, and the court may in its discretion render its decision based on written submissions, live testimony, or remote testimony.

(v) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

(b) The placement under (a) ((+ and +)) of this subsection shall not exceed ((fourteen)) twenty-nine days ((in addition to any unused time of the evaluation under RCW 10.77.060. The court shall compute this total period and include its computation in the order. The fourteen-day period plus any unused time of the evaluation under RCW 10.77.060 shall)) if the defendant is ordered to receive inpatient competency restoration, or shall not exceed ninety days if the defendant is ordered to receive outpatient competency restoration. This period must be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility(;

(iii) May alternatively order that the defendant be placed on conditional release for up to ninety days for mental health treatment and restoration of competency; or

(iv) May order any combination of this subsection)).

((b)) (c) If the court has determined or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in ((e)) (d) of this subsection.

~~((e))~~ (d)(i) If the proceedings are dismissed under RCW 10.77.084 and the defendant was on conditional release at the time of dismissal, the court shall order the designated crisis responder within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.

(ii) If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two-hour period.

~~((2))~~ (3) If the defendant is charged with a nonfelony crime that is not a serious offense as defined in RCW 10.77.092:

The court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least twenty-four hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings."

Correct the title.

Signed by Representatives Jinkins, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Goodman; Hansen; Kilduff; Kirby; Orwall; Valdez and Walen.

MINORITY recommendation: Do not pass. Signed by Representatives Klippert and Shea.

Referred to Committee on Appropriations.

March 28, 2019

2SSB 5511 Prime Sponsor, Committee on Ways & Means: Expanding affordable, resilient broadband service to enable economic development, public safety, health care, and education in Washington's communities. Reported by Committee on Innovation, Technology & Economic Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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

(1) Access to broadband is critical to full participation in society and the modern economy;

(2) Increasing broadband access to unserved areas of the state serves a fundamental governmental purpose and function and provides a public benefit to the citizens of

Washington by enabling access to health care, education, and essential services, providing economic opportunities, and enhancing public health and safety;

(3) Achieving affordable and quality broadband access for all Washingtonians will require additional and sustained investment, research, local and community participation, and partnerships between private, public, and nonprofit entities;

(4) The federal communications commission has adopted a national broadband plan that includes recommendations directed to federal, state, and local governments, including recommendations to:

(a) Design policies to ensure robust competition and maximize consumer welfare, innovation, and investment;

(b) Ensure efficient allocation and management of assets that the government controls or influences to encourage network upgrades and competitive entry;

(c) Reform current universal service mechanisms to support deployment in high-cost areas, ensuring that low-income Americans can afford broadband, and supporting efforts to boost adoption and utilization; and

(d) Reform laws, policies, standards, and incentives to maximize the benefits of broadband in sectors that government influences significantly, such as public education, health care, and government operations;

(5) Extensive investments have been made by the telecommunications industry and the public sector, as well as policies and programs adopted to provide affordable broadband services throughout the state, that will provide a foundation to build a comprehensive statewide framework for additional actions needed to advance the state's broadband goals; and

(6) Providing additional funding mechanisms to increase broadband access in unserved areas is in the best interest of the state. To that end, this act establishes a grant and loan program that will support the extension of broadband infrastructure to unserved areas. To ensure this program primarily serves the public interest, the legislature intends that any grant or loan provided to a private entity under this program must be conditioned on a guarantee that the asset or infrastructure to be developed will be maintained for public use for a period of at least fifteen years.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.330 RCW to read as follows:

The definitions in this section apply throughout this section and sections 3 through 6 of this act unless the context clearly requires otherwise.

(1) "Board" means the public works board established in RCW 43.155.030.

(2) "Broadband" or "broadband service" means any service providing advanced telecommunications capability and internet access with transmission speeds that, at a minimum, provide twenty-five megabits per second download and three megabits per second upload.

(3) "Broadband infrastructure" means networks of deployed telecommunications equipment and technologies necessary to provide high-speed internet access and other advanced telecommunications services to end users.

(4) "Department" means the department of commerce.

(5) "Last mile infrastructure" means broadband infrastructure that serves as the final connection from a broadband service provider's network to the end-user customer's on-premises telecommunications equipment.

(6) "Local government" includes cities, towns, counties, municipal corporations, public port districts, public utility districts, quasi-municipal corporations, special purpose districts, and multiparty entities comprised of public entity members.

(7) "Middle mile infrastructure" means broadband infrastructure that links a broadband service provider's core network infrastructure to last mile infrastructure.

(8) "Office" means the governor's statewide broadband office established in section 3 of this act.

(9) "Tribe" means any federally recognized Indian tribe whose traditional lands and territories included parts of Washington.

(10) "Unserved areas" means areas of Washington in which households and businesses lack access to broadband service, as defined by the office, except that the state's definition for broadband service may not be actual speeds less than twenty-five megabits per second download and three megabits per second upload.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The governor's statewide broadband office is established. The director of the office must be appointed by the governor. The office may employ staff necessary to carry out the office's duties as prescribed by this act, subject to the availability of amounts appropriated for this specific purpose.

(2) The purpose of the office is to encourage, foster, develop, and improve affordable, quality broadband within the state in order to:

(a) Drive job creation, promote innovation, improve economic vitality, and expand markets for Washington businesses;

(b) Serve the ongoing and growing needs of Washington's education systems, health care systems, public safety systems, industries and business, governmental operations, and citizens; and

(c) Improve broadband accessibility for unserved communities and populations.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The office has the power and duty to:

(a) Serve as the central broadband planning body for the state of Washington;

(b) Coordinate with local governments, tribes, public and private entities, nonprofit organizations, and consumer-owned and investor-owned utilities to develop strategies and plans promoting deployment of broadband infrastructure and greater broadband access, while protecting proprietary information;

(c) Review existing broadband initiatives, policies, and public and private investments;

(d) Develop, recommend, and implement a statewide plan to encourage cost-effective broadband access

and to make recommendations for increased usage, particularly in rural and other unserved areas;

(e) Update the state's broadband goals and definitions for broadband service in unserved areas as technology advances, except that the state's definition for broadband service may not be actual speeds less than twenty-five megabits per second download and three megabits per second upload; and

(f) Encourage public-private partnerships to increase deployment and adoption of broadband services and applications.

(2) When developing plans or strategies for broadband deployment, the office must consider:

(a) Partnerships between communities, tribes, nonprofit organizations, local governments, consumer-owned and investor-owned utilities, and public and private entities;

(b) Funding opportunities that provide for the coordination of public, private, state, and federal funds for the purposes of making broadband infrastructure or broadband services available to rural and unserved areas of the state;

(c) Barriers to the deployment, adoption, and utilization of broadband service, including affordability of service; and

(d) Requiring minimum broadband service of twenty-five megabits per second download and three megabits per second upload speed, that is scalable to faster service.

(3) The office may assist applicants for the grant and loan program created in section 7 of this act with seeking federal funding or matching grants and other grant opportunities for deploying broadband services.

(4) The office may take all appropriate steps to seek and apply for federal funds for which the office is eligible, and other grants, and accept donations, and must deposit these funds in the statewide broadband account created in section 8 of this act.

(5) In carrying out its purpose, the office may collaborate with the utilities and transportation commission, the office of the chief information officer, the department of commerce, the community economic revitalization board, the public works board, the state librarian, and all other relevant state agencies.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.330 RCW to read as follows:

It is a goal of the state of Washington that:

(1) By 2024, all Washington businesses and residences have access to high-speed broadband that provides minimum download speeds of at least twenty-five megabits per second and minimum upload speeds of at least three megabits per second;

(2) By 2026, all Washington communities have access to at least one gigabit per second symmetrical broadband service at anchor institutions like schools, hospitals, libraries, and government buildings; and

(3) By 2028, all Washington businesses and residences have access to at least one provider of broadband with download speeds of at least one hundred fifty megabits

per second and upload speeds of at least one hundred fifty megabits per second.

**NEW SECTION. Sec. 6.** A new section is added to chapter 43.330 RCW to read as follows:

(1) Beginning January 1, 2021, and biennially thereafter, the office shall report to the legislative committees with jurisdiction over broadband policy and finance on the office's activities during the previous two years.

(2) The report must, at a minimum, contain:

(a) An analysis of the current availability and use of broadband, including average broadband speeds, within the state;

(b) Information gathered from schools, libraries, hospitals, and public safety facilities across the state, determining the actual speed and capacity of broadband currently in use and the need, if any, for increases in speed and capacity to meet current or anticipated needs;

(c) An overview of incumbent broadband infrastructure within the state;

(d) A summary of the office's activities in coordinating broadband infrastructure development with the public works board, including a summary of funds awarded under section 7 of this act;

(e) Suggested policies, incentives, and legislation designed to accelerate the achievement of the goals under section 5 of this act; and

(f) Any proposed legislative and policy initiatives.

**NEW SECTION. Sec. 7.** A new section is added to chapter 43.155 RCW to read as follows:

(1) The board, in collaboration with the office, shall establish a competitive grant and loan program to award funding to eligible applicants in order to promote the expansion of access to broadband service in unserved areas of the state.

(2)(a) Grants and loans may be awarded under this section to assist in funding acquisition, installation, and construction of middle mile and last mile infrastructure that supports broadband services and to assist in funding strategic planning for deploying broadband service in unserved areas.

(b) The board may choose to fund all or part of an application for funding, provided that the application meets the requirements of subsection (9) of this section.

(3) Eligible applicants for grants and loans awarded under this section include:

(a) Local governments;

(b) Tribes;

(c) Nonprofit organizations;

(d) Cooperative associations;

(e) Multiparty entities comprised of public entity members;

(f) Limited liability corporations organized for the purpose of expanding broadband access; and

(g) Incorporated businesses or partnerships.

(4)(a) The board shall develop administrative procedures governing the application and award process. The board shall act as fiscal agent for the program and is

responsible for receiving and reviewing applications and awarding funds under this section.

(b) At least sixty days prior to the first day applications may be submitted each fiscal year, the board must publish on its web site the specific criteria and any quantitative weighting scheme or scoring system that the board will use to evaluate or rank applications and award funding.

(c) The board may maintain separate accounting in the statewide broadband account created in section 8 of this act as the board deems necessary to carry out the purposes of this section.

(d) The board must provide a method for the allocation of loans, grants, provision of technical assistance, and interest rates under this section.

(5) An applicant for a grant or loan under this section must provide the following information on the application:

(a) The location of the project;

(b) Evidence regarding the unserved nature of the community in which the project is to be located;

(c) Evidence that proposed infrastructure will be capable of scaling to greater download and upload speeds;

(d) The number of households passed that will gain access to broadband service as a result of the project or whose broadband service will be upgraded as a result of the project;

(e) The estimated cost of retail services to end users facilitated by a project;

(f) The proposed actual download and upload speeds experienced by end users;

(g) Evidence of significant community institutions that will benefit from the proposed project;

(h) Anticipated economic, educational, health care, or public safety benefits created by the project;

(i) Evidence of community support for the project;

(j) If available, a description of the applicant's user adoption assistance program and efforts to promote the use of newly available broadband services created by the project;

(k) The estimated total cost of the project;

(l) Other sources of funding for the project that will supplement any grant or loan award;

(m) A demonstration of the project's long-term sustainability, including the applicant's financial soundness, organizational capacity, and technical expertise;

(n) A strategic plan to maintain long-term operation of the infrastructure;

(o) Evidence that no later than six weeks before submission of the application, the applicant contacted, in writing, all entities providing broadband service near the proposed project area to ask each broadband service provider's plan to upgrade broadband service in the project area to speeds that meet or exceed the state's definition for broadband service as defined in section 2 of this act, within the time frame specified in the proposed grant or loan activities;

(p) If applicable, the broadband service providers' written responses to the inquiry made under (o) of this subsection; and

(q) Any additional information requested by the board.

(6)(a) Within thirty days of the close of the grant and loan application process, the board shall publish on its web

site the proposed geographic broadband service area and the proposed broadband speeds for each application submitted.

(b) Any existing broadband service provider near the proposed project area may, within thirty days of publication of the information under (a) of this subsection, submit in writing to the board an objection to an application. An objection must contain information demonstrating that:

(i) The project would result in overbuild, meaning that the objecting provider currently provides, or has begun construction to provide, broadband service to end users in the proposed project area at speeds equal to or greater than the state speed goals contained in section 5 of this act; or

(ii) The objecting provider commits to complete construction of broadband infrastructure and provide broadband service to end users in the proposed project area at speeds equal to or greater than the state speed goals contained in section 5 of this act, no later than twenty-four months after the date awards are made under this section for the grant and loan cycle under which the application was submitted.

(c) Objections submitted to the board under this subsection must be certified by affidavit.

(d) The board may evaluate the information submitted under this section by the objecting provider and must consider it in making a determination on the application objected to. The board may request clarification or additional information. The board may choose to not fund a project if the board determines that the objecting provider's commitment to provide broadband service that meets the requirements of (b) of this subsection in the proposed project area is credible. In assessing the commitment, the board may consider whether the objecting provider has or will provide a bond, letter of credit, or other indicia of financial commitment guaranteeing the project's completion.

(e) If the board denies funding to an applicant as a result of a broadband service provider's objection made under this section, and the broadband service provider does not fulfill its commitment to provide broadband service in the project area, then for the following two grant and loan cycles, the board is prohibited from denying funding to an applicant on the basis of a challenge by the same broadband service provider, unless the board determines that the broadband service provider's failure to fulfill the provider's commitment was the result of factors beyond the broadband service provider's control. The board is not prohibited from denying funding to an applicant for reasons other than an objection by the same broadband service provider.

(f) An applicant or broadband service provider that objected to the application may request a debriefing conference regarding the board's decision on the application. Requests for debriefing must be coordinated by the office and must be submitted in writing in accordance with procedures specified by the office.

(g) Confidential business and financial information submitted by an objecting provider under this subsection is exempt from disclosure under chapter 42.56 RCW.

(7)(a) In evaluating applications and awarding funds, the board shall give priority to applications that are constructed in areas identified as unserved.

(b) In evaluating applications and awarding funds, the board may give priority to applications that:

(i) Provide assistance to public-private partnerships deploying broadband infrastructure from areas currently served with broadband service to areas currently lacking access to broadband services;

(ii) Demonstrate project readiness to proceed;

(iii) Construct infrastructure that is open access, meaning that during the useful life of the infrastructure, service providers may use network services and facilities at rates, terms, and conditions that are not discriminatory or preferential between providers, and employing accountable interconnection arrangements published and available publicly;

(iv) Are submitted by tribal governments whose reservations are in rural and remote areas where reliable and efficient broadband services are unavailable to many or most residents;

(v) Bring broadband service to tribal lands, particularly to rural and remote tribal lands or areas servicing rural and remote tribal entities;

(vi) Are submitted by tribal governments in rural and remote areas that have spent significant amounts of tribal funds to address the problem but cannot provide necessary broadband services without either additional state support, additional federal support, or both;

(vii) Serve economically distressed areas of the state as the term "distressed area" is defined in RCW 43.168.020;

(viii) Offer new or substantially upgraded broadband service to important community anchor institutions including, but not limited to, libraries, educational institutions, public safety facilities, and health care facilities;

(ix) Facilitate the use of telemedicine and electronic health records, especially in deliverance of behavioral health services and services to veterans;

(x) Provide technical support and train residents, businesses, and institutions in the community served by the project to utilize broadband service;

(xi) Include a component to actively promote the adoption of newly available broadband services in the community;

(xii) Provide evidence of strong support for the project from citizens, government, businesses, and community institutions;

(xiii) Provide access to broadband service to a greater number of unserved households and businesses, including farms;

(xiv) Utilize equipment and technology demonstrating greater longevity of service;

(xv) Seek the lowest amount of state investment per new location served and leverage greater amounts of funding for the project from other private and public sources;

(xvi) Include evidence of a customer service plan;

(xvii) Consider leveraging existing broadband infrastructure and other unique solutions;

(xviii) Benefit public safety and fire preparedness;

or

(xix) Demonstrate other priorities as the board, in collaboration with the office, may prescribe by rule.

(c) The board shall endeavor to award funds under this section to qualified applicants in all regions of the state.

(d) The board shall consider affordability and quality of service to end users in making a determination on any application.

(e) The board, in collaboration with the office, may develop additional rules for eligibility, project applications, the associated objection process, and funding priority, as provided under this subsection and subsections (3), (5), and (6) of this section.

(f) The board, in collaboration with the office, may adopt rules for a voluntary nonbinding mediation between incumbent providers and applicants to the grant and loan program created in this section.

(8) To ensure a grant or loan to a private entity under this section primarily serves the public interest and benefits the public, any such grant or loan must be conditioned on a guarantee that the asset or infrastructure to be developed will be maintained for public use for a period of at least fifteen years.

(9)(a) No funds awarded under this section may fund more than fifty percent of the total cost of the project, except as provided in (b) of this subsection.

(b) The board may choose to fund up to ninety percent of the total cost of a project in financially distressed areas as the term "distressed area" is defined in RCW 43.168.020, and in areas identified as Indian country as the term "Indian country" is defined in WAC 458-20-192.

(c) Funds awarded to a single project under this section must not exceed two million dollars, except that the board may choose to fund projects qualifying for the exception in (b) of this subsection up to, but not to exceed, five million dollars.

(10) Prior to awarding funds under this section, the board must consult with the Washington utilities and transportation commission. The commission must provide to the board an assessment of the economic and technical feasibility of a proposed application. The board must consider the commission's assessment as part of its evaluation of a proposed application.

(11) The board shall have such rights of recovery in the event of default in payment or other breach of financing agreement as may be provided in the agreement or otherwise by law.

(12) The community economic revitalization board shall facilitate the timely transmission of information and documents from its broadband program to the board in order to effectuate an orderly transition.

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

**NEW SECTION. Sec. 8.** A new section is added to chapter 43.155 RCW to read as follows:

(1) The statewide broadband account is created in the state treasury. Moneys received from appropriations by the legislature, the proceeds of bond sales when authorized by the legislature, repayment of loans, or any other lawful source must be deposited into the account for uses consistent with this section. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may be used only:

(a) For grant and loan awards made under section 7 of this act, including costs incurred by the board to administer section 7 of this act;

(b) To contract for data acquisition, a statewide broadband demand assessment, or gap analysis;

(c) To supplement revenues raised by bonds sold by local governments for broadband infrastructure development; or

(d) To provide for state match requirements under federal law.

(3) The board must maintain separate accounting for any federal funds in the account.

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

**Sec. 9.** RCW 54.16.330 and 2004 c 158 s 1 are each amended to read as follows:

(1)(a) A public utility district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or without the district's limits for the following purposes:

~~((a))~~ (i) For the district's internal telecommunications needs; ~~(and~~

~~(b))~~ (ii) For the provision of wholesale telecommunications services within the district and by contract with another public utility district.

(b) Except as provided in subsection (8) of this section, nothing in this ((subsection)) section shall be construed to authorize public utility districts to provide telecommunications services to end users.

(2) A public utility district providing wholesale or retail telecommunications services shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a public utility district offering rates, terms, and conditions to an entity for wholesale or retail telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

(3) A public utility district providing wholesale or retail telecommunications services shall not be required to, but may, establish a separate utility system or function for such purpose. In either case, a public utility district providing wholesale or retail telecommunications services shall separately account for any revenues and expenditures for those services according to standards established by the state auditor pursuant to its authority in chapter 43.09 RCW and consistent with the provisions of this title. Any revenues received from the provision of wholesale or retail telecommunications services must be dedicated to costs incurred to build and maintain any telecommunications facilities constructed, installed, or acquired to provide such services, including payments on debt issued to finance such services, until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance such telecommunications facilities are discharged or retired.

(4) When a public utility district provides wholesale or retail telecommunications services, all telecommunications services rendered to the district for the district's internal telecommunications needs shall be

allocated or charged at its true and full value. A public utility district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale or retail telecommunications services.

(5) If a person or entity receiving retail telecommunications services from a public utility district under this section has a complaint regarding the reasonableness of the rates, terms, conditions, or services provided, the person or entity may file a complaint with the district commission.

(6) A public utility district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights held by any other person or entity to telecommunications facilities.

~~((6))~~ (7) Except as otherwise specifically provided, a public utility district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a public utility district under this title.

(8)(a) If an internet service provider operating on telecommunications facilities of a public utility district that provides wholesale telecommunications services but does not provide retail telecommunications services, ceases to provide access to the internet to its end-use customers, and no other retail service providers are willing to provide service, the public utility district may provide retail telecommunications services to the end-use customers of the defunct internet service provider in order for end-use customers to maintain access to the internet until a replacement internet service provider is, or providers are, in operation.

(b) Within thirty days of an internet service provider ceasing to provide access to the internet, the public utility district must initiate a process to find a replacement internet service provider or providers to resume providing access to the internet using telecommunications facilities of a public utility district.

(c) For a maximum period of five months, following initiation of the process begun in (b) of this section, or, if earlier than five months, until a replacement internet service provider is, or providers are, in operation, the district commission may establish a rate for providing access to the internet and charge customers to cover expenses necessary to provide access to the internet.

(9) The tax treatment of the retail telecommunications services provided by a public utility district to the end-use customers during the period specified in subsection (8) of this section must be the same as if those retail telecommunications services were provided by the defunct internet service provider.

**Sec. 10.** RCW 53.08.370 and 2018 c 169 s 2 are each amended to read as follows:

(1) A port district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or without the district's limits for the following purposes:

(a) For the district's own use; and

(b) For the provision of wholesale telecommunications services within or without the district's limits. Nothing in this subsection shall be construed to authorize port districts to provide telecommunications services to end users.

(2) Except as provided in subsection (9) of this section, a port district providing wholesale telecommunications services under this section shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a port district offering such rates, terms, and conditions to an entity for wholesale telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

(3) When a port district establishes a separate utility function for the provision of wholesale telecommunications services, it shall account for any and all revenues and expenditures related to its wholesale telecommunications facilities and services separately from revenues and expenditures related to its internal telecommunications operations. Any revenues received from the provision of wholesale telecommunications services must be dedicated to the utility function that includes the provision of wholesale telecommunications services for costs incurred to build and maintain the telecommunications facilities until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance the telecommunications facilities are discharged or retired.

(4) When a port district establishes a separate utility function for the provision of wholesale telecommunications services, all telecommunications services rendered by the separate function to the district for the district's internal telecommunications needs shall be charged at its true and full value. A port district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale telecommunications services.

(5) A port district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights held by any other person or entity to telecommunications facilities.

(6) Except as otherwise specifically provided, a port district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a port district under this title.

(7) A port district that has not exercised the authorities provided in this section prior to June 7, 2018, must develop a business case plan before exercising the authorities provided in this section. The port district must procure an independent qualified consultant to review the business case plan, including the use of public funds in the provision of wholesale telecommunications services. Any recommendations or adjustments to the business case plan made during third-party review must be received and either rejected or accepted by the port commission in an open meeting.

(8) A port district with telecommunications facilities for use in the provision of wholesale telecommunications in accordance with subsection (1)(b) of this section may be subject to local leasehold excise taxes under RCW 82.29A.040.

(9)(a) A port district under this section may select a telecommunications company to operate all or a portion of the port district's telecommunications facilities.

(b) For the purposes of this section "telecommunications company" means any for-profit entity owned by investors that sells telecommunications services to end users.

(c) Nothing in this subsection (9) is intended to limit or otherwise restrict any other authority provided by law.

**Sec. 11.** RCW 80.36.630 and 2013 2nd sp.s. c 8 s 202 are each amended to read as follows:

(1) The definitions in this section apply throughout this section and RCW 80.36.650 through 80.36.690 and 80.36.610 unless the context clearly requires otherwise.

(a) "Basic residential service" means those services set out in 47 C.F.R. Sec. 54.101(a) (2011), as it existed on the effective date of this section, and mandatory extended area service approved by the commission.

(b) "Basic telecommunications services" means the following services:

- (i) Single-party service;
- (ii) Voice grade access to the public switched network;
- (iii) Support for local usage;
- (iv) Dual tone multifrequency signaling (touch-tone);
- (v) Access to emergency services (911);
- (vi) Access to operator services;
- (vii) Access to interexchange services;
- (viii) Access to directory assistance; and
- (ix) Toll limitation services.

(c) "Broadband service" means any service providing advanced telecommunications capability, including internet access and access to high quality voice, data, graphics, or video.

(d) "Communications provider" means a provider of communications services that assigns a working telephone number to a final consumer for intrastate wireline or wireless communications services or interconnected voice over internet protocol service, and includes local exchange carriers.

~~((d))~~ (e) "Communications services" includes telecommunications services and information services and any combination thereof.

~~((e))~~ (f) "Incumbent local exchange carrier" has the same meaning as set forth in 47 U.S.C. Sec. 251(h).

~~((f))~~ (g) "Incumbent public network" means the network established by incumbent local exchange carriers for the delivery of communications services to customers that is used by communications providers for origination or termination of communications services by or to customers.

~~((g))~~ (h) "Interconnected voice over internet protocol service" means an interconnected voice over internet protocol service that: ~~((a)-(i))~~ (i) Enables real-time, two-way voice communications; ~~((b)-(ii))~~ (ii)

requires a broadband connection from the user's location; ~~((e)-(iii))~~ (iii) requires internet protocol-compatible customer premises equipment; and ~~((d)-(iv))~~ (iv) permits users generally to receive calls that originate on the public network and to terminate calls to the public network.

~~((h))~~ (i) "Program" means the state universal communications services program created in RCW 80.36.650.

~~((i))~~ (j) "Telecommunications" has the same meaning as defined in 47 U.S.C. Sec. 153(43).

~~((j))~~ (k) "Telecommunications act of 1996" means the telecommunications act of 1996 (P.L. 104-104, 110 Stat. 56).

~~((k) "Working telephone number" means a north American numbering plan telephone number, or successor dialing protocol, that is developed for use in placing calls to or from the public network, that enables a consumer to make or receive calls.)~~

(2) This section expires July 1, ~~((2020))~~ 2025.

**Sec. 12.** RCW 80.36.650 and 2016 c 145 s 1 are each amended to read as follows:

(1) A state universal communications services program is established. The program is established to protect public safety and welfare under the authority of the state to regulate telecommunications under Article XII, section 19 of the state Constitution. The purpose of the program is to support continued provision of basic telecommunications services under rates, terms, and conditions established by the commission ~~((during the time over which incumbent communications providers in the state are adapting to changes in federal universal service fund and intercarrier compensation support))~~ and the provision, enhancement, and maintenance of broadband services, recognizing that, historically, the incumbent public network functions to provide all communications services including, but not limited to, voice and broadband services.

(2) Under the program, eligible communications providers may receive distributions from the universal communications services account created in RCW 80.36.690 in exchange for the affirmative agreement to provide continued telecommunications services under the rates, terms, and conditions established by the commission under this chapter, and broadband services, for the period covered by the distribution. The commission must implement and administer the program under terms and conditions established in RCW 80.36.630 through 80.36.690. Expenditures for the program may not exceed five million dollars per fiscal year; provided, however, that if less than five million dollars is expended in any fiscal year, the unexpended portion must be carried over to subsequent fiscal years and, unless fully expended, must be available for program expenditures in such subsequent fiscal years in addition to the five million dollars allotted for each of those subsequent fiscal years.

(3) A communications provider is eligible to receive distributions from the account if:

(a)(i) The communications provider is: ~~((h))~~ (A) An incumbent local exchange carrier serving fewer than forty thousand access lines in the state; or ~~((i))~~ (B) a radio communications service company providing wireless two-

way voice communications service and broadband services to less than the equivalent of forty thousand access lines in the state. For purposes of determining the access line threshold in this subsection, the access lines or equivalents of all wireline affiliates must be counted as a single threshold, if the lines or equivalents are located in Washington;

~~((b))~~ ~~(ii)~~ ~~The ((customers of the communications provider are at risk of rate instability or service interruptions or cessations absent a distribution to the provider that will allow the provider to maintain rates reasonably close to the benchmark))~~ communications provider has adopted a plan to provide, enhance, or maintain broadband services in its service area; and

~~((c))~~ ~~(iii)~~ ~~The communications provider meets any other requirements established by the commission pertaining to the provision of communications services, including basic telecommunications services; or~~

(b) The communications provider demonstrates to the commission that the communications provider is able to provide the same or comparable services at the same or similar service quality standards at a lower price; and: (i) Will provide communications services to all customers in the exchange or exchanges in which it will provide service; and (ii) submits to the commission's regulation of its service as if it were the incumbent local exchange company serving the exchange or exchanges for which it seeks distribution from the account.

(4)(a) Distributions to eligible communications providers are based on ~~((a benchmark))~~ criteria established by the commission. ~~((The benchmark is the rate the commission determines to be a reasonable amount customers should pay for basic residential service provided over the incumbent public network. However, if an incumbent local exchange carrier is charging rates above the benchmark for the basic residential service, that provider may not seek distributions from the fund for the purpose of reducing those rates to the benchmark.))~~

(b) If the program does not have sufficient funds to fully fund the distribution formula set out in (a) of this subsection, distributions must be reduced on a pro rata basis using the amounts calculated for that year's program support as the basis of the pro rata calculations.

(c) To receive a distribution under the program, an eligible communications provider must affirmatively consent to continue providing communications services to its customers under rates, terms, and conditions established by the commission pursuant to this chapter for the period covered by the distribution.

(5) The program is funded from amounts deposited by the legislature in the universal communications services account established in RCW 80.36.690. The commission must operate the program within amounts appropriated for this purpose and deposited in the account.

(6) The commission must periodically review the accounts and records of any communications provider that receives distributions under the program to ensure compliance with the program and monitor the providers' use of the funds.

(7) The commission must establish an advisory board, consisting of a reasonable balance of representatives from different types of stakeholders, including but not

limited to communications providers and consumers, to advise the commission on any rules and policies governing the operation of the program.

(8) The program terminates on June 30, ~~((2019))~~ 2024, and no distributions may be made after that date.

(9) This section expires July 1, ~~((2020))~~ 2025.

**Sec. 13.** RCW 80.36.660 and 2013 2nd sp.s. c 8 s 204 are each amended to read as follows:

(1) To implement the program, the commission must adopt rules for the following purposes:

(a) Operation of the program, including criteria for: Eligibility for distributions; use of the funds; identification of any reports or data that must be filed with the commission, including, but not limited to, how a communication provider used the distributed funds; and the communications provider's infrastructure;

(b) Operation of the universal communications services account established in RCW 80.36.690;

(c) Establishment of the ~~((benchmark))~~ criteria used to calculate distributions; and

(d) Readoption, amendment, or repeal of any existing rules adopted pursuant to RCW 80.36.610 ~~((and 80.36.620))~~ as necessary to be consistent with RCW 80.36.630 through 80.36.690 and 80.36.610.

(2) This section expires July 1, ~~((2020))~~ 2025.

**Sec. 14.** RCW 80.36.670 and 2013 2nd sp.s. c 8 s 205 are each amended to read as follows:

(1) In addition to any other penalties prescribed by law, the commission may impose penalties for failure to make or delays in making or filing any reports required by the commission for administration of the program. In addition, the commission may recover amounts determined to have been improperly distributed under RCW 80.36.650. For the purposes of this section, the provisions of RCW 80.04.380 through 80.04.405, inclusive, apply to all companies that receive support from the universal communications services account created in RCW 80.36.690.

(2) Any action taken under this section must be taken only after providing the affected communications provider with notice and an opportunity for a hearing, unless otherwise provided by law.

(3) Any amounts recovered under this section must be deposited in the universal communications services account created in RCW 80.36.690.

(4) This section expires July 1, ~~((2020))~~ 2025.

**Sec. 15.** RCW 80.36.680 and 2013 2nd sp.s. c 8 s 206 are each amended to read as follows:

(1) The commission may delegate to the commission secretary or other staff the authority to resolve disputes and make other administrative decisions necessary to the administration and supervision of the program consistent with the relevant statutes and commission rules.

(2) This section expires July 1, ~~((2020))~~ 2025.

**Sec. 16.** RCW 80.36.690 and 2013 2nd sp.s. c 8 s 208 are each amended to read as follows:

(1) The universal communications services account is created in the custody of the state treasurer. Revenues to the account consist of moneys deposited in the account by the legislature and any penalties or other recoveries received pursuant to RCW 80.36.670. Expenditures from the account may be used only for the purposes of the universal communications services program established in RCW 80.36.650 and commission expenses related to implementation and administration of the provisions of RCW 80.36.630 through 80.36.690 and section 212, chapter 8, Laws of 2013 2nd sp. sess. Only the secretary of the commission or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) This section expires July 1, (~~2020~~) 2025.

**Sec. 17.** RCW 80.36.700 and 2013 2nd sp.s. c 8 s 211 are each amended to read as follows:

(1) The universal communications services program established in RCW 80.36.630 through 80.36.690 terminates on June 30, (~~2019~~) 2024.

(2) This section expires July 1, (~~2020~~) 2025.

**Sec. 18.** 2013 2nd sp.s. c 8 s 212 (uncodified) is amended to read as follows:

(1) By December 1, (~~2017~~) 2024, and in compliance with RCW 43.01.036, the Washington utilities and transportation commission (~~must~~) may report to the appropriate committees of the legislature, on the following: (~~(1)~~) (a) Whether funding levels for each small telecommunications company have been adequate to maintain reliable universal service; (~~(2)~~) (b) the future impacts on small telecommunications companies from the elimination of funding under this act; (~~(3)~~) (c) the impacts on customer rates from the current level of funding and the future impacts when the funding terminates under this act; and (~~(4)~~) (d) the impacts on line and service delivery investments when the funding is terminated under this act. The report may also include an analysis of the need for future program funding and recommendations on potential funding mechanisms to improve the availability of communications services, including broadband service, in unserved areas. Commission expenses related to conducting all analysis in preparation of this report must be expended from the universal communications services account.

(2) The Washington utilities and transportation commission must initiate a rule making to reform the state universal communications services program no later than ninety days following the effective date of this section. The rule making must address adding broadband as a supported service and, consistent with the size of the fund, establishing:

(a) Broadband provider eligibility;

(b) Service performance and buildout requirements for funding recipients;

(c) Support amounts for maintaining systems that meet federal or state broadband speed guidelines; and

(d) Methods to effectively and efficiently distribute program support to eligible providers.

**Sec. 19.** RCW 43.84.092 and 2018 c 287 s 7, 2018 c 275 s 10, and 2018 c 203 s 14 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 aircraft search and rescue 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 Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin 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 licensing tuition recovery trust fund, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving 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 high capacity transportation account,)) the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund 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 mobile home park relocation fund, 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 natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance 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 beginning July 1, 2004, 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 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 employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled

trust fund accounts, the state patrol highway 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 student achievement council tuition recovery trust fund, 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 tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, 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 health insurance pool 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, the state university permanent fund, and the state reclamation revolving account 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. 20.** 2013 2nd sp.s. c 8 s 303 (uncodified) is amended to read as follows:

Section 209 of this act expires July 1, ((2020)) 2025.

NEW SECTION. **Sec. 21.** The following acts or parts of acts are each repealed:

(1)RCW 43.330.415 (Washington community technology opportunity account) and 2011 1st sp.s. c 43 s 608, 2009 c 509 s 8, & 2008 c 262 s 8;

(2)RCW 43.330.418 (Broadband deployment and adoption—Governor's actions—Oversight and implementation by the department) and 2011 1st sp.s. c 43 s 609 & 2009 c 509 s 9; and

(3)RCW 80.36.620 (Universal service program—Rules) and 1998 c 337 s 3.

NEW SECTION. **Sec. 22.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 23.** Sections 11 through 18 and 20 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. **Sec. 24.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Hudgins, Chair; Kloba, Vice Chair; Smith, Ranking Minority Member; Boehnke, Assistant Ranking Minority Member; Morris; Slatter; Tarleton; Van Werven and Wylie.

Referred to Committee on Capital Budget.

March 28, 2019

ESSB 5600 Prime Sponsor, Committee on Housing Stability & Affordability: Concerning residential tenant protections. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** It is declared to be the public policy of the state and a recognized governmental function to assist residents who are experiencing a temporary crisis in retaining stable housing, and by so doing to contribute to the general welfare. Decent housing for the people of Washington state is a most important public concern. Washington has rental vacancy rates that are among the nation's lowest, and the associated escalation of rents and scarcity of housing supply have made it difficult for many

Washingtonians to obtain stable housing, especially if they lose housing after experiencing an extraordinary life event that temporarily leaves them without resources and income. It is the long-standing practice of the state to make rental assistance available in many such urgent situations, and it is the intent of the legislature to provide a payment on the tenant's behalf to the landlord in certain eviction proceedings to give the tenant additional time to access resources that allow the tenant to stay in their home.

**Sec. 2.** RCW 59.12.030 and 1998 c 276 s 6 are each amended to read as follows:

A tenant of real property for a term less than life is ~~((guilty of))~~ liable for unlawful detainer either:

(1) When he or she holds over or continues in possession, in person or by subtenant, of the property or any part thereof after the expiration of the term for which it is let to him or her. When real property is leased for a specified term or period by express or implied contract, whether written or oral, the tenancy shall be terminated without notice at the expiration of the specified term or period;

(2) When he or she, having leased property for an indefinite time with monthly or other periodic rent reserved, continues in possession thereof, in person or by subtenant, after the end of any such month or period, when the landlord, more than twenty days prior to the end of such month or period, has served notice (in manner in RCW 59.12.040 provided) requiring him or her to quit the premises at the expiration of such month or period;

(3) When he or she continues in possession in person or by subtenant after a default in the payment of rent, and after notice in writing requiring in the alternative the payment of the rent or the surrender of the detained premises, served (in manner in RCW 59.12.040 provided) ~~((#))~~ on behalf of the person entitled to the rent upon the person owing it, has remained uncomplied with for the period of three days after service ~~((thereof)), or for the period of fourteen days after service for tenancies under chapter 59.18 RCW.~~ The notice may be served at any time after the rent becomes due. For the purposes of this subsection and as applied to tenancies under chapter 59.18 RCW, "rent" has the same meaning as defined in RCW 59.18.030;

(4) When he or she continues in possession in person or by subtenant after a neglect or failure to keep or perform any ~~((other))~~ condition or covenant of the lease or agreement under which the property is held, including any covenant not to assign or sublet, other than one for the payment of rent, and after notice in writing requiring in the alternative the performance of such condition or covenant or the surrender of the property, served (in manner in RCW 59.12.040 provided) upon him or her, and if there is a subtenant in actual possession of the premises, also upon such subtenant, shall remain uncomplied with for ten days after service thereof. Within ten days after the service of such notice the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform such condition or covenant and thereby save the lease from such forfeiture. For the purposes of this subsection and as applied to tenancies under chapter 59.18 RCW, "rent" has the same meaning as defined in RCW 59.18.030;

(5) When he or she commits or permits waste upon the demised premises, or when he or she sets up or carries on thereon any unlawful business, or when he or she erects, suffers, permits, or maintains on or about the premises any nuisance, and remains in possession after the service (in manner in RCW 59.12.040 provided) upon him or her of three days' notice to quit;

(6) A person who, without the permission of the owner and without having color of title thereto, enters upon land of another and who fails or refuses to remove therefrom after three days' notice, in writing and served upon him or her in the manner provided in RCW 59.12.040. Such person may also be subject to the criminal provisions of chapter 9A.52 RCW; or

(7) When he or she commits or permits any gang-related activity at the premises as prohibited by RCW 59.18.130.

**NEW SECTION. Sec. 3.** A new section is added to chapter 59.18 RCW to read as follows:

(1) Every fourteen-day notice served pursuant to RCW 59.12.030(3) must be in substantially the following form:

**"FOURTEEN-DAY NOTICE TO PAY RENT OR VACATE THE PREMISES**

You are receiving the attached 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 by cash, cashier's check, money order, or certified funds.**

You must pay the total amount due to your landlord within fourteen (14) days after receipt 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 receipt 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 on its web site. 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, call 2-1-1 to learn about these services.**

**State law 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) The form required in this section does not abrogate any additional notice requirements to tenants as required by federal, state, or local law.

**NEW SECTION. Sec. 4.** A new section is added to chapter 59.18 RCW to read as follows:

(1) The office of the attorney general shall produce and maintain on its web site translated versions of the notice under section 3 of this act in the top ten languages spoken in Washington state and, at the discretion of the office of the attorney general, other languages. The notice must be made available upon request in printed form on one letter size paper, eight and one-half by eleven inches, and in an easily readable font size.

(2) The office of the attorney general shall also provide on its web site information on where tenants can access legal or advocacy resources, including information on any immigrant and cultural organizations where tenants can receive assistance in their primary language.

(3) The office of the attorney general may also produce and maintain on its web site translated versions of common notices used in unlawful detainer actions, including those relevant to subsidized tenancies, low-income housing tax credit programs, or the federal violence against women act.

**Sec. 5.** RCW 59.18.030 and 2016 c 66 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Certificate of inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of RCW 9A.72.085 by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under RCW 59.18.060 that endangers or impairs the health or safety of a tenant, including (a) structural members that are of insufficient size or strength to carry imposed loads with safety, (b) exposure of the occupants to the weather, (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (d) not providing facilities adequate to supply heat and water and hot water as reasonably required by the tenant, (e) providing heating or ventilation systems that are not functional or are hazardous, (f) defective, hazardous, or missing electrical wiring or electrical service, (g) defective or hazardous exits that increase the risk of injury to occupants, and (h) conditions that increase the risk of fire.

(2) "Commercially reasonable manner," with respect to a sale of a deceased tenant's personal property, means a sale where every aspect of the sale, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a landlord may sell

the tenant's property by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) "Comprehensive reusable tenant screening report" means a tenant screening report prepared by a consumer reporting agency at the direction of and paid for by the prospective tenant and made available directly to a prospective landlord at no charge, which contains all of the following: (a) A consumer credit report prepared by a consumer reporting agency within the past thirty days; (b) the prospective tenant's criminal history; (c) the prospective tenant's eviction history; (d) an employment verification; and (e) the prospective tenant's address and rental history.

(4) "Criminal history" means a report containing or summarizing (a) the prospective tenant's criminal convictions and pending cases, the final disposition of which antedates the report by no more than seven years, and (b) the results of a sex offender registry and United States department of the treasury's office of foreign assets control search, all based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(5) "Designated person" means a person designated by the tenant under RCW 59.18.590.

(6) "Distressed home" has the same meaning as in RCW 61.34.020.

(7) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(8) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(9) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes.

(10) "Eviction history" means a report containing or summarizing the contents of any records of unlawful detainer actions concerning the prospective tenant that are reportable in accordance with state law, are lawful for landlords to consider, and are obtained after a search based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(11) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(12) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

(13) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming

four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed property conveyance.

(14) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

(15) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(16) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(17) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(18) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(19) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(20) "Prospective landlord" means a landlord or a person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(21) "Prospective tenant" means a tenant or a person who has applied for residential housing that is governed under this chapter.

(22) "Qualified inspector" means a United States department of housing and urban development certified inspector; a Washington state licensed home inspector; an American society of home inspectors certified inspector; a private inspector certified by the national association of housing and redevelopment officials, the American association of code enforcement, or other comparable professional association as approved by the local municipality; a municipal code enforcement officer; a Washington licensed structural engineer; or a Washington licensed architect.

(23) "Reasonable attorneys' fees," where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee

customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

(24) "Reasonable manner," with respect to disposing of a deceased tenant's personal property, means to dispose of the property by donation to a not-for-profit charitable organization, by removal of the property by a trash hauler or recycler, or by any other method that is reasonable under the circumstances.

(25) "Rent" or "rental amount" means recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises, which may include charges for utilities. These terms do not include nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys' fees.

(26) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

~~((26))~~ (27) A "single-family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single-family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

~~((27))~~ (28) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

~~((28))~~ (29) "Tenant representative" means:

(a) A personal representative of a deceased tenant's estate if known to the landlord;

(b) If the landlord has no knowledge that a personal representative has been appointed for the deceased tenant's estate, a person claiming to be a successor of the deceased tenant who has provided the landlord with proof of death and an affidavit made by the person that meets the requirements of RCW 11.62.010(2);

(c) In the absence of a personal representative under (a) of this subsection or a person claiming to be a successor under (b) of this subsection, a designated person; or

(d) In the absence of a personal representative under (a) of this subsection, a person claiming to be a successor under (b) of this subsection, or a designated person under (c) of this subsection, any person who provides the landlord with reasonable evidence that he or she is a successor of the deceased tenant as defined in RCW 11.62.005. The landlord has no obligation to identify all of the deceased tenant's successors.

~~((29))~~ (30) "Tenant screening" means using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.

~~((30))~~ (31) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service.

NEW SECTION. Sec. 6. A new section is added to chapter 59.18 RCW to read as follows:

Under this chapter:

(1) A landlord must first apply any payment made by a tenant toward rent before applying any payment toward late payments, damages, legal costs, or other fees, including attorneys' fees.

(2) Except as provided in RCW 59.18.410, the tenant's right to possession of the premises may not be conditioned on a tenant's payment or satisfaction of any monetary amount other than rent. However, this does not foreclose a landlord from pursuing other lawful remedies to collect late payments, legal costs, or other fees, including attorneys' fees.

**Sec. 7.** RCW 59.18.410 and 2011 c 132 s 20 are each amended to read as follows:

(1) If ~~((upon the))~~ at trial the verdict of the jury or, if the case ~~((be))~~ is tried without a jury, the finding of the court ~~((be))~~ is in favor of the ~~((plaintiff))~~ landlord and against the ~~((defendant))~~ tenant, judgment shall be entered for the restitution of the premises; and if the proceeding ~~((be))~~ 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 ~~((be))~~ are tried without a jury, shall also assess the damages arising out of the tenancy occasioned to the ~~((plaintiff))~~ landlord by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved ~~((on the))~~ at trial, and, if the alleged unlawful detainer ~~((be after))~~ is based on default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the ~~((defendant guilty of))~~ tenant liable for the forcible entry, forcible detainer, or unlawful detainer for the amount of damages thus assessed ~~((and))~~ 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 and reasonable ~~((attorney's))~~ attorneys' fees as provided in RCW 59.18.290.

(2) When the ~~((proceeding))~~ tenant is liable for ~~((an))~~ unlawful detainer after a default in the payment of rent, ~~((and the lease or agreement under which the rent is payable has not by its terms expired,))~~ execution upon the judgment shall not ~~((be issued))~~ occur until the expiration of five court days after the entry of the judgment~~((, within which)).~~ Before such time, 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 ~~((for))~~ or to the landlord the amount of the ~~((judgment and costs, and thereupon the judgment shall be satisfied and 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(, but). 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(, as herein provided, be) 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 or vacate 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 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, ensuring that the total amount of the judgment is 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 defer the following month's rental payment within the payment plan, but monthly rental payments thereafter shall be made 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.

(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 any new rent due under the lease agreement or payment plan arranged 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 shall substantially conform to the following format:

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. THE LANDLORD MAY SCHEDULE YOUR PHYSICAL EVICTION WITHIN THREE CALENDAR DAYS OF SERVICE OF THIS NOTICE. 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 \$ . . . . . 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

(C) If the tenant defaults on a subsequent payment required by the court pursuant to this subsection (3)(c), the landlord may submit an application to the department of

commerce pursuant to RCW 43.31.605(1)(c) to pay the balance of the judgment owed under the payment plan.

(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, 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 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), 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).

(ii) In order to determine if a tenant qualifies pursuant to this subsection (3)(e), the court shall inquire as to whether a tenant is low-income, limited resourced, or experiencing hardship, which may include an inquiry regarding the tenant's income relative to area median income, household composition, any extenuating circumstances, or other factors necessary to make a determination. The court may rely on written declarations or oral testimony by the parties at the hearing.

(iii) After a finding that the tenant is low-income, limited resourced, or experiencing hardship, the court may issue an order: (A) Vacating the writ of restitution and for payment to be made to the landlord from the landlord mitigation program subject to the availability of amounts appropriated for this specific purpose; (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); and (C) directing the parties to submit an application on the prescribed form of the department of commerce in order to seek reimbursement.

(iv) 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.

(v) Upon payment by the department of commerce to the landlord for the amount of the judgment, the judgment is satisfied and the landlord shall file a satisfaction of judgment with the court.

(vi) Nothing in this subsection (3)(e) prohibits the landlord from otherwise seeking reimbursement for an unpaid judgment pursuant to RCW 43.31.605(1)(c) after the tenant defaults on a payment plan ordered pursuant to this subsection (3).

(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 schedule a hearing as soon as practicable for the matter to be heard on why the writ of restitution shall not be further stayed or vacated.

(5) In all other cases the judgment may be enforced immediately. If 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.

**Sec. 8.** RCW 59.18.390 and 2011 c 132 s 19 are each amended to read as follows:

(1) The sheriff shall, upon receiving the writ of restitution, forthwith serve a copy thereof upon the ~~((defendant))~~ tenant, his or her agent, or attorney, or a person in possession of the premises, and shall not execute the same for three days thereafter ~~((, and the defendant, or person in possession of the premises within three days after the service of the writ of restitution may execute to the plaintiff a bond to be filed with and approved by the clerk of the court in such sum as may be fixed by the judge, with sufficient surety to be approved by the clerk of the court, conditioned that they will pay to the plaintiff such sum as the plaintiff may recover for the use and occupation of the premises, or any rent found due, together with all damages the plaintiff may sustain by reason of the defendant occupying or keeping possession of the premises, together with all damages which the court theretofore has awarded to the plaintiff as provided in this chapter, and also all the costs of the action. If the writ of restitution was issued after alternative service provided for in RCW 59.18.055, the court shall determine the amount of the bond after considering the rent claimed and any other factors the court deems relevant. The plaintiff, his or her agent or attorneys, shall have notice of the time and place where the court or judge thereof shall fix the amount of the defendant's bond, and shall have notice and a reasonable opportunity to examine into the qualification and sufficiency of the sureties upon the bond before the bond shall be approved by the clerk)).~~ After the issuance of a writ of restitution, acceptance of a payment by the landlord ~~((or plaintiff))~~ that only partially satisfies the judgment will not invalidate the writ unless pursuant to a written agreement executed by both parties. The eviction will not be postponed or stopped unless a copy of that written agreement is provided to the sheriff. It is the responsibility of the tenant ~~((or defendant))~~ to ensure a copy of the agreement is provided to the sheriff. Upon receipt of the agreement, the sheriff will cease action unless ordered to do otherwise by the court. The writ of restitution and the notice that accompanies the writ of restitution required under RCW 59.18.312 shall conspicuously state in bold face type, all capitals, not less than twelve points information about partial payments as set forth in subsection (2) of this section. If the writ of restitution has been based upon a finding by the court



If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

You may also be instructed in a separate order to appear for a court hearing on your eviction. If you receive an order to show cause you must personally appear at the hearing on the date indicated in the order to show cause **IN ADDITION** to delivering and filing your notice of appearance or answer by the deadline stated above.

~~IF YOU DO NOT RESPOND TO THE COMPLAINT IN WRITING BY THE DEADLINE STATED ABOVE YOU WILL LOSE BY DEFAULT. YOUR LANDLORD MAY PROCEED WITH THE LAWSUIT, EVEN IF YOU HAVE MOVED OUT OF THE PROPERTY.~~

The notice of appearance or answer must be delivered to:

.....  
Name  
.....  
Street Address  
.....  
Telephone Number  
.....  
Facsimile Number (Required if Available))

**GET HELP:** If you do not respond by the deadline above, you will lose your right to defend yourself in court and could be evicted. If you cannot afford a lawyer, you may call 2-1-1. They can refer you to free or low-cost legal help. They can help you find help to pay for a lawyer.

**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 . . . (date of deadline) . . . . . 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.

**Sec. 10.** RCW 59.18.290 and 2010 c 8 s 19028 are each amended to read as follows:

(1) It ~~((shall be))~~ is unlawful for the landlord to remove or exclude from the premises the tenant thereof except under a court order so authorizing. Any tenant so removed or excluded in violation of this section may recover possession of the property or terminate the rental agreement and, in either case, may recover the actual damages sustained. The prevailing party may recover the costs of suit or arbitration and reasonable ~~((attorney's))~~ attorneys' fees.

(2) It ~~((shall be))~~ is unlawful for the tenant to hold over in the premises or exclude the landlord therefrom after the termination of the rental agreement except under a valid court order so authorizing. Any landlord so deprived of possession of premises in violation of this section may recover possession of the property and damages sustained by him or her, and the prevailing party may recover his or her costs of suit or arbitration and reasonable ~~((attorney's))~~ attorneys' fees subject to subsections (3) and (4) of this section.

(3) Where the court has entered a judgment in favor of the landlord restoring possession of the property to the landlord, the court may award statutory costs and reasonable attorneys' fees to the landlord; however, the court shall not do so in the following instances:

- (a) If the judgment for possession is entered after the tenant failed to appear; or
- (b) If the total amount of rent awarded in the judgment for rent is equal to or less than two months of the tenant's monthly contract rent or one thousand two hundred dollars, whichever is greater.

(4) If a tenant has filed a motion to stay a writ of restitution from execution, the court may only award attorneys' fees to the landlord if the tenant is permitted to be reinstated subject to repayment pursuant to RCW 59.18.410(3).

**Sec. 11.** RCW 59.18.055 and 1997 c 86 s 1 are each amended to read as follows:

(1) When the ~~((plaintiff))~~ landlord, after the exercise of due diligence, is unable to personally serve the summons on the ~~((defendant))~~ tenant, the ~~((court))~~ landlord may ~~((authorize))~~ use the alternative means of service ~~((described herein. Upon filing of an affidavit from the person or persons attempting service describing those attempts, and the filing of an affidavit from the plaintiff, plaintiff's agent, or plaintiff's attorney stating the belief that the defendant cannot be found, the court may enter an order authorizing service of the summons))~~ as follows:

(a) The summons and complaint shall be posted in a conspicuous place on the premises unlawfully held, not less than nine days from the return date stated in the summons; and

(b) Copies of the summons and complaint shall be deposited in the mail, postage prepaid, by both regular mail and certified mail directed to the ~~((defendant's))~~ tenant's or ~~((defendants'))~~ tenants' last known address not less than nine days from the return date stated in the summons.

(2) When service on the ~~((defendant))~~ tenant or ~~((defendants))~~ tenants is accomplished by this alternative procedure, the court's jurisdiction is limited to restoring possession of the premises to the ~~((plaintiff))~~ landlord and no money judgment may be entered against the ~~((defendant))~~ tenant or ~~((defendants))~~ tenants until such time as jurisdiction over the ~~((defendant))~~ tenant or ~~((defendants))~~ tenants is obtained.

~~((2))~~ (3) Before the entry of any judgment or issuance of a writ of restitution due to the tenant's failure to appear, the landlord shall provide the court with a declaration from the person or persons attempting service that describes the service achieved, or if by alternative service pursuant to this section, that describes the efforts at personal service before alternative service was used and a declaration from the landlord stating his or her belief that the tenant cannot be found.

(4) For the purposes of subsection (1) of this section, the exercise of due diligence is met if the landlord attempts personal service on the tenant at least three times over not less than two days and at different times of the day.

(5) This section shall apply to this chapter and chapter 59.20 RCW.

**Sec. 12.** RCW 43.31.605 and 2018 c 66 s 2 are each 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:

~~((a))~~ (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)~~((a))~~ (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)~~((a))~~ (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;

~~((b))~~ (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;

~~((c))~~ (iii) Reimbursement for damages established pursuant to subsection (2) of this section; and

~~((d))~~ (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, late fees, attorneys' fees, and costs after a court order pursuant to RCW 59.18.410(3) are eligible for reimbursement from the landlord mitigation program account.

(i) The department shall provide for a form on its web site for tenants and landlords to fill out after a court order permitting the parties to apply for funds pursuant to this subsection.

(ii) The form provided in (c)(i) of this subsection 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.

(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) Claims under this subsection (1)(c) are not subject to subsection (4) of this section.

(vii) 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).

(viii) If a claim under this subsection (1)(c) cannot be satisfied due to a lack of existing funding, the claim is deemed durable and shall be paid in the order received upon such time that funding is replenished.

(2) In order for a claim under subsection (1)~~((e))~~ (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 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)~~((e))~~ (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 web site 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. 13.** RCW 43.31.615 and 2018 c 66 s 3 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 under chapter 59.18 RCW, 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 ~~((ten))~~ 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.

**NEW SECTION. Sec. 14.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the capital or operating omnibus appropriations acts, this act is null and void."

Correct the title.

Signed by Representatives Walen; Valdez; Orwall; Kirby; Kilduff; Hansen; Goodman; Thai, Vice Chair Jinkins, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Shea and Klippert.

MINORITY recommendation: Without recommendation. Signed by Representative Irwin, Ranking Minority Member.

Referred to Committee on Rules for second reading.

March 28, 2019

2SSB 5604 Prime Sponsor, Committee on Ways & Means: Concerning the uniform guardianship, conservatorship, and other protective arrangements act. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

## "ARTICLE 1 GENERAL PROVISIONS

**NEW SECTION. Sec. 101.** SHORT TITLE. This chapter may be cited as the uniform guardianship, conservatorship, and other protective arrangements act.

**NEW SECTION. Sec. 102.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult" means an individual at least eighteen years of age or an emancipated individual under eighteen years of age.

(2) "Adult subject to conservatorship" means an adult for whom a conservator has been appointed under this chapter.

(3) "Adult subject to guardianship" means an adult for whom a guardian has been appointed under this chapter.

(4) "Claim" includes a claim against an individual or conservatorship estate, whether arising in contract, tort, or otherwise.

(5) "Conservator" means a person appointed by a court to make decisions with respect to the property or financial affairs of an individual subject to conservatorship. The term includes a co-conservator.

(6) "Conservatorship estate" means the property subject to conservatorship under this chapter.

(7) "Evaluation and treatment facility" has the same meaning as provided in RCW 71.05.020.

(8) "Full conservatorship" means a conservatorship that grants the conservator all powers available under this chapter.

(9) "Full guardianship" means a guardianship that grants the guardian all powers available under this chapter.

(10) "Guardian" means a person appointed by the court to make decisions with respect to the personal affairs

of an individual. The term includes a co-guardian but does not include a guardian ad litem.

(11) "Guardian ad litem" means a person appointed to inform the court about, and to represent, the needs and best interests of an individual.

(12) "Individual subject to conservatorship" means an adult or minor for whom a conservator has been appointed under this chapter.

(13) "Individual subject to guardianship" means an adult or minor for whom a guardian has been appointed under this chapter.

(14) "Less restrictive alternative" means an approach to meeting an individual's needs which restricts fewer rights of the individual than would the appointment of a guardian or conservator. The term includes supported decision making, appropriate technological assistance, appointment of a representative payee, and appointment of an agent by the individual, including appointment under a power of attorney for health care or power of attorney for finances.

(15) "Letters of office" means a record issued by a court certifying a guardian's or conservator's authority to act.

(16) "Limited conservatorship" means a conservatorship that grants the conservator less than all powers available under this chapter, grants powers over only certain property, or otherwise restricts the powers of the conservator.

(17) "Limited guardianship" means a guardianship that grants the guardian less than all powers available under this chapter or otherwise restricts the powers of the guardian.

(18) "Long-term care facility" has the same meaning as provided in RCW 70.129.010.

(19) "Minor" means an unemancipated individual under eighteen years of age.

(20) "Minor subject to conservatorship" means a minor for whom a conservator has been appointed under this chapter.

(21) "Minor subject to guardianship" means a minor for whom a guardian has been appointed under this chapter.

(22) "Parent" does not include an individual whose parental rights have been terminated.

(23) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(24) "Professional guardian or conservator" means a guardian or conservator appointed under this chapter who is not a relative of the person subject to guardianship or conservatorship established under this chapter and who charges fees for carrying out the duties of court-appointed guardian or conservator for three or more persons.

(25) "Property" includes tangible and intangible property.

(26) "Protective arrangement instead of conservatorship" means a court order entered under section 503 of this act.

(27) "Protective arrangement instead of guardianship" means a court order entered under section 502 of this act.

(28) "Protective arrangement under article 5 of this chapter" means a court order entered under section 502 or 503 of this act.

(29) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(30) "Relative" means any person related by blood or by law to the person subject to guardianship, conservatorship, or other protective arrangements.

(31) "Respondent" means an individual for whom appointment of a guardian or conservator or a protective arrangement instead of guardianship or conservatorship is sought.

(32) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(33) "Special agent" means the person appointed by the court pursuant to section 404 or 512 of this act.

(34) "Standby guardian" means a person appointed by the court under section 208 of this act.

(35) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(36) "Supported decision making" means assistance from one or more persons of an individual's choosing in understanding the nature and consequences of potential personal and financial decisions, which enables the individual to make the decisions, and in communicating a decision once made if consistent with the individual's wishes.

(37) "Verified receipt" is a verified receipt signed by the custodian of funds stating that a savings and loan association or bank, trust company, escrow corporation, or other corporations approved by the court hold the cash or securities of the individual subject to conservatorship subject to withdrawal only by order of the court.

(38) "Visitor" means the person appointed by the court pursuant to section 304(1) or 405(1) of this act.

**NEW SECTION. Sec. 103.** SUPPLEMENTAL PRINCIPLES OF LAW AND EQUITY APPLICABLE. Unless displaced by a particular provision of this chapter, the principles of law and equity supplement its provisions.

**NEW SECTION. Sec. 104.** SUBJECT MATTER JURISDICTION. (1) Except to the extent jurisdiction is precluded by the uniform child custody jurisdiction and enforcement act (chapter 26.27 RCW), the superior court of each county has jurisdiction over a guardianship for a minor domiciled or present in this state. The court has jurisdiction over a conservatorship or protective arrangement instead of conservatorship for a minor domiciled or having property in this state.

(2) The superior court of each county has jurisdiction over a guardianship, conservatorship, or protective arrangement under article 5 of this chapter for an adult as provided in the uniform adult guardianship and

protective proceedings jurisdiction act (chapter 11.90 RCW).

(3) After notice is given in a proceeding for a guardianship, conservatorship, or protective arrangement under article 5 of this chapter and until termination of the proceeding, the court in which the petition is filed has:

(a) Exclusive jurisdiction to determine the need for the guardianship, conservatorship, or protective arrangement;

(b) Exclusive jurisdiction to determine how property of the respondent must be managed, expended, or distributed to or for the use of the respondent, an individual who is dependent in fact on the respondent, or other claimant;

(c) Nonexclusive jurisdiction to determine the validity of a claim against the respondent or property of the respondent or a question of title concerning the property; and

(d) If a guardian or conservator is appointed, exclusive jurisdiction over issues related to administration of the guardianship or conservatorship.

(4) A court that appoints a guardian or conservator, or authorizes a protective arrangement under article 5 of this chapter, has exclusive and continuing jurisdiction over the proceeding until the court terminates the proceeding or the appointment or protective arrangement expires by its terms.

**NEW SECTION. Sec. 105.** TRANSFER OF PROCEEDING. (1) This section does not apply to a guardianship or conservatorship for an adult that is subject to the transfer provisions of the uniform adult guardianship and protective proceedings jurisdiction act (chapter 11.90 RCW).

(2) After appointment of a guardian or conservator, the court that made the appointment may transfer the proceeding to a court in another county in this state or another state if transfer is in the best interest of the individual subject to the guardianship or conservatorship.

(3) If a proceeding for a guardianship or conservatorship is pending in another state or a foreign country and a petition for guardianship or conservatorship for the same individual is filed in a court in this state, the court shall notify the court in the other state or foreign country and, after consultation with that court, assume or decline jurisdiction, whichever is in the best interest of the respondent.

(4) A guardian or conservator appointed in another state or country may petition the court for appointment as a guardian or conservator in this state for the same individual if jurisdiction in this state is or will be established. The appointment may be made on proof of appointment in the other state or foreign country and presentation of a certified copy of the part of the court record in the other state or country specified by the court in this state.

(5) Notice of hearing on a petition under subsection (4) of this section, together with a copy of the petition, must be given to the respondent, if the respondent is at least twelve years of age at the time of the hearing, and to the persons that would be entitled to notice if the procedures for appointment of a guardian or conservator under this chapter were applicable. The court shall make the appointment unless it determines the appointment would not be in the best interest of the respondent.

(6) Not later than fourteen days after appointment under subsection (5) of this section, the guardian or conservator shall give a copy of the order of appointment to the individual subject to guardianship or conservatorship, if the individual is at least twelve years of age, and to all persons given notice of the hearing on the petition.

**NEW SECTION. Sec. 106.** VENUE. (1) Venue for a guardianship proceeding for a minor is in:

(a) The county in which the minor resides or is present at the time the proceeding commences; or

(b) The county in which another proceeding concerning the custody or parental rights of the minor is pending.

(2) Venue for a guardianship proceeding or protective arrangement instead of guardianship for an adult is in:

(a) The county in which the respondent resides;

(b) If the respondent has been admitted to an institution by court order, the county in which the court is located; or

(c) If the proceeding is for appointment of an emergency guardian for an adult, the county in which the respondent is present.

(3) Venue for a conservatorship proceeding or protective arrangement instead of conservatorship is in:

(a) The county in which the respondent resides, whether or not a guardian has been appointed in another county or other jurisdiction; or

(b) If the respondent does not reside in this state, in any county in which property of the respondent is located.

(4) If proceedings under this chapter are brought in more than one county, the court of the county in which the first proceeding is brought has the exclusive right to proceed unless the court determines venue is properly in another court or the interest of justice otherwise requires transfer of the proceeding.

**NEW SECTION. Sec. 107.** PRACTICE IN COURT. (1) Except as otherwise provided in this chapter, the rules of evidence and civil procedure, including rules concerning appellate review, govern a proceeding under this chapter.

(2) If proceedings for a guardianship, conservatorship, or protective arrangement under article 5 of this chapter for the same individual are commenced or pending in the same court, the proceedings may be consolidated.

(3) A respondent may demand a jury trial in a proceeding under this chapter on the issue whether a basis exists for appointment of a guardian or conservator.

**NEW SECTION. Sec. 108.** LETTERS OF OFFICE. (1) The court shall issue letters of guardianship to a guardian on filing by the guardian of an acceptance of appointment.

(2) The court shall issue letters of conservatorship to a conservator on filing by the conservator of an acceptance of appointment and filing of any required bond or

compliance with any other verified receipt required by the court.

(3) Limitations on the powers of a guardian or conservator or on the property subject to conservatorship must be stated on the letters of office.

(4) The court at any time may limit the powers conferred on a guardian or conservator. The court shall issue new letters of office to reflect the limitation.

(5) A guardian or conservator may not act on behalf of a person under guardianship or conservatorship without valid letters of office.

(6) The clerk of the superior court shall issue letters of guardianship or conservatorship in or substantially in the same form as set forth in section 605 of this act.

(7) This chapter does not affect the validity of letters of office issued under chapter 11.88 RCW prior to the effective date of this section.

**NEW SECTION. Sec. 109. EFFECT OF ACCEPTANCE OF APPOINTMENT.** On acceptance of appointment, a guardian or conservator submits to personal jurisdiction of the court in this state in any proceeding relating to the guardianship or conservatorship.

**NEW SECTION. Sec. 110. CO-GUARDIAN—CO-CONSERVATOR.** (1) The court at any time may appoint a co-guardian or co-conservator to serve immediately or when a designated event occurs.

(2) A co-guardian or co-conservator appointed to serve immediately may act when that co-guardian or co-conservator complies with section 108 of this act.

(3) A co-guardian or co-conservator appointed to serve when a designated event occurs may act when:

(a) The event occurs; and

(b) That co-guardian or co-conservator complies with section 108 of this act.

(4) Unless an order of appointment under subsection (1) of this section or subsequent order states otherwise, co-guardians or co-conservators shall make decisions jointly.

**NEW SECTION. Sec. 111. JUDICIAL APPOINTMENT OF SUCCESSOR GUARDIAN OR SUCCESSOR CONSERVATOR.** (1) The court at any time may appoint a successor guardian or successor conservator to serve immediately or when a designated event occurs.

(2) A person entitled under section 202 or 302 of this act to petition the court to appoint a guardian may petition the court to appoint a successor guardian. A person entitled under section 402 of this act to petition the court to appoint a conservator may petition the court to appoint a successor conservator.

(3) A successor guardian or successor conservator appointed to serve when a designated event occurs may act as guardian or conservator when:

(a) The event occurs; and

(b) The successor complies with section 108 of this act.

(4) A successor guardian or successor conservator has the predecessor's powers unless otherwise provided by the court.

**NEW SECTION. Sec. 112. EFFECT OF DEATH, REMOVAL, OR RESIGNATION OF GUARDIAN OR CONSERVATOR.** (1) Appointment of a guardian or conservator terminates on the death or removal of the guardian or conservator, or when the court under subsection (2) of this section approves a resignation of the guardian or conservator.

(2) A guardian or conservator must petition the court to resign. The petition may include a request that the court appoint a successor. Resignation of a guardian or conservator is effective on the date the resignation is approved by the court.

(3) Death, removal, or resignation of a guardian or conservator does not affect liability for a previous act or the obligation to account for:

(a) An action taken on behalf of the individual subject to guardianship or conservatorship; or

(b) The individual's funds or other property.

**NEW SECTION. Sec. 113. NOTICE OF HEARING GENERALLY.** (1) Except as otherwise provided in sections 203, 208, 303, 403, and 505 of this act, if notice of a hearing under this chapter is required, the movant shall give notice of the date, time, and place of the hearing to the person to be notified unless otherwise ordered by the court for good cause. Except as otherwise provided in this chapter, notice must be given in compliance with the local superior court's rule of civil procedure at least fourteen days before the hearing.

(2) Proof of notice of a hearing under this chapter must be made before or at the hearing and filed in the proceeding.

(3) Notice of a hearing under this chapter must be in at least sixteen-point font, in plain language, and, to the extent feasible, in a language in which the person to be notified is proficient.

**NEW SECTION. Sec. 114. WAIVER OF NOTICE.** (1) Except as otherwise provided in subsection (2) of this section, a person may waive notice under this chapter in a record signed by the person or person's attorney and filed in the proceeding.

(2) A respondent, individual subject to guardianship, individual subject to conservatorship, or individual subject to a protective arrangement under article 5 of this chapter may not waive notice under this chapter.

**NEW SECTION. Sec. 115. GUARDIAN AD LITEM.** The court at any time may appoint a guardian ad litem for an individual if the court determines the individual's interest otherwise would not be adequately represented. If no conflict of interest exists, a guardian ad litem may be appointed to represent multiple individuals or interests. The guardian ad litem may not be the same

individual as the attorney representing the respondent. The court shall state the duties of the guardian ad litem and the reasons for the appointment.

**NEW SECTION. Sec. 116. REQUEST FOR NOTICE.** (1) A person may file with the court a request for notice under this chapter if the person is:

(a) Not otherwise entitled to notice; and

(b) Interested in the welfare of a respondent, individual subject to guardianship or conservatorship, or individual subject to a protective arrangement under article 5 of this chapter.

(2) A request under subsection (1) of this section must include a statement showing the interest of the person making the request and the address of the person or an attorney for the person to whom notice is to be given.

(3) If the court approves a request under subsection (1) of this section, the court shall give notice of the approval to the guardian or conservator, if one has been appointed, or the respondent if no guardian or conservator has been appointed.

**NEW SECTION. Sec. 117. DISCLOSURE OF BANKRUPTCY OR CRIMINAL HISTORY.** (1) Before accepting appointment as a guardian or conservator, a person shall disclose to the court whether the person:

(a) Is or has been a debtor in a bankruptcy, insolvency, or receivership proceeding;

(b) Has been convicted of:

(i) A felony;

(ii) A crime involving dishonesty, neglect, violence, or use of physical force; or

(iii) Other crimes relevant to the functions the individual would assume as guardian or conservator; or

(c) Has any court finding of a breach of fiduciary duty or a violation of any state's consumer protection act, or violation of any other statute proscribing unfair or deceptive acts or practices in the conduct of any business.

(2) A guardian or conservator that engages or anticipates engaging an agent the guardian or conservator knows has been convicted of a felony, a crime involving dishonesty, neglect, violence, or use of physical force, or other crimes relevant to the functions the agent is being engaged to perform promptly shall disclose that knowledge to the court.

(3) If a conservator engages or anticipates engaging an agent to manage finances of the individual subject to conservatorship and knows the agent is or has been a debtor in a bankruptcy, insolvency, or receivership proceeding, the conservator promptly shall disclose that knowledge to the court.

(4) If a guardian or conservator that engages or anticipates engaging an agent and knows the agent has any court finding of a breach of fiduciary duty or a violation of any state's consumer protection act, or violation of any other statute proscribing unfair or deceptive acts or practices in the conduct of any business, the guardian or conservator promptly shall disclose that knowledge to the court.

**NEW SECTION. Sec. 118. QUALIFICATIONS.**

(1) Any suitable person over the age of twenty-one years, or any parent under the age of twenty-one years or, if the petition is for appointment of a professional guardian or conservator, any individual or guardianship or conservatorship service that meets any certification requirements established by the administrator for the courts, may, if not otherwise disqualified, be appointed guardian or conservator of a person subject to guardianship, conservatorship, or both. A financial institution subject to the jurisdiction of the department of financial institutions and authorized to exercise trust powers, and a federally chartered financial institution when authorized to do so, may be appointed to act as a guardian or conservator of a person subject to guardianship, conservatorship, or both without having to meet the certification requirements established by the administrator for the courts. No person is qualified to serve as a guardian or conservator who is:

(a) Under eighteen years of age except as otherwise provided herein;

(b)(i) Except as provided otherwise in (b)(ii) of this subsection, convicted of a crime involving dishonesty, neglect, or use of physical force or other crime relevant to the functions the individual would assume as guardian;

(ii) A court may, upon consideration of the facts, find that a relative convicted of a crime is qualified to serve as a guardian or conservator;

(c) A nonresident of this state who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate and caused such appointment to be filed with the court;

(d) A corporation not authorized to act as a fiduciary, guardian, or conservator in the state;

(e) A person whom the court finds unsuitable.

(2) If a guardian, or conservator is not a certified professional guardian, conservator, or financial institution authorized under this section, the guardian or conservator must complete any standardized training video or web cast for lay guardians or conservators made available by the administrative office of the courts and the superior court where the petition is filed unless granted a waiver by the court. The training video or web cast must be provided at no cost to the guardian, or conservator.

(a) If a petitioner requests the appointment of a specific individual to act as a guardian or conservator, the petition for guardianship or conservatorship must include evidence of the successful completion of the required training video or web cast by the proposed guardian or conservator. The superior court may defer the completion of the training requirement to a date no later than ninety days after appointment if the petitioner requests expedited appointment due to emergent circumstances.

(b) If no person is identified to be appointed guardian or conservator at the time the petition is filed, then the court must require that the petitioner identify within fourteen days from the filing of the petition a specific individual to act as guardian subject to the training requirements set forth herein.

**NEW SECTION. Sec. 119. MULTIPLE NOMINATIONS.** If a respondent or other person makes

more than one nomination of a guardian or conservator, the latest in time governs.

**NEW SECTION. Sec. 120. COMPENSATION AND EXPENSES—IN GENERAL.** (1) Unless otherwise compensated or reimbursed, an attorney for a respondent in a proceeding under this chapter is entitled to reasonable compensation for services and reimbursement of reasonable expenses from the property of the respondent.

(2) Unless otherwise compensated or reimbursed, an attorney or other person whose services resulted in an order beneficial to an individual subject to guardianship or conservatorship or for whom a protective arrangement under article 5 of this chapter was ordered is entitled to reasonable compensation for services and reimbursement of reasonable expenses from the property of the individual.

(3) The court must approve compensation and expenses payable under this section before payment. Approval is not required before a service is provided or an expense is incurred.

(4) If the court dismisses a petition under this act and determines the petition was filed in bad faith, the court may assess the cost of any court-ordered professional evaluation or visitor against the petitioner.

(5) Where the person subject to guardianship or conservatorship is a department of social and health services client, or health care authority client, and is required to contribute a portion of their income towards the cost of long-term care services or room and board, the amount of compensation or reimbursement shall not exceed the amount allowed by the department of social and health services or health care authority by rule.

(6) Where the person subject to guardianship or conservatorship receives guardianship, conservatorships, or other protective services from the office of public guardianship, the amount of compensation or reimbursement shall not exceed the amount allowed by the office of public guardianship.

(7) The court must approve compensation and expenses payable under this section before payment. Approval is not required before a service is provided or an expense is incurred.

(8) If the court dismisses a petition under this chapter and determines the petition was filed in bad faith, the court may assess the cost of any court-ordered professional evaluation or visitor against the petitioner.

**NEW SECTION. Sec. 121. COMPENSATION OF GUARDIAN OR CONSERVATOR.** (1) Subject to court approval, a guardian is entitled to reasonable compensation for services as guardian and to reimbursement for room, board, clothing, and other appropriate expenses advanced for the benefit of the individual subject to guardianship. If a conservator, other than the guardian or a person affiliated with the guardian, is appointed for the individual, reasonable compensation and reimbursement to the guardian may be approved and paid by the conservator without court approval.

(2) Subject to court approval, a conservator is entitled to reasonable compensation for services and

reimbursement for appropriate expenses from the property of the individual subject to conservatorship.

(3) In determining reasonable compensation for a guardian or conservator, the court, or a conservator in determining reasonable compensation for a guardian as provided in subsection (1) of this section, shall approve compensation that shall not exceed the typical amounts paid for comparable services in the community, at a rate for which the service can be performed in the most efficient and cost-effective manner, considering:

(a) The necessity and quality of the services provided;

(b) The experience, training, professional standing, and skills of the guardian or conservator;

(c) The difficulty of the services performed, including the degree of skill and care required;

(d) The conditions and circumstances under which a service was performed, including whether the service was provided outside regular business hours or under dangerous or extraordinary conditions;

(e) The effect of the services on the individual subject to guardianship or conservatorship;

(f) The extent to which the services provided were or were not consistent with the guardian's plan under section 317 of this act or conservator's plan under section 419 of this act; and

(g) The fees customarily paid to a person that performs a like service in the community.

(4) A guardian or conservator need not use personal funds of the guardian or conservator for the expenses of the individual subject to guardianship or conservatorship.

(5) Where the person subject to guardianship or conservatorship is a department of social and health services client, or health care authority client, and is required to contribute a portion of their income towards the cost of long-term care services or room and board, the amount of compensation or reimbursement shall not exceed the amount allowed by the department of social and health services or health care authority by rule.

(6) Where the person subject to guardianship or conservatorship receives guardianship, conservatorship, or other protective services from the office of public guardianship, the amount of compensation or reimbursement shall not exceed the amount allowed by the office of public guardianship.

(7) If an individual subject to guardianship or conservatorship seeks to modify or terminate the guardianship or conservatorship or remove the guardian or conservator, the court may order compensation to the guardian or conservator for time spent opposing modification, termination, or removal only to the extent the court determines the opposition was reasonably necessary to protect the interests of the individual subject to guardianship or conservatorship.

**NEW SECTION. Sec. 122. LIABILITY OF GUARDIAN OR CONSERVATOR FOR ACT OF INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP.** A guardian or conservator is not personally liable to another person solely because of the

guardianship or conservatorship for an act or omission of the individual subject to guardianship or conservatorship.

**NEW SECTION. Sec. 123. PETITION AFTER APPOINTMENT FOR INSTRUCTION OR RATIFICATION.** (1) A guardian or conservator may petition the court for instruction concerning fiduciary responsibility or ratification of a particular act related to the guardianship or conservatorship.

(2) On reasonable notice and hearing on a petition under subsection (1) of this section, the court may give an instruction and issue an appropriate order.

(3) The petitioner must provide reasonable notice of the petition and hearing to the individual subject to a guardianship or conservatorship.

**NEW SECTION. Sec. 124. THIRD-PARTY ACCEPTANCE OF AUTHORITY OF GUARDIAN OR CONSERVATOR.** (1) A person must not recognize the authority of a guardian or conservator to act on behalf of an individual subject to guardianship or conservatorship if:

(a) The person has actual knowledge or a reasonable belief that the letters of office of the guardian or conservator are invalid or the conservator or guardian is exceeding or improperly exercising authority granted by the court; or

(b) The person has actual knowledge that the individual subject to guardianship or conservatorship is subject to physical or financial abuse, neglect, exploitation, or abandonment by the guardian or conservator or a person acting for or with the guardian or conservator.

(2) A person may refuse to recognize the authority of a guardian or conservator to act on behalf of an individual subject to guardianship or conservatorship if:

(a) The guardian's or conservator's proposed action would be inconsistent with this chapter; or

(b) The person makes, or has actual knowledge that another person has made, a report to the department of children, youth, and families or the department of social and health services stating a good-faith belief that the individual subject to guardianship or conservatorship is subject to physical or financial abuse, neglect, exploitation, or abandonment by the guardian or conservator or a person acting for or with the guardian or conservator.

(3) A person that refuses to accept the authority of a guardian or conservator in accordance with subsection (2) of this section may report the refusal and the reason for refusal to the court. The court on receiving the report shall consider whether removal of the guardian or conservator or other action is appropriate.

(4) A guardian or conservator may petition the court to require a third party to accept a decision made by the guardian or conservator on behalf of the individual subject to guardianship or conservatorship.

(5) If the court determines that a third party has failed to recognize the legitimate authority of a guardian or requires a third party to accept a decision made by the guardian on behalf of the individual subject to guardianship, the court may order that third party to compensate the guardian for the time spent only to the extent the court

determines the opposition was reasonably necessary to protect the interests of the individual subject to guardianship.

**NEW SECTION. Sec. 125. USE OF AGENT BY GUARDIAN OR CONSERVATOR.** (1) Except as otherwise provided in subsection (3) of this section, a guardian or conservator may delegate a power to an agent which a prudent guardian or conservator of comparable skills could delegate prudently under the circumstances if the delegation is consistent with the guardian's or conservator's fiduciary duties and the guardian's plan under section 317 of this act or the conservator's plan under section 419 of this act.

(2) In delegating a power under subsection (1) of this section, the guardian or conservator shall exercise reasonable care, skill, and caution in:

(a) Selecting the agent;

(b) Establishing the scope and terms of the agent's work in accordance with the guardian's plan under section 317 of this act or the conservator's plan under section 419 of this act;

(c) Monitoring the agent's performance and compliance with the delegation;

(d) Redressing an act or omission of the agent which would constitute a breach of the guardian's or conservator's duties if done by the guardian or conservator; and

(e) Ensuring a background check is conducted on the agent, or conducted on persons employed by the agent when those persons are providing services to the individual subject to a guardianship or conservatorship.

(3) A guardian or conservator may not delegate all powers to an agent.

(4) In performing a power delegated under this section, an agent shall:

(a) Exercise reasonable care to comply with the terms of the delegation and use reasonable care in the performance of the power; and

(b) If the guardian or conservator has delegated to the agent the power to make a decision on behalf of the individual subject to guardianship or conservatorship, use the same decision-making standard the guardian or conservator would be required to use.

(5) By accepting a delegation of a power under subsection (1) of this section from a guardian or conservator, an agent submits to the personal jurisdiction of the courts of this state in an action involving the agent's performance as agent.

(6) A guardian or conservator that delegates and monitors a power in compliance with this section is not liable for the decision, act, or omission of the agent.

**NEW SECTION. Sec. 126. TEMPORARY SUBSTITUTE GUARDIAN OR CONSERVATOR.** (1) The court may appoint a temporary substitute guardian for an individual subject to guardianship for a period not exceeding six months if:

(a) A proceeding to remove a guardian for the individual is pending; or

(b) The court finds a guardian is not effectively performing the guardian's duties and the welfare of the individual requires immediate action.

(2) The court may appoint a temporary substitute conservator for an individual subject to conservatorship for a period not exceeding six months if:

(a) A proceeding to remove a conservator for the individual is pending; or

(b) The court finds that a conservator for the individual is not effectively performing the conservator's duties and the welfare of the individual or the conservatorship estate requires immediate action.

(3) The court shall hold a hearing to appoint a temporary substitute guardian pursuant to subsection (1)(a) or (b) of this section, or to appoint a temporary substitute conservator pursuant to subsection (2)(a) or (b) of this section. The court shall give notice under section 113 of this act to the adult subject to guardianship or conservatorship and to any other person the court determines should receive notice. The adult subject to guardianship or conservatorship shall have the right to attend the hearing and to be represented by counsel of the adult subject to guardianship or conservatorship's choosing.

(4) Except as otherwise ordered by the court, a temporary substitute guardian or temporary substitute conservator appointed under this section has the powers stated in the order of appointment of the guardian or conservator. The authority of the existing guardian or conservator is suspended for as long as the temporary substitute guardian or conservator has authority.

(5) The court shall give notice of appointment of a temporary substitute guardian or temporary substitute conservator, not later than five days after the appointment, to:

(a) The individual subject to guardianship or conservatorship;

(b) The affected guardian or conservator; and

(c) In the case of a minor, each parent of the minor and any person currently having care or custody of the minor.

(6) The court may remove a temporary substitute guardian or temporary substitute conservator at any time. The temporary substitute guardian or temporary substitute conservator shall make any report the court requires.

**NEW SECTION. Sec. 127. REGISTRATION OF ORDER—EFFECT.** (1) If a guardian has been appointed in another state for an individual, and a petition for guardianship for the individual is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court, may register the guardianship order in this state by filing as a foreign judgment, in a court of an appropriate county of this state, certified copies of the order and letters of office.

(2) If a conservator has been appointed in another state for an individual, and a petition for conservatorship for the individual is not pending in this state, the conservator appointed for the individual in the other state, after giving notice to the appointing court, may register the conservatorship in this state by filing as a foreign judgment, in a court of a county in which property belonging to the

individual subject to conservatorship is located, certified copies of the order of conservatorship, letters of office, and any bond or other verified receipt required by the court.

(3) On registration under this section of a guardianship or conservatorship order from another state, the guardian or conservator may exercise in this state all powers authorized in the order except as prohibited by this chapter and law of this state other than this chapter. If the guardian or conservator is not a resident of this state, the guardian or conservator may maintain an action or proceeding in this state subject to any condition imposed by this state on an action or proceeding by a nonresident party.

(4) The court may grant any relief available under this chapter and law of this state other than this chapter to enforce an order registered under this section.

**NEW SECTION. Sec. 128. GRIEVANCE AGAINST GUARDIAN OR CONSERVATOR.** (1) An individual who is subject to guardianship or conservatorship, or person interested in the welfare of an individual subject to guardianship or conservatorship, that reasonably believes the guardian or conservator is breaching the guardian's or conservator's fiduciary duty or otherwise acting in a manner inconsistent with this chapter may file a grievance in a record with the court.

(2) Subject to subsection (3) of this section, after receiving a grievance under subsection (1) of this section, the court:

(a) Shall promptly review the grievance against a guardian and shall act to protect the autonomy, values, preferences, and independence of the individual subject to guardianship or conservatorship;

(b) Shall schedule a hearing if the individual subject to guardianship or conservatorship is an adult and the grievance supports a reasonable belief that:

(i) Removal of the guardian and appointment of a successor may be appropriate under section 319 of this act;

(ii) Termination or modification of the guardianship may be appropriate under section 320 of this act;

(iii) Removal of the conservator and appointment of a successor may be appropriate under section 430 of this act;

(iv) Termination or modification of the conservatorship may be appropriate under section 431 of this act; or

(v) A hearing is necessary to resolve the allegations set forth in the grievance; and

(c) May take any action supported by the evidence, including:

(i) Ordering the guardian or conservator to provide the court a report, accounting, inventory, updated plan, or other information;

(ii) Appointing a guardian ad litem;

(iii) Appointing an attorney for the individual subject to guardianship or conservatorship; or

(iv) Holding a hearing.

(3) The court may decline to act under subsection (2) of this section if a similar grievance was filed within the six months preceding the filing of the current grievance and the court followed the procedures of subsection (2) of this section in considering the earlier grievance; and may levy necessary sanctions, including but not limited to the

imposition of reasonable attorney fees, costs, striking pleadings, or other appropriate relief, if after consideration the court finds that the grievance is made for reason to harass, delay, with malice, or other bad faith.

(4) In any court action under this section where the court finds the professional guardian or conservator breached a fiduciary duty, the court must direct the clerk of the court to send a copy of the order entered under this section to the certified professional guardianship board.

**NEW SECTION. Sec. 129. DELEGATION BY PARENT.** Except as otherwise provided in RCW 11.125.410, a parent of a minor, by a power of attorney, may delegate to another person for a period not exceeding twenty-four months any of the parent's powers regarding care, custody, or property of the minor, other than power to consent to marriage or adoption.

**NEW SECTION. Sec. 130. EX PARTE COMMUNICATIONS—REMOVAL.** A guardian ad litem or visitor shall not engage in ex parte communications with any judicial officer involved in the matter for which he or she is appointed during the pendency of the proceeding, except as permitted by court rule or statute for ex parte motions. Ex parte motions shall be heard in open court on the record. The record may be preserved in a manner deemed appropriate by the county where the matter is heard. The court, upon its own motion, or upon the motion of a party, may consider the removal of any guardian ad litem or visitor who violates this section from any pending case or from any court-authorized registry, and if so removed may require forfeiture of any fees for professional services on the pending case.

**NEW SECTION. Sec. 131. REGISTRY FOR GUARDIANS AD LITEM AND VISITORS.** (1) The superior court of each county shall develop and maintain a registry of persons who are willing and qualified to serve as guardians ad litem and visitors in guardianship and conservatorship matters. The court shall choose as guardian ad litem or visitor a person whose name appears on the registry in a system of consistent rotation, except in extraordinary circumstances such as the need for particular expertise. The court shall develop procedures for periodic review of the persons on the registry and for probation, suspension, or removal of persons on the registry for failure to perform properly their duties as guardian ad litem or visitor. In the event the court does not select the person next on the list, it shall include in the order of appointment a written reason for its decision.

(2) To be eligible for the registry a person shall:

(a) Present a written statement outlining his or her background and qualifications. The background statement shall include, but is not limited to, the following information:

(i) Level of formal education;

(ii) Training related to the duties of a guardian ad litem or visitor;

(iii) Number of years' experience as a guardian ad litem or visitor;

(iv) Number of appointments as a guardian ad litem or visitor and the county or counties of appointment;

(v) Criminal history, as defined in RCW 9.94A.030; and

(vi) Evidence of the person's knowledge, training, and experience in each of the following: Needs of impaired elderly people, physical disabilities, mental illness, developmental disabilities, and other areas relevant to the needs of persons subject to guardianship or conservatorship, legal procedure, and the requirements of this chapter.

The written statement of qualifications shall include the names of any counties in which the person was removed from a guardian ad litem or visitor registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; and

(b) Complete the training as described in subsection (5) of this section. The training is not applicable to guardians ad litem appointed pursuant to special proceeding rule 98.16W.

(3) The superior court shall remove any person from the guardian ad litem or visitor registry who misrepresents his or her qualifications pursuant to a grievance procedure established by the court.

(4) The background and qualification information shall be updated annually.

(5) The department of social and health services shall convene an advisory group to develop a model guardian ad litem and visitor training program and shall update the program biennially. The advisory group shall consist of representatives from consumer, advocacy, and professional groups knowledgeable in developmental disabilities, neurological impairment, physical disabilities, mental illness, domestic violence, aging, legal, court administration, the Washington state bar association, and other interested parties.

(6) The superior court shall require utilization of the model program developed by the advisory group as described in subsection (5) of this section to assure that candidates applying for registration as a qualified guardian ad litem or visitor shall have satisfactorily completed training to attain these essential minimum qualifications to act as guardian ad litem or visitor.

**NEW SECTION. Sec. 132. GUARDIANSHIP/CONSERVATORSHIP SUMMARY.** Every order appointing a guardian or conservator and every court order approving accounts or reports filed by a guardian or conservator must include a guardianship/conservatorship summary placed directly below the case caption or on a separate cover page in or substantially in the same form as set forth in section 606 of this act.

**NEW SECTION. Sec. 133. GUARDIANSHIP/CONSERVATORSHIP COURTHOUSE FACILITATOR PROGRAM.** A county may create a guardianship/conservatorship courthouse facilitator program to provide basic services to pro se litigants in guardianship and conservatorship cases. The legislative authority of any county may impose user fees or

may impose a surcharge of up to twenty dollars, or both, on superior court cases filed under this chapter, chapter 11.90 RCW, and chapter 73.36 RCW to pay for the expenses of the guardianship/conservatorship courthouse facilitator program. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate guardianship/conservatorship courthouse facilitator account to be used as provided in this section.

**NEW SECTION. Sec. 134. FILING FEE.** (1)(a) The attorney general may petition for the appointment of a guardian, conservator, or other protective arrangement under sections 302, 402, and 504 of this act in which there is cause to believe that a guardianship, conservatorship, or protective arrangement is necessary and no private party is able and willing to petition.

(b) Prepayment of a filing fee shall not be required in any guardianship, conservatorship, or protective arrangement proceeding brought by the attorney general. Payment of the filing fee shall be ordered from the estate of the respondent person at the hearing on the merits of the petition, unless in the judgment of the court, such payment would impose a hardship upon the respondent, in which case the filing shall be waived.

(2) No filing fee shall be charged by the court for filing a petition for guardianship, conservatorship, or other protective arrangement filed under sections 302, 402, and 504 of this act if the petition alleges that the respondent has total assets of a value of less than three thousand dollars.

(3) No filing fee shall be charged by the court for filing a petition for guardianship or conservatorship filed under article 2 of this act, where the potential guardian is a relative and not a professional guardian or conservator.

**NEW SECTION. Sec. 135. GUARDIANSHIPS INVOLVING VETERANS.** For guardianships involving veterans see chapter 73.36 RCW.

**NEW SECTION. Sec. 136. CONSTRUCTION—CHAPTER APPLICABLE TO STATE REGISTERED DOMESTIC PARTNERSHIPS—2009 c 521.** For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and relative shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.

## ARTICLE 2 GUARDIANSHIP OF MINOR

**NEW SECTION. Sec. 201. BASIS FOR APPOINTMENT OF GUARDIAN FOR MINOR.** (1) A person becomes a guardian for a minor only on appointment by the court.

(2) The court may appoint a guardian for a minor who does not have a guardian if the court finds the appointment is in the minor's best interest and:

(a) Each parent of the minor, after being fully informed of the nature and consequences of guardianship, consents;

(b) All parental rights have been terminated; or

(c) There is clear and convincing evidence that no parent of the minor is willing or able to exercise the powers the court is granting the guardian.

**NEW SECTION. Sec. 202. PETITION FOR APPOINTMENT OF GUARDIAN FOR MINOR.** (1) A person interested in the welfare of a minor, including the minor, may petition for appointment of a guardian for the minor.

(2) A petition under subsection (1) of this section must state the petitioner's name, principal residence, current street address, if different, relationship to the minor, interest in the appointment, the name and address of any attorney representing the petitioner, and, to the extent known, the following:

(a) The minor's name, age, principal residence, current street address, if different, and, if different, address of the dwelling in which it is proposed the minor will reside if the appointment is made;

(b) The name and current street address of the minor's parents;

(c) The name and address, if known, of each person that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition;

(d) The name and address of any attorney for the minor and any attorney for each parent of the minor;

(e) The reason guardianship is sought and would be in the best interest of the minor;

(f) The name and address of any proposed guardian and the reason the proposed guardian should be selected;

(g) If the minor has property other than personal effects, a general statement of the minor's property with an estimate of its value;

(h) Whether the minor needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings;

(i) Whether any parent of the minor needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings; and

(j) Whether any other proceeding concerning the care or custody of the minor is pending in any court in this state or another jurisdiction.

**NEW SECTION. Sec. 203. NOTICE OF HEARING FOR APPOINTMENT OF GUARDIAN FOR MINOR.** (1) If a petition is filed under section 202 of this

act, the court shall schedule a hearing and the petitioner shall:

(a) Serve notice of the date, time, and place of the hearing, together with a copy of the petition, personally on each of the following that is not the petitioner:

(i) The minor, if the minor will be twelve years of age or older at the time of the hearing;

(ii) Each parent of the minor or, if there is none, the adult nearest in kinship who can be found with reasonable diligence;

(iii) Any adult with whom the minor resides;

(iv) Each person that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition; and

(v) Any other person the court determines should receive personal service of notice; and

(b) Give notice under section 113 of this act of the date, time, and place of the hearing, together with a copy of the petition, to:

(i) Any person nominated as guardian by the minor, if the minor is twelve years of age or older;

(ii) Any nominee of a parent;

(iii) Each grandparent and adult sibling of the minor;

(iv) Any guardian or conservator acting for the minor in any jurisdiction; and

(v) Any other person the court determines.

(2) Notice required by subsection (1) of this section must include a statement of the right to request appointment of an attorney for the minor or object to appointment of a guardian and a description of the nature, purpose, and consequences of appointment of a guardian.

(3) The court may not grant a petition for guardianship of a minor if notice substantially complying with subsection (1)(a) of this section is not served on:

(a) The minor, if the minor is twelve years of age or older; and

(b) Each parent of the minor, unless the court finds by clear and convincing evidence that the parent cannot with due diligence be located and served or the parent waived, in a record, the right to notice.

(4) If a petitioner is unable to serve notice under subsection (1)(a) of this section on a parent of a minor or alleges that the parent waived, in a record, the right to notice under this section, the court shall appoint a visitor who shall:

(a) Interview the petitioner and the minor;

(b) If the petitioner alleges the parent cannot be located, ascertain whether the parent cannot be located with due diligence;

(c) Investigate any other matter relating to the petition the court directs; and

(d) Ascertain whether the parent consents to the guardian for the minor.

**NEW SECTION. Sec. 204. ATTORNEY FOR MINOR OR PARENT.** (1) The court is not required, but may appoint an attorney to represent a minor who is the subject of a proceeding under section 202 of this act if:

(a) Requested by the minor and the minor is twelve years of age or older;

(b) Recommended by a guardian ad litem; or

(c) The court determines the minor needs representation.

(2) An attorney appointed under subsection (1) of this section shall:

(a) Make a reasonable effort to ascertain the minor's wishes;

(b) Advocate for the minor's wishes to the extent reasonably ascertainable; and

(c) If the minor's wishes are not reasonably ascertainable, advocate for the minor's legal rights.

(3) A minor who is the subject of a proceeding under section 202 of this act may retain an attorney to represent the minor in the proceeding.

(4) A parent of a minor who is the subject of a proceeding under section 202 of this act may retain an attorney to represent the parent in the proceeding.

(5) The court must appoint an attorney to represent a parent of a minor who is the subject of a proceeding under section 202 of this act if:

(a) The parent has appeared in the proceeding;

(b) The parent is indigent; and

(c) Any of the following is true:

(i) The parent objects to appointment of a guardian for the minor; or

(ii) The court determines that counsel is needed to ensure that consent to appointment of a guardian is informed; or

(iii) The court otherwise determines the parent needs representation.

(6) The court must inquire about whether a parent is indigent to ensure that counsel is appointed in a timely manner. For purposes of this section, "indigent" has the same meaning as under RCW 10.101.010.

(7) The court is not required, but may appoint an attorney to represent a parent of a minor who is the subject of a proceeding under section 202 of this act, even if the parent is not indigent, if:

(a) The parent objects to appointment of a guardian for the minor;

(b) The court determines that counsel is needed to ensure that consent to appointment of a guardian is informed; or

(c) The court otherwise determines that the parent needs representation.

(8) A party represented by an attorney in proceedings under this article has the right to introduce evidence, to be heard in his or her own behalf, and to examine witnesses. If a party to an action under this article is represented by counsel, no order may be provided to that party for signature without prior notice and provision of the order to counsel.

**NEW SECTION. Sec. 205. ATTENDANCE AND PARTICIPATION AT HEARING FOR APPOINTMENT OF GUARDIAN FOR MINOR.** (1) The court shall allow a minor who is the subject of a hearing under section 203 of this act to attend the hearing and allow the minor to participate in the hearing unless the court determines, by clear and convincing evidence presented at the hearing or a separate hearing, that:

(a) The minor lacks the ability or maturity to participate meaningfully in the hearing; or

(b) Attendance would be harmful to the minor.

(2) Unless excused by the court for good cause, the person proposed to be appointed as guardian for a minor shall attend a hearing under section 203 of this act.

(3) Each parent of a minor who is the subject of a hearing under section 203 of this act has the right to attend the hearing.

(4) A person may request permission to participate in a hearing under section 203 of this act. The court may grant the request, with or without hearing, on determining that it is in the best interest of the minor who is the subject of the hearing. The court may impose appropriate conditions on the person's participation.

**NEW SECTION. Sec. 206. CUSTODY ORDERS—BACKGROUND INFORMATION TO BE CONSULTED.** (1) Before granting any order regarding the custody of a child under this chapter, the court must consult the judicial information system, if available, to determine the existence of any information and proceedings that are relevant to the placement of the child.

(2) Before entering a final order, the court must:

(a) Direct the department of children, youth, and families to release information as provided under RCW 13.50.100; and

(b) Require the petitioner to provide the results of an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system as described in chapter 43.43 RCW for the petitioner and adult members of the petitioner's household.

**NEW SECTION. Sec. 207. ORDER OF APPOINTMENT—PRIORITY OF NOMINEE—LIMITED GUARDIANSHIP FOR MINOR.** (1) After a hearing under section 203 of this act, the court may appoint a guardian for a minor, if appointment is proper under section 201 of this act, dismiss the proceeding, or take other appropriate action consistent with this chapter or law of this state other than this chapter.

(2) In appointing a guardian under subsection (1) of this section, the following rules apply:

(a) The court shall appoint a person nominated as guardian by a parent of the minor in a will or other record unless the court finds the appointment is contrary to the best interest of the minor.

(b) If multiple parents have nominated different persons to serve as guardian, the court shall appoint the nominee whose appointment is in the best interest of the minor, unless the court finds that appointment of none of the nominees is in the best interest of the minor.

(c) If a guardian is not appointed under (a) or (b) of this subsection, the court shall appoint the person nominated by the minor if the minor is twelve years of age or older unless the court finds that appointment is contrary to the best interest of the minor. In that case, the court shall appoint as guardian a person whose appointment is in the best interest of the minor.

(3) In the interest of maintaining or encouraging involvement by a minor's parent in the minor's life, developing self-reliance of the minor, or for other good cause, the court, at the time of appointment of a guardian for the minor or later, on its own or on motion of the minor or other interested person, may create a limited guardianship by limiting the powers otherwise granted by this article to the guardian. Following the same procedure, the court may grant additional powers or withdraw powers previously granted.

(4) The court, as part of an order appointing a guardian for a minor, shall state rights retained by any parent of the minor, which may include contact or visitation with the minor, decision making regarding the minor's health care, education, or other matter, or access to a record regarding the minor.

(5) An order granting a guardianship for a minor must state that each parent of the minor is entitled to notice that:

(a) The guardian has delegated custody of the minor subject to guardianship;

(b) The court has modified or limited the powers of the guardian; or

(c) The court has removed the guardian.

(6) An order granting a guardianship for a minor must identify any person in addition to a parent of the minor which is entitled to notice of the events listed in subsection (5) of this section.

(7) An order granting guardianship for a minor must direct the clerk of the court to issue letters of office to the guardian containing an expiration date which should be the minor's eighteenth birthday.

**NEW SECTION. Sec. 208. STANDBY GUARDIAN FOR MINOR.** (1) A standby guardian appointed under this section may act as guardian, with all duties and powers of a guardian under sections 210 and 211 of this act, when no parent of the minor is willing or able to exercise the duties and powers granted to the guardian.

(2) A parent of a minor, in a signed record, may nominate a person to be appointed by the court as standby guardian for the minor. The parent, in a signed record, may state desired limitations on the powers to be granted the standby guardian. The parent, in a signed record, may revoke or amend the nomination at any time before the court appoints a standby guardian.

(3) The court may appoint a standby guardian for a minor on:

(a) Petition by a parent of the minor or a person nominated under subsection (2) of this section; and

(b) Finding that no parent of the minor likely will be able or willing to care for or make decisions with respect to the minor not later than two years after the appointment.

(4) A petition under subsection (3)(a) of this section must include the same information required under section 202 of this act for the appointment of a guardian for a minor.

(5) On filing a petition under subsection (3)(a) of this section, the petitioner shall:

(a) Serve a copy of the petition personally on:

(i) The minor, if the minor is twelve years of age or older, and the minor's attorney, if any;

(ii) Each parent of the minor;

- (iii) The person nominated as standby guardian; and
- (iv) Any other person the court determines; and

(b) Include with the copy of the petition served under (a) of this subsection a statement of the right to request appointment of an attorney for the minor or to object to appointment of the standby guardian, and a description of the nature, purpose, and consequences of appointment of a standby guardian.

(6) A person entitled to notice under subsection (5) of this section, not later than sixty days after service of the petition and statement, may object to appointment of the standby guardian by filing an objection with the court and giving notice of the objection to each other person entitled to notice under subsection (5) of this section.

(7) If an objection is filed under subsection (6) of this section, the court shall hold a hearing to determine whether a standby guardian should be appointed and, if so, the person that should be appointed. If no objection is filed, the court may make the appointment.

(8) The court may not grant a petition for a standby guardian of the minor if notice substantially complying with subsection (5) of this section is not served on:

(a) The minor, if the minor is twelve years of age or older; and

(b) Each parent of the minor, unless the court finds by clear and convincing evidence that the parent, in a record, waived the right to notice or cannot be located and served with due diligence.

(9) If a petitioner is unable to serve notice under subsection (5) of this section on a parent of the minor or alleges that a parent of the minor waived the right to notice under this section, the court shall appoint a visitor who shall:

(a) Interview the petitioner and the minor;

(b) If the petitioner alleges the parent cannot be located and served, ascertain whether the parent cannot be located with due diligence; and

(c) Investigate any other matter relating to the petition the court directs.

(10) If the court finds under subsection (3) of this section that a standby guardian should be appointed, the following rules apply:

(a) The court shall appoint the person nominated under subsection (2) of this section unless the court finds the appointment is contrary to the best interest of the minor.

(b) If the parents have nominated different persons to serve as standby guardian, the court shall appoint the nominee whose appointment is in the best interest of the minor, unless the court finds that appointment of none of the nominees is in the best interest of the minor.

(11) An order appointing a standby guardian under this section must state that each parent of the minor is entitled to notice, and identify any other person entitled to notice, if:

(a) The standby guardian assumes the duties and powers of the guardian;

(b) The guardian delegates custody of the minor;

(c) The court modifies or limits the powers of the guardian; or

(d) The court removes the guardian.

(12) Before assuming the duties and powers of a guardian, a standby guardian must file with the court an

acceptance of appointment as guardian and give notice of the acceptance to:

(a) Each parent of the minor, unless the parent, in a record, waived the right to notice or cannot be located and served with due diligence;

(b) The minor, if the minor is twelve years of age or older; and

(c) Any person, other than the parent, having care or custody of the minor.

(13) A person that receives notice under subsection (12) of this section or any other person interested in the welfare of the minor may file with the court an objection to the standby guardian's assumption of duties and powers of a guardian. The court shall hold a hearing if the objection supports a reasonable belief that the conditions for assumption of duties and powers have not been satisfied.

NEW SECTION. **Sec. 209.** EMERGENCY GUARDIAN FOR MINOR. (1) On its own, or on petition by a person interested in a minor's welfare, the court may appoint an emergency guardian for the minor if the court finds:

(a) Appointment of an emergency guardian is likely to prevent substantial harm to the minor's health, safety, or welfare; and

(b) No other person appears to have authority and willingness to act in the circumstances.

(2) The duration of authority of an emergency guardian for a minor may not exceed sixty days and the emergency guardian may exercise only the powers specified in the order of appointment. The emergency guardian's authority may be extended once for not more than sixty days if the court finds that the conditions for appointment of an emergency guardian in subsection (1) of this section continue.

(3) Except as otherwise provided in subsection (4) of this section, reasonable notice of the date, time, and place of a hearing on a petition for appointment of an emergency guardian for a minor must be given to:

(a) The minor, if the minor is twelve years of age or older;

(b) Any attorney appointed under section 204 of this act;

(c) Each parent of the minor;

(d) Any person, other than a parent, having care or custody of the minor; and

(e) Any other person the court determines.

(4) The court may appoint an emergency guardian for a minor without notice under subsection (3) of this section and a hearing only if the court finds from an affidavit or testimony that the minor's health, safety, or welfare will be substantially harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency guardian without notice to an unrepresented minor or the attorney for a represented minor, notice of the appointment must be given not later than forty-eight hours after the appointment to the individuals listed in subsection (3) of this section. Not later than five days after the appointment, the court shall hold a hearing on the appropriateness of the appointment.

(5) Appointment of an emergency guardian under this section, with or without notice, is not a determination that a basis exists for appointment of a guardian under section 201 of this act.

(6) The court may remove an emergency guardian appointed under this section at any time. The emergency guardian shall make any report the court requires.

(7) Notwithstanding subsection (2) of this section, the court may extend an emergency guardianship pending the outcome of a full hearing under section 202 or 208 of this act.

**NEW SECTION. Sec. 210. DUTIES OF GUARDIAN FOR MINOR.** (1) A guardian for a minor is a fiduciary. Except as otherwise limited by the court, a guardian for a minor has the duties and responsibilities of a parent regarding the minor's support, care, education, health, safety, and welfare. A guardian shall act in the minor's best interest and exercise reasonable care, diligence, and prudence.

(2) A guardian for a minor shall:

(a) Be personally acquainted with the minor and maintain sufficient contact with the minor to know the minor's abilities, limitations, needs, opportunities, and physical and mental health;

(b) Take reasonable care of the minor's personal effects and bring a proceeding for a conservatorship or protective arrangement instead of conservatorship if necessary to protect other property of the minor;

(c) Expend funds of the minor which have been received by the guardian for the minor's current needs for support, care, education, health, safety, and welfare;

(d) Conserve any funds of the minor not expended under (c) of this subsection for the minor's future needs, but if a conservator is appointed for the minor, pay the funds at least quarterly to the conservator to be conserved for the minor's future needs;

(e) Report the condition of the minor and account for funds and other property of the minor in the guardian's possession or subject to the guardian's control, as required by court rule or ordered by the court on application of a person interested in the minor's welfare;

(f) Inform the court of any change in the minor's dwelling or address; and

(g) In determining what is in the minor's best interest, take into account the minor's preferences to the extent actually known or reasonably ascertainable by the guardian.

**NEW SECTION. Sec. 211. POWERS OF GUARDIAN FOR MINOR.** (1) Except as otherwise limited by court order, a guardian of a minor has the powers a parent otherwise would have regarding the minor's support, care, education, health, safety, and welfare.

(2) Except as otherwise limited by court order, a guardian for a minor may:

(a) Apply for and receive funds and benefits otherwise payable for the support of the minor to the minor's parent, guardian, or custodian under a statutory system of

benefits or insurance or any private contract, devise, trust, conservatorship, or custodianship;

(b) Unless inconsistent with a court order entitled to recognition in this state, take custody of the minor and establish the minor's place of dwelling in this state and, after following the process in RCW 26.09.405 through 26.09.560 and on authorization of the court, establish or move the minor's dwelling outside this state;

(c) If the minor is not subject to conservatorship, commence a proceeding, including an administrative proceeding, or take other appropriate action to compel a person to support the minor, pay child support, or make other payments for the benefit of the minor;

(d) Consent to health or other care, treatment, or service for the minor; or

(e) To the extent reasonable, delegate to the minor responsibility for a decision affecting the minor's well-being.

(3) The court may authorize a guardian for a minor to consent to the adoption of the minor if the minor does not have a parent.

**NEW SECTION. Sec. 212. REMOVAL OF GUARDIAN FOR MINOR—TERMINATION OF GUARDIANSHIP—APPOINTMENT OF SUCCESSOR.**

(1) Guardianship under this chapter for a minor terminates:

(a) On the minor's death, adoption, emancipation, or attainment of majority; or

(b) When the court finds that the standard in section 201 of this act for appointment of a guardian is not satisfied, unless the court finds that:

(i) Termination of the guardianship would be harmful to the minor; and

(ii) The minor's interest in the continuation of the guardianship outweighs the interest of any parent of the minor in restoration of the parent's right to make decisions for the minor.

(2) A minor subject to guardianship or a person interested in the welfare of the minor, including a parent, may petition the court to terminate the guardianship, modify the guardianship, remove the guardian and appoint a successor guardian, or remove a standby guardian and appoint a different standby guardian.

(3) A petitioner under subsection (2) of this section shall give notice of the hearing on the petition to the minor, if the minor is twelve years of age or older and is not the petitioner, the guardian, each parent of the minor, and any other person the court determines.

(4) The court shall follow the priorities in section 207(2) of this act when selecting a successor guardian for a minor.

(5) Not later than thirty days after appointment of a successor guardian for a minor, the court shall give notice of the appointment to the minor subject to guardianship, if the minor is twelve years of age or older, each parent of the minor, and any other person the court determines.

(6) When terminating a guardianship for a minor under this section, the court may issue an order providing for transitional arrangements that will assist the minor with a transition of custody and is in the best interest of the minor.

(7) A guardian for a minor that is removed shall cooperate with a successor guardian to facilitate transition of

the guardian's responsibilities and protect the best interest of the minor.

NEW SECTION. **Sec. 213.** PRIOR COURT ORDER VALIDITY. This chapter does not affect the validity of any court order issued under chapter 26.10 RCW prior to the effective date of this section. Orders issued under chapter 26.10 RCW prior to the effective date of this section remain in effect and do not need to be reissued in a new order under this chapter.

NEW SECTION. **Sec. 214.** APPLICATION OF THE INDIAN CHILD WELFARE ACT. (1) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in RCW 13.38.040. If the child is an Indian child, chapter 13.38 RCW shall apply.

(2) Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.38 RCW does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.38 RCW does apply, the decree or order must also contain a finding that all notice and evidentiary requirements under the federal Indian child welfare act and chapter 13.38 RCW have been satisfied.

NEW SECTION. **Sec. 215.** CHILD SUPPORT. In entering or modifying an order under this chapter, the court may order one or more parents of the child to pay an amount reasonable or necessary for the child's support pursuant to chapter 26.19 RCW.

NEW SECTION. **Sec. 216.** HEALTH INSURANCE COVERAGE—CONDITIONS. (1) In entering or modifying a custody order under this chapter, the court must require one or more parents to maintain or provide health insurance coverage for any dependent child if the following conditions are met:

(a) Health insurance that can be extended to cover the child is available to that parent through an employer or other organization; and

(b) The employer or other organization offering health insurance will contribute all or a part of the premium for coverage of the child.

(2) A parent who is required to extend insurance coverage to a child under this section is liable for any covered health care costs for which the parent receives direct payment from an insurer.

(3) This section may not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of medical expenses, medical costs, or insurance premiums which are in addition to and not inconsistent with this section. "Health insurance" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

### ARTICLE 3 GUARDIANSHIP OF ADULT

NEW SECTION. **Sec. 301.** BASIS FOR APPOINTMENT OF GUARDIAN FOR ADULT. (1) On petition and after notice and hearing, the court may:

(a) Appoint a guardian for an adult if the court finds by clear and convincing evidence that:

(i) The respondent lacks the ability to meet essential requirements for physical health, safety, or self-care because the respondent is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making; and

(ii) The respondent's identified needs cannot be met by a protective arrangement instead of guardianship or other less restrictive alternative; or

(b) With appropriate findings, treat the petition as one for a conservatorship under article 4 of this chapter or protective arrangement under article 5 of this chapter, issue any appropriate order, or dismiss the proceeding.

(2) The court shall grant a guardian appointed under subsection (1) of this section only those powers necessitated by the demonstrated needs and limitations of the respondent and issue orders that will encourage development of the respondent's maximum self-determination and independence. The court may not establish a full guardianship if a limited guardianship, protective arrangement instead of guardianship, or other less restrictive alternative would meet the needs of the respondent.

NEW SECTION. **Sec. 302.** PETITION FOR APPOINTMENT OF GUARDIAN FOR ADULT. (1) A person interested in an adult's welfare, including the adult for whom the order is sought, may petition for appointment of a guardian for the adult.

(2) A petition under subsection (1) of this section must state the petitioner's name, principal residence, current street address, if different, relationship to the respondent, interest in the appointment, the name and address of any attorney representing the petitioner, and, to the extent known, the following:

(a) The respondent's name, age, principal residence, current street address, if different, and, if different, address of the dwelling in which it is proposed the respondent will reside if the petition is granted;

(b) The name and address of the respondent's:

(i) Spouse or domestic partner or, if the respondent has none, an adult with whom the respondent has shared household responsibilities for more than six months in the twelve-month period immediately before the filing of the petition;

(ii) Adult children or, if none, each parent and adult sibling of the respondent, or, if none, at least one adult nearest in kinship to the respondent who can be found with reasonable diligence; and

(iii) Adult stepchildren whom the respondent actively parented during the stepchildren's minor years and with whom the respondent had an ongoing relationship in the two-year period immediately before the filing of the petition;

(c) The name and current address of each of the following, if applicable:

(i) A person responsible for care of the respondent;

- (ii) Any attorney currently representing the respondent;
- (iii) Any representative payee appointed by the social security administration for the respondent;
- (iv) A guardian or conservator acting for the respondent in this state or in another jurisdiction;
- (v) A trustee or custodian of a trust or custodianship of which the respondent is a beneficiary;
- (vi) Any fiduciary for the respondent appointed by the department of veterans affairs;
- (vii) An agent designated under a power of attorney for health care in which the respondent is identified as the principal;
- (viii) An agent designated under a power of attorney for finances in which the respondent is identified as the principal;
- (ix) A person nominated as guardian by the respondent;
- (x) A person nominated as guardian by the respondent's parent or spouse or domestic partner in a will or other signed record;
- (xi) A proposed guardian and the reason the proposed guardian should be selected; and
- (xii) A person known to have routinely assisted the respondent with decision making during the six months immediately before the filing of the petition;
- (d) The reason a guardianship is necessary, including a brief description of:
  - (i) The nature and extent of the respondent's alleged need;
  - (ii) Any protective arrangement instead of guardianship or other less restrictive alternatives for meeting the respondent's alleged need which have been considered or implemented;
  - (iii) If no protective arrangement instead of guardianship or other less restrictive alternatives have been considered or implemented, the reason they have not been considered or implemented; and
  - (iv) The reason a protective arrangement instead of guardianship or other less restrictive alternative is insufficient to meet the respondent's alleged need;
  - (e) Whether the petitioner seeks a limited guardianship or full guardianship;
  - (f) If the petitioner seeks a full guardianship, the reason a limited guardianship or protective arrangement instead of guardianship is not appropriate;
  - (g) If a limited guardianship is requested, the powers to be granted to the guardian;
  - (h) The name and current address, if known, of any person with whom the petitioner seeks to limit the respondent's contact;
  - (i) If the respondent has property other than personal effects, a general statement of the respondent's property, with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts; and
  - (j) Whether the respondent needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings.

NEW SECTION. Sec. 303. NOTICE OF HEARING FOR APPOINTMENT OF GUARDIAN FOR ADULT. (1) All petitions filed under section 302 of this act for appointment of a guardian for an adult shall be heard within sixty-days unless an extension of time is requested by a party or the visitor within such sixty-day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date.

(2) A copy of a petition under section 302 of this act and notice of a hearing on the petition must be served personally on the respondent and the visitor appointed under section 304 of this act not more than five court days after the petition under section 302 of this act has been filed. The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the petition. The court may not grant the petition if notice substantially complying with this subsection is not served on the respondent.

(3) In a proceeding on a petition under section 302 of this act, the notice required under subsection (2) of this section must be given to the persons required to be listed in the petition under section 302(2) (a) through (c) of this act and any other person interested in the respondent's welfare the court determines. Failure to give notice under this subsection does not preclude the court from appointing a guardian.

(4) After the appointment of a guardian, notice of a hearing on a petition for an order under this article, together with a copy of the petition, must be given to:

- (a) The adult subject to guardianship;
- (b) The guardian; and
- (c) Any other person the court determines.

NEW SECTION. Sec. 304. APPOINTMENT AND ROLE OF VISITOR. (1) On receipt of a petition under section 302 of this act for appointment of a guardian for an adult, the court shall appoint a visitor. The visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.

(2) The court, in the order appointing a visitor, shall specify the hourly rate the visitor may charge for his or her services, and shall specify the maximum amount the visitor may charge without additional court review and approval.

(3)(a) The visitor appointed under subsection (1) of this section shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, the respondent or his or her legal counsel, the petitioner or his or her legal counsel, and any interested party entitled to notice under section 116 of this act with a statement including: His or her training relating to the duties as a visitor; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the visitor has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the visitor's statement, any party may set a hearing and file and serve a motion for an order to show cause why the visitor

should not be removed for one of the following three reasons:

- (i) Lack of expertise necessary for the proceeding;
- (ii) An hourly rate higher than what is reasonable for the particular proceeding; or
- (iii) A conflict of interest.

(b) Notice of the hearing shall be provided to the visitor and all parties. If, after a hearing, the court enters an order replacing the visitor, findings shall be included, expressly stating the reasons for the removal. If the visitor is not removed, the court has the authority to assess to the moving party attorneys' fees and costs related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.

(4) A visitor appointed under subsection (1) of this section shall interview the respondent in person and, in a manner the respondent is best able to understand:

(a) Explain to the respondent the substance of the petition, the nature, purpose, and effect of the proceeding, the respondent's rights at the hearing on the petition, and the general powers and duties of a guardian;

(b) Determine the respondent's views about the appointment sought by the petitioner, including views about a proposed guardian, the guardian's proposed powers and duties, and the scope and duration of the proposed guardianship; and

(c) Inform the respondent that all costs and expenses of the proceeding, including the respondent's attorney's fees, may be paid from the respondent's assets.

(5) The visitor appointed under subsection (1) of this section shall:

(a) Interview the petitioner and proposed guardian, if any;

(b) Visit the respondent's present dwelling and any dwelling in which it is reasonably believed the respondent will live if the appointment is made;

(c) Obtain information from any physician or other person known to have treated, advised, or assessed the respondent's relevant physical or mental condition; and

(d) Investigate the allegations in the petition and any other matter relating to the petition the court directs.

(6) A visitor appointed under subsection (1) of this section shall file a report in a record with the court and provide a copy of the report to the respondent, petitioner, and any interested party entitled to notice under section 116 of this act at least fifteen days prior to the hearing on the petition filed under section 302 of this act, which must include:

(a) A summary of self-care and independent living tasks the respondent can manage without assistance or with existing supports, could manage with the assistance of appropriate supportive services, technological assistance, or supported decision making, and cannot manage;

(b) A recommendation regarding the appropriateness of guardianship, including whether a protective arrangement instead of guardianship or other less restrictive alternative for meeting the respondent's needs is available and:

(i) If a guardianship is recommended, whether it should be full or limited; and

(ii) If a limited guardianship is recommended, the powers to be granted to the guardian;

(c) A statement of the qualifications of the proposed guardian and whether the respondent approves or disapproves of the proposed guardian;

(d) A statement whether the proposed dwelling meets the respondent's needs and whether the respondent has expressed a preference as to residence;

(e) A recommendation whether a professional evaluation under section 306 of this act is necessary;

(f) A statement whether the respondent is able to attend a hearing at the location court proceedings typically are held;

(g) A statement whether the respondent is able to participate in a hearing and which identifies any technology or other form of support that would enhance the respondent's ability to participate; and

(h) Any other matter the court directs.

NEW SECTION. Sec. 305. APPOINTMENT AND ROLE OF ATTORNEY FOR ADULT. (1) Unless the respondent in a proceeding for appointment of a guardian for an adult is represented by an attorney, the court is not required, but may appoint an attorney to represent the respondent, regardless of the respondent's ability to pay.

(2) An attorney representing the respondent in a proceeding for appointment of a guardian for an adult shall:

(a) Make reasonable efforts to ascertain the respondent's wishes;

(b) Advocate for the respondent's wishes to the extent reasonably ascertainable; and

(c) If the respondent's wishes are not reasonably ascertainable, advocate for the result that is the least restrictive in type, duration, and scope, consistent with the respondent's interests.

NEW SECTION. Sec. 306. PROFESSIONAL EVALUATION. (1) At or before a hearing on a petition for a guardianship for an adult, the court shall order a professional evaluation of the respondent:

(a) If the respondent requests the evaluation; or

(b) In other cases, unless the court finds that it has sufficient information to determine the respondent's needs and abilities without the evaluation.

(2) If the court orders an evaluation under subsection (1) of this section, the respondent must be examined by a physician licensed to practice under chapter 18.71 or 18.57 RCW, psychologist licensed under chapter 18.83 RCW, or advanced registered nurse practitioner licensed under chapter 18.79 RCW selected by the visitor who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest. The individual conducting the evaluation promptly shall file report in a record with the court. Unless otherwise directed by the court, the report must contain:

(a) A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitations;

(b) An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills;

(c) A prognosis for improvement and recommendation for the appropriate treatment, support, or habilitation plan; and

(d) The date of the examination on which the report is based.

(3) The respondent may decline to participate in an evaluation ordered under subsection (1) of this section.

**NEW SECTION. Sec. 307. ATTENDANCE AND RIGHTS AT HEARING.** (1) Except as otherwise provided in subsection (2) of this section, a hearing under section 303 of this act may not proceed unless the respondent attends the hearing. If it is not reasonably feasible for the respondent to attend a hearing at the location court proceedings typically are held, the court shall make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or allow the respondent to attend the hearing using real-time audio-visual technology.

(2) A hearing under section 303 of this act may proceed without the respondent in attendance if the court finds by clear and convincing evidence that:

(a) The respondent consistently and repeatedly has refused to attend the hearing after having been fully informed of the right to attend and the potential consequences of failing to do so; or

(b) There is no practicable way for the respondent to attend and participate in the hearing even with appropriate supportive services and technological assistance.

(3) The respondent may be assisted in a hearing under section 303 of this act by a person or persons of the respondent's choosing, assistive technology, or an interpreter or translator, or a combination of these supports. If assistance would facilitate the respondent's participation in the hearing, but is not otherwise available to the respondent, the court shall make reasonable efforts to provide it.

(4) The respondent has a right to choose an attorney to represent the respondent at a hearing under section 303 of this act.

(5) At a hearing held under section 303 of this act, the respondent may:

(a) Present evidence and subpoena witnesses and documents;

(b) Examine witnesses, including any court-appointed evaluator and the visitor; and

(c) Otherwise participate in the hearing.

(6) Unless excused by the court for good cause, a proposed guardian shall attend a hearing under section 303 of this act.

(7) A hearing under section 303 of this act must be closed on request of the respondent and a showing of good cause.

(8) Any person may request to participate in a hearing under section 303 of this act. The court may grant the request, with or without a hearing, on determining that the best interest of the respondent will be served. The court may impose appropriate conditions on the person's participation.

**NEW SECTION. Sec. 308. CONFIDENTIALITY OF RECORDS.** (1) The existence of a proceeding for or the existence of a guardianship for an adult is a matter of public record unless the court seals the record after:

(a) The respondent or individual subject to guardianship requests the record be sealed; and

(b) Either:

(i) The petition for guardianship is dismissed; or

(ii) The guardianship is terminated.

(2) An adult subject to a proceeding for a guardianship, whether or not a guardian is appointed, an attorney designated by the adult, and a person entitled to notice under section 310(5) of this act or a subsequent order are entitled to access court records of the proceeding and resulting guardianship, including the guardian's plan under section 317 of this act and report under section 318 of this act. A person not otherwise entitled to access court records under this subsection for good cause may petition the court for access to court records of the guardianship, including the guardian's report and plan. The court shall grant access if access is in the best interest of the respondent or adult subject to guardianship or furthers the public interest and does not endanger the welfare or financial interests of the adult.

(3) A report under section 304 of this act of a visitor or a professional evaluation under section 306 of this act is confidential and must be sealed on filing, but is available to:

(a) The court;

(b) The individual who is the subject of the report or evaluation, without limitation as to use;

(c) The petitioner, visitor, and petitioner's and respondent's attorneys, for purposes of the proceeding;

(d) Unless the court orders otherwise, an agent appointed under a power of attorney for health care or power of attorney for finances in which the respondent is the principal; and

(e) Any other person if it is in the public interest or for a purpose the court orders for good cause.

**NEW SECTION. Sec. 309. WHO MAY BE GUARDIAN FOR ADULT—ORDER OF PRIORITY.** (1) Except as otherwise provided in subsection (3) of this section, the court in appointing a guardian for an adult shall consider persons qualified to be guardian in the following order of priority:

(a) A guardian, other than a temporary or emergency guardian, currently acting for the respondent in another jurisdiction;

(b) A person nominated as guardian by the respondent, including the respondent's most recent nomination made in a power of attorney;

(c) An agent appointed by the respondent under a power of attorney for health care;

(d) A spouse or domestic partner of the respondent;

(e) A relative or other individual who has shown special care and concern for the respondent; and

(f) A certified professional guardian or conservator.

(2) If two or more persons have equal priority under subsection (1) of this section, the court shall select as guardian the person the court considers best qualified. In determining the best qualified person, the court shall consider the person's relationship with the respondent, the

person's skills, the expressed wishes of the respondent, the extent to which the person and the respondent have similar values and preferences, and the likelihood the person will be able to perform the duties of a guardian successfully.

(3) The court, acting in the best interest of the respondent, may decline to appoint as guardian a person having priority under subsection (1) of this section and appoint a person having a lower priority or no priority.

(4) A person that provides paid services to the respondent, or an individual who is employed by a person that provides paid services to the respondent or is the spouse, domestic partner, parent, or child of an individual who provides or is employed to provide paid services to the respondent, may not be appointed as guardian unless:

(a) The individual is related to the respondent by blood, marriage, or adoption; or

(b) The court finds by clear and convincing evidence that the person is the best qualified person available for appointment and the appointment is in the best interest of the respondent.

(5) An owner, operator, or employee of a long-term care facility at which the respondent is receiving care may not be appointed as guardian unless the owner, operator, or employee is related to the respondent by blood, marriage, or adoption.

**NEW SECTION. Sec. 310. ORDER OF APPOINTMENT FOR GUARDIAN.** (1) A court order appointing a guardian for an adult must:

(a) Include a specific finding that clear and convincing evidence established that the identified needs of the respondent cannot be met by a protective arrangement instead of guardianship or other less restrictive alternative, including use of appropriate supportive services, technological assistance, or supported decision making;

(b) Include a specific finding that clear and convincing evidence established the respondent was given proper notice of the hearing on the petition;

(c) State whether the adult subject to guardianship retains the right to vote and, if the adult does not retain the right to vote, include findings that support removing that right which must include a finding that the adult cannot communicate, with or without support, a specific desire to participate in the voting process; and

(d) State whether the adult subject to guardianship retains the right to marry and, if the adult does not retain the right to marry, include findings that support removing that right.

(2) An adult subject to guardianship retains the right to vote unless the order under subsection (1) of this section includes the statement required by subsection (1)(c) of this section. An adult subject to guardianship retains the right to marry unless the order under subsection (1) of this section includes the findings required by subsection (1)(d) of this section.

(3) A court order establishing a full guardianship for an adult must state the basis for granting a full guardianship and include specific findings that support the conclusion that a limited guardianship would not meet the functional needs of the adult subject to guardianship.

(4) A court order establishing a limited guardianship for an adult must state the specific powers granted to the guardian.

(5) The court, as part of an order establishing a guardianship for an adult, shall identify any person that subsequently is entitled to:

(a) Notice of the rights of the adult under section 311(2) of this act;

(b) Notice of a change in the primary dwelling of the adult;

(c) Notice that the guardian has delegated:

(i) The power to manage the care of the adult;

(ii) The power to make decisions about where the adult lives;

(iii) The power to make major medical decisions on behalf of the adult;

(iv) A power that requires court approval under section 315 of this act; or

(v) Substantially all powers of the guardian;

(d) Notice that the guardian will be unavailable to visit the adult for more than two months or unavailable to perform the guardian's duties for more than one month;

(e) A copy of the guardian's plan under section 317 of this act and the guardian's report under section 318 of this act;

(f) Access to court records relating to the guardianship;

(g) Notice of the death or significant change in the condition of the adult;

(h) Notice that the court has limited or modified the powers of the guardian; and

(i) Notice of the removal of the guardian.

(6) A spouse, domestic partner, and adult children of an adult subject to guardianship are entitled to notice under subsection (5) of this section unless the court determines notice would be contrary to the preferences or prior directions of the adult subject to guardianship or not in the best interest of the adult.

(7) All orders establishing a guardianship for an adult must contain:

(a) A guardianship summary placed directly below the case caption or on a separate cover page in the form or substantially the same form as set forth in section 606 of this act;

(b) The date which the limited guardian or guardian must file the guardian's plan under section 317(1) of this act;

(c) The date by which the court will review the guardian's plan as required by section 317(4) of this act;

(d) The report interval which the guardian shall file its guardian's plan under section 318 of this act. The report interval may be annual, biennial, or triennial;

(e) The date the limited guardian or guardian must file its guardian's plan under section 318 of this act. The due date of the filing of the report shall be within ninety days after the anniversary date of the appointment;

(f) The date for the court to review the guardian's plan under section 318 of this act and enter its order. The court shall conduct the review within one hundred twenty days after the anniversary date of the appointment.

NEW SECTION. **Sec. 311.** NOTICE OF ORDER OF APPOINTMENT—RIGHTS. (1) A guardian appointed under section 309 of this act shall give the adult subject to guardianship and all other persons given notice under section 303 of this act a copy of the order of appointment, together with notice of the right to request termination or modification. The order and notice must be given not later than fourteen days after the appointment.

(2) Not later than thirty days after appointment of a guardian under section 309 of this act, the guardian shall give to the adult subject to guardianship and any other person entitled to notice under section 310(5) of this act or a subsequent order a statement of the rights of the adult subject to guardianship and procedures to seek relief if the adult is denied those rights. The statement must be in at least sixteen-point font, in plain language, and, to the extent feasible, in a language in which the adult subject to guardianship is proficient. The statement must notify the adult subject to guardianship of the right to:

(a) Seek termination or modification of the guardianship, or removal of the guardian, and choose an attorney to represent the adult in these matters;

(b) Be involved in decisions affecting the adult, including decisions about the adult's care, dwelling, activities, or social interactions, to the extent reasonably feasible;

(c) Be involved in health care decision making to the extent reasonably feasible and supported in understanding the risks and benefits of health care options to the extent reasonably feasible;

(d) Be notified at least fourteen days before a change in the adult's primary dwelling or permanent move to a nursing home, mental health facility, or other facility that places restrictions on the individual's ability to leave or have visitors unless the change or move is proposed in the guardian's plan under section 317 of this act or authorized by the court by specific order;

(e) Object to a change or move described in (d) of this subsection and the process for objecting;

(f) Communicate, visit, or interact with others, including receiving visitors, and making or receiving telephone calls, personal mail, or electronic communications, including through social media, unless:

(i) The guardian has been authorized by the court by specific order to restrict communications, visits, or interactions;

(ii) A protective order or protective arrangement instead of guardianship is in effect that limits contact between the adult and a person; or

(iii) The guardian has good cause to believe restriction is necessary because interaction with a specified person poses a risk of significant physical, psychological, or financial harm to the adult, and the restriction is:

(A) For a period of not more than seven business days if the person has a relative or preexisting social relationship with the adult; or

(B) For a period of not more than sixty days if the person does not have a relative or preexisting social relationship with the adult;

(g) Receive a copy of the guardian's plan under section 317 of this act and the guardian's report under section 318 of this act;

(h) Object to the guardian's plan or report; and

(i) Associate with persons of their choosing as provided in section 315(5) of this act.

NEW SECTION. **Sec. 312.** EMERGENCY GUARDIAN FOR ADULT. (1) On its own after a petition has been filed under section 302 of this act, or on petition by a person interested in an adult's welfare, the court may appoint an emergency guardian for the adult if the court finds:

(a) Appointment of an emergency guardian is likely to prevent substantial harm to the adult's physical health, safety, or welfare;

(b) No other person appears to have authority and willingness to act in the circumstances; and

(c) There is reason to believe that a basis for appointment of a guardian under section 301 of this act exists.

(2) The duration of authority of an emergency guardian for an adult may not exceed sixty days, and the emergency guardian may exercise only the powers specified in the order of appointment. The emergency guardian's authority may be extended once for not more than sixty days if the court finds that the conditions for appointment of an emergency guardian in subsection (1) of this section continue.

(3) Immediately on filing of a petition for appointment of an emergency guardian for an adult, the court shall appoint an attorney to represent the respondent in the proceeding. Except as otherwise provided in subsection (4) of this section, reasonable notice of the date, time, and place of a hearing on the petition must be given to the respondent, the respondent's attorney, and any other person the court determines.

(4) The court may appoint an emergency guardian for an adult without notice to the adult and any attorney for the adult only if the court finds from an affidavit or testimony that the respondent's physical health, safety, or welfare will be substantially harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency guardian without giving notice under subsection (3) of this section, the court must:

(a) Give notice of the appointment not later than forty-eight hours after the appointment to:

(i) The respondent;

(ii) The respondent's attorney; and

(iii) Any other person the court determines; and

(b) Hold a hearing on the appropriateness of the appointment not later than five days after the appointment.

(5) Appointment of an emergency guardian under this section is not a determination that a basis exists for appointment of a guardian under section 301 of this act.

(6) The court may remove an emergency guardian appointed under this section at any time. The emergency guardian shall make any report the court requires.

NEW SECTION. **Sec. 313.** DUTIES OF GUARDIAN FOR ADULT. (1) A guardian for an adult is a fiduciary and owes the highest duty of good faith and care to the person under a guardianship. The guardian shall not

substitute his or her moral or religious values, opinions, or philosophical beliefs for those of the person under a guardianship. Except as otherwise limited by the court, a guardian for an adult shall make decisions regarding the support, care, education, health, and welfare of the adult subject to guardianship to the extent necessitated by the adult's limitations.

(2) A guardian for an adult shall promote the self-determination of the adult and, to the extent reasonably feasible, encourage the adult to participate in decisions, act on the adult's own behalf, and develop or regain the capacity to manage the adult's personal affairs. In furtherance of this duty, the guardian shall:

(a) Become or remain personally acquainted with the adult and maintain sufficient contact with the adult, including through regular visitation, to know the adult's abilities, limitations, needs, opportunities, and physical and mental health;

(b) To the extent reasonably feasible, identify the values and preferences of the adult and involve the adult in decisions affecting the adult, including decisions about the adult's care, dwelling, activities, or social interactions; and

(c) Make reasonable efforts to identify and facilitate supportive relationships and services for the adult.

(3) A guardian for an adult at all times shall exercise reasonable care, diligence, and prudence when acting on behalf of or making decisions for the adult. In furtherance of this duty, the guardian shall:

(a) Take reasonable care of the personal effects, pets, and service or support animals of the adult and bring a proceeding for a conservatorship or protective arrangement instead of conservatorship if necessary to protect the adult's property;

(b) Expend funds and other property of the adult received by the guardian for the adult's current needs for support, care, education, health, and welfare;

(c) Conserve any funds and other property of the adult not expended under (b) of this subsection for the adult's future needs, but if a conservator has been appointed for the adult, pay the funds and other property at least quarterly to the conservator to be conserved for the adult's future needs; and

(d) Monitor the quality of services, including long-term care services, provided to the adult.

(4) In making a decision for an adult subject to guardianship, the guardian shall make the decision the guardian reasonably believes the adult would make if the adult were able unless doing so would unreasonably harm or endanger the welfare or personal or financial interests of the adult. To determine the decision the adult subject to guardianship would make if able, the guardian shall consider the adult's previous or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the guardian.

(5) If a guardian for an adult cannot make a decision under subsection (4) of this section because the guardian does not know and cannot reasonably determine the decision the adult probably would make if able, or the guardian reasonably believes the decision the adult would make would unreasonably harm or endanger the welfare or personal or financial interests of the adult, the guardian shall act in accordance with the best interests of the adult. In

determining the best interests of the adult, the guardian shall consider:

(a) Information received from professionals and persons that demonstrate sufficient interest in the welfare of the adult;

(b) Other information the guardian believes the adult would have considered if the adult were able to act; and

(c) Other factors a reasonable person in the circumstances of the adult would consider, including consequences for others.

(6) A guardian for an adult immediately shall notify the court if the condition of the adult has changed so that the adult is capable of exercising rights previously removed.

(7) The guardian shall file with the court within thirty days of any substantial change in the condition of the person under guardianship or any changes in the residence of the person under guardianship and shall provide a copy of the notice to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court has determined is entitled to notice.

(8) To inform any person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court has determined is entitled to notice, but in no case more than five business days, after the person subject to guardianship:

(a) Makes a change in residence that is intended or likely to last more than fourteen calendar days;

(b) Has been admitted to a medical facility for acute care in response to a life-threatening injury or medical condition that requires inpatient care;

(c) Has been treated in an emergency room setting or kept for hospital observation for more than twenty-four hours; or

(d) Dies, in which case the notification must be made in person, by telephone, or by certified mail.

NEW SECTION. **Sec. 314. POWERS OF GUARDIAN FOR ADULT.** (1) Except as limited by court order, a guardian for an adult may:

(a) Apply for and receive funds and benefits for the support of the adult, unless a conservator is appointed for the adult and the application or receipt is within the powers of the conservator;

(b) Unless inconsistent with a court order, establish the adult's place of dwelling;

(c) Consent to health or other care, treatment, or service for the adult;

(d) If a conservator for the adult has not been appointed, commence a proceeding, including an administrative proceeding, or take other appropriate action to compel another person to support the adult or pay funds for the adult's benefit;

(e) To the extent reasonable, delegate to the adult responsibility for a decision affecting the adult's well-being; and

(f) Receive personally identifiable health care information regarding the adult.

(2) The court by specific order may authorize a guardian for an adult to consent to the adoption of the adult.

(3) The court by specific order may authorize a guardian for an adult to:

(a) Consent or withhold consent to the marriage of the adult if the adult's right to marry has been removed under section 310 of this act;

(b) Petition for divorce, dissolution, or annulment of marriage of the adult or a declaration of invalidity of the adult's marriage; or

(c) Support or oppose a petition for divorce, dissolution, or annulment of marriage of the adult or a declaration of invalidity of the adult's marriage.

(4) In determining whether to authorize a power under subsection (2) or (3) of this section, the court shall consider whether the underlying act would be in accordance with the adult's preferences, values, and prior directions and whether the underlying act would be in the adult's best interest.

(5) In exercising a guardian's power under subsection (1)(b) of this section to establish the adult's place of dwelling, the guardian shall:

(a) Select a residential setting the guardian believes the adult would select if the adult were able, in accordance with the decision-making standard in section 313 (4) and (5) of this act. If the guardian does not know and cannot reasonably determine what setting the adult subject to guardianship probably would choose if able, or the guardian reasonably believes the decision the adult would make would unreasonably harm or endanger the welfare or personal or financial interests of the adult, the guardian shall choose in accordance with section 313(5) of this act a residential setting that is consistent with the adult's best interest;

(b) In selecting among residential settings, give priority to a residential setting in a location that will allow the adult to interact with persons important to the adult and meet the adult's needs in the least restrictive manner reasonably feasible unless to do so would be inconsistent with the decision-making standard in section 313 (4) and (5) of this act;

(c) Not later than thirty days after a change in the dwelling of the adult:

(i) Give notice of the change to the court, the adult, and any person identified as entitled to the notice in the court order appointing the guardian or a subsequent order; and

(ii) Include in the notice the address and nature of the new dwelling and state whether the adult received advance notice of the change and whether the adult objected to the change;

(d) Establish or move the permanent place of dwelling of the adult to a nursing home, mental health facility, or other facility that places restrictions on the adult's ability to leave or have visitors only if:

(i) The establishment or move is in the guardian's plan under section 317 of this act;

(ii) The court authorizes the establishment or move;

or

(iii) The guardian gives notice of the establishment or move at least fourteen days before the establishment or move to the adult and all persons entitled to notice under section 310(5)(b) of this act or a subsequent order, and no objection is filed;

(e) Establish or move the place of dwelling of the adult outside this state only if consistent with the guardian's plan and authorized by the court by specific order; and

(f) Take action that would result in the sale of or surrender of the lease to the primary dwelling of the adult only if:

(i) The action is specifically included in the guardian's plan under section 317 of this act;

(ii) The court authorizes the action by specific order;

or

(iii) Notice of the action was given at least fourteen days before the action to the adult and all persons entitled to the notice under section 310(5)(b) of this act or a subsequent order and no objection has been filed.

(6) In exercising a guardian's power under subsection (1)(c) of this section to make health care decisions, the guardian shall:

(a) Involve the adult in decision making to the extent reasonably feasible, including, when practicable, by encouraging and supporting the adult in understanding the risks and benefits of health care options;

(b) Defer to a decision by an agent under a power of attorney for health care executed by the adult and cooperate to the extent feasible with the agent making the decision; and

(c) Take into account:

(i) The risks and benefits of treatment options; and

(ii) The current and previous wishes and values of the adult, if known or reasonably ascertainable by the guardian.

(7) Notwithstanding subsection (1)(b) of this section no residential treatment facility which provides nursing or other care may detain a person within such facility against their will. Any court order, other than an order issued in accordance with the involuntary treatment provisions of chapters 10.77, 71.05, and 72.23 RCW, which purports to authorize such involuntary detention or purports to authorize a guardian or limited guardian to consent to such involuntary detention on behalf of an individual subject to a guardianship shall be void and of no force or effect. This section does not apply to the detention of a minor as provided in chapter 71.34 RCW.

(8) Nothing in this section shall be construed to require a court order authorizing placement of an incapacitated person in a residential treatment facility if such order is not otherwise required by law: PROVIDED, That notice of any residential placement of an individual subject to a guardianship shall be served, either before or after placement, by the guardian or limited guardian on such individual, any visitor of record, any guardian ad litem of record, and any attorney of record.

**NEW SECTION. Sec. 315. SPECIAL LIMITATIONS ON GUARDIAN'S POWER.** (1) Unless authorized by the court by specific order, a guardian for an adult does not have the power to revoke or amend a power of attorney for health care or power of attorney for finances executed by the adult. If a power of attorney for health care is in effect, unless there is a court order to the contrary, a health care decision of an agent takes precedence over that of the guardian and the guardian shall cooperate with the agent to the extent feasible. If a power of attorney for

finances is in effect, unless there is a court order to the contrary, a decision by the agent which the agent is authorized to make under the power of attorney for finances takes precedence over that of the guardian and the guardian shall cooperate with the agent to the extent feasible.

(2) A guardian for an adult may not initiate the commitment of the adult to an evaluation and treatment facility except in accordance with the state's procedure for involuntary civil commitment.

(3) Unless authorized by the court in accordance with subsection (4) of this section within the past thirty days, a guardian for an adult may not consent to any of the following procedures for the adult:

- (a) Therapy or other procedure to induce convulsion;
- (b) Surgery solely for the purpose of psychosurgery;

or

(c) Other psychiatric or mental health procedures that restrict physical freedom of movement or the rights set forth in RCW 71.05.217.

(4) The court may order a procedure listed in subsection (3) of this section only after giving notice to the adult's attorney and holding a hearing. If the adult does not have an attorney, the court must appoint an attorney for the adult prior to entering an order under this subsection.

(5) PERSONS UNDER A GUARDIANSHIP, CONSERVATORSHIP, OR OTHER PROTECTIVE ARRANGEMENTS—RIGHT TO ASSOCIATE WITH PERSONS OF THEIR CHOOSING.

(a) Except as otherwise provided in this section, a person under a guardianship retains the right to associate with persons of the person under a guardianship's choosing. This right includes, but is not limited to, the right to freely communicate and interact with other persons, whether through in-person visits, telephone calls, electronic communication, personal mail, or other means. If the person under a guardianship is unable to express consent for communication, visitation, or interaction with another person, or is otherwise unable to make a decision regarding association with another person, a guardian of a person under a guardianship, whether full or limited, must:

(i) Personally inform the person under a guardianship of the decision under consideration, using plain language, in a manner calculated to maximize the understanding of the person under a guardianship;

(ii) Maximize the person under a guardianship's participation in the decision-making process to the greatest extent possible, consistent with the person under a guardianship's abilities; and

(iii) Give substantial weight to the person under a guardianship's preferences, both expressed and historical.

(b) A guardian or limited guardian may not restrict a person under a guardianship's right to communicate, visit, interact, or otherwise associate with persons of the person under a guardianship's choosing, unless:

(i) The restriction is specifically authorized by the guardianship court in the court order establishing or modifying the guardianship or limited guardianship under chapter 11.--- RCW (the new chapter created in section 806 of this act);

(ii) The restriction is pursuant to a protection order issued under chapter 74.34 RCW, chapter 26.50 RCW, or

other law, that limits contact between the person under a guardianship and other persons;

(iii)(A) The guardian or limited guardian has good cause to believe that there is an immediate need to restrict a person under a guardianship's right to communicate, visit, interact, or otherwise associate with persons of the person under a guardianship's choosing in order to protect the person under a guardianship from abuse, neglect, abandonment, or financial exploitation, as those terms are defined in RCW 74.34.020, or to protect the person under a guardianship from activities that unnecessarily impose significant distress on the person under a guardianship; and

(B) Within fourteen calendar days of imposing the restriction under (b)(iii)(A) of this subsection, the guardian or limited guardian files a petition for a protection order under chapter 74.34 RCW. The immediate need restriction may remain in place until the court has heard and issued an order or decision on the petition; or

(iv) The restriction is pursuant to participation in the community protection program under chapter 71A.12 RCW.

(6) A protection order under chapter 74.34 RCW issued to protect the person under a guardianship as described in subsection (5)(b)(iii)(B) of this section:

(a) Must include written findings of fact and conclusions of law;

(b) May not be more restrictive than necessary to protect the person under a guardianship from abuse, neglect, abandonment, or financial exploitation as those terms are defined in RCW 74.34.020; and

(c) May not deny communication, visitation, interaction, or other association between the person under a guardianship and another person unless the court finds that placing reasonable time, place, or manner restrictions is unlikely to sufficiently protect the person under a guardianship from abuse, neglect, abandonment, or financial exploitation as those terms are defined in RCW 74.34.020.

**Sec. 316.** RCW 11.125.080 and 2016 c 209 s 108 are each amended to read as follows:

(1) In a power of attorney, a principal may nominate a guardian of the principal's estate or guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.

(2) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of all of the principal's property, the power of attorney ~~((is terminated and the agent's authority does not continue unless continued by the court))~~ remains in effect subject to the provisions of section 315(1) of this act.

(3) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of some but not all of the principal's property, the power of attorney shall not terminate or be modified, except to the extent ordered by the court.

NEW SECTION. **Sec. 317.** GUARDIAN'S PLAN.

(1) A guardian for an adult, not later than ninety days after appointment, shall file with the court a plan for the care of the adult and shall provide a copy of the plan to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines. The plan must be based on the needs of the adult and take into account the best interest of the adult as well as the adult's preferences, values, and prior directions, to the extent known to or reasonably ascertainable by the guardian. The guardian shall include in the plan:

(a) The living arrangement, services, and supports the guardian expects to arrange, facilitate, or continue for the adult;

(b) Social and educational activities the guardian expects to facilitate on behalf of the adult;

(c) Any person with whom the adult has a close personal relationship or relationship involving regular visitation and any plan the guardian has for facilitating visits with the person;

(d) The anticipated nature and frequency of the guardian's visits and communication with the adult;

(e) Goals for the adult, including any goal related to the restoration of the adult's rights, and how the guardian anticipates achieving the goals;

(f) Whether the adult has an existing plan and, if so, whether the guardian's plan is consistent with the adult's plan; and

(g) A statement or list of the amount the guardian proposes to charge for each service the guardian anticipates providing to the adult.

(2) A guardian shall give notice of the filing of the guardian's plan under subsection (1) of this section, together with a copy of the plan, to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines. The notice must include a statement of the right to object to the plan and be given not later than fourteen days after the filing.

(3) An adult subject to guardianship and any person entitled under subsection (2) of this section to receive notice and a copy of the guardian's plan may object to the plan.

(4) The court shall review the guardian's plan filed under subsection (1) of this section and determine whether to approve the plan or require a new plan. In deciding whether to approve the plan, the court shall consider an objection under subsection (3) of this section and whether the plan is consistent with the guardian's duties and powers under sections 313 and 314 of this act. The court may not approve the plan until thirty days after its filing.

(5) After the guardian's plan filed under this section is approved by the court, the guardian shall provide a copy of the order approving the plan to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines.

NEW SECTION. **Sec. 318.** GUARDIAN'S REPORT—MONITORING OF GUARDIANSHIP. (1) A guardian for an adult shall file with the court by the date

established by the court a report in a record regarding the condition of the adult and accounting for funds and other property in the guardian's possession or subject to the guardian's control. The guardian shall provide a copy of the report to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines.

(2) A report under subsection (1) of this section must state or contain:

(a) The mental, physical, and social condition of the adult;

(b) The living arrangements of the adult during the reporting period;

(c) A summary of the supported decision making, technological assistance, medical services, educational and vocational services, and other supports and services provided to the adult and the guardian's opinion as to the adequacy of the adult's care;

(d) A summary of the guardian's visits with the adult, including the dates of the visits;

(e) Action taken on behalf of the adult;

(f) The extent to which the adult has participated in decision making;

(g) If the adult is living in an evaluation and treatment facility or living in a facility that provides the adult with health care or other personal services, whether the guardian considers the facility's current plan for support, care, treatment, or habilitation consistent with the adult's preferences, values, prior directions, and best interests;

(h) Anything of more than de minimis value which the guardian, any individual who resides with the guardian, or the spouse, domestic partner, parent, child, or sibling of the guardian has received from an individual providing goods or services to the adult. A professional guardian must abide by the standards of practice regarding the acceptance of gifts;

(i) If the guardian delegated a power to an agent, the power delegated and the reason for the delegation;

(j) Any business relation the guardian has with a person the guardian has paid or that has benefited from the property of the adult;

(k) A copy of the guardian's most recently approved plan under section 317 of this act and a statement whether the guardian has deviated from the plan and, if so, how the guardian has deviated and why;

(l) Plans for future care and support of the adult;

(m) A recommendation as to the need for continued guardianship and any recommended change in the scope of the guardianship; and

(n) Whether any co-guardian or successor guardian appointed to serve when a designated event occurs is alive and able to serve.

(3) The court may appoint a visitor to review a report submitted under this section or a guardian's plan submitted under section 317 of this act, interview the guardian or adult subject to guardianship, or investigate any other matter involving the guardianship.

(4) Notice of the filing under this section of a guardian's report, together with a copy of the report, must be given to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines. The notice

and report must be given not later than fourteen days after the filing.

(5) The court shall establish procedures for monitoring a report submitted under this section and review each report to determine whether:

(a) The report provides sufficient information to establish the guardian has complied with the guardian's duties;

(b) The guardianship should continue; and

(c) The guardian's requested fees, if any, should be approved.

(6) If the court determines there is reason to believe a guardian for an adult has not complied with the guardian's duties or the guardianship should be modified or terminated, the court:

(a) Shall notify the adult, the guardian, and any other person entitled to notice under section 310(5) of this act or a subsequent order;

(b) May require additional information from the guardian;

(c) May appoint a visitor to interview the adult or guardian or investigate any matter involving the guardianship; and

(d) Consistent with sections 318 and 319 of this act, may hold a hearing to consider removal of the guardian, termination of the guardianship, or a change in the powers granted to the guardian or terms of the guardianship.

(7) If the court has reason to believe fees requested by a guardian for an adult are not reasonable, the court shall hold a hearing to determine whether to adjust the requested fees.

(8) A guardian for an adult must petition the court for approval of a report filed under this section. The court after review may approve the report. If the court approves the report, there is a rebuttable presumption the report is accurate as to a matter adequately disclosed in the report.

(9) If the court approves a report filed under this section, the order approving the report shall set the due date for the filing of the next report to be filed under this section. The court may set the review interval at annual, biennial, or triennial with the report due date to be within ninety days of the anniversary date of appointment. When determining the report interval, the court can consider: The length of time the guardian has been serving the person under guardianship; whether the guardian has timely filed all required reports with the court; whether the guardian is monitored by other state or local agencies; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the guardian.

(10) If the court approves a report filed under this section, the order approving the report shall contain a guardianship summary or be accompanied by a guardianship summary in the form or substantially in the same form as set forth in section 606 of this act.

(11) If the court approves a report filed under this section, the order approving the report shall direct the clerk of the court to reissue letters of office in the form or substantially in the same form as set forth in section 605 of this act to the guardian containing an expiration date which will be within one hundred twenty days after the date the court directs the guardian file its next report.

(12) Any requirement to establish a monitoring program under this section is subject to appropriation.

**NEW SECTION. Sec. 319. REMOVAL OF GUARDIAN FOR ADULT—APPOINTMENT OF SUCCESSOR.** (1) The court may remove a guardian for an adult for failure to perform the guardian's duties or for other good cause and appoint a successor guardian to assume the duties of guardian.

(2) The court shall hold a hearing to determine whether to remove a guardian for an adult and appoint a successor guardian on:

(a) Petition of the adult, guardian, or person interested in the welfare of the adult, which contains allegations that, if true, would support a reasonable belief that removal of the guardian and appointment of a successor guardian may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed during the preceding six months;

(b) Communication from the adult, guardian, or person interested in the welfare of the adult which supports a reasonable belief that removal of the guardian and appointment of a successor guardian may be appropriate; or

(c) Determination by the court that a hearing would be in the best interest of the adult.

(3) Notice of a hearing under subsection (2)(a) of this section and notice of the adult subject to guardianship's right to be represented at the hearing by counsel of the individual's choosing must be given to the adult subject to guardianship, the guardian, and any other person the court determines.

(4) An adult subject to guardianship who seeks to remove the guardian and have a successor guardian appointed has the right to choose an attorney to represent the adult in this matter. The court shall award reasonable attorneys' fees to the attorney for the adult as provided in section 120 of this act.

(5) In selecting a successor guardian for an adult, the court shall follow the priorities under section 309 of this act.

(6) Not later than fourteen days after appointing a successor guardian, the successor guardian shall give notice of the appointment to the adult subject to guardianship and any person entitled to notice under section 310(5) of this act or a subsequent order.

**NEW SECTION. Sec. 320. TERMINATION OR MODIFICATION OF GUARDIANSHIP FOR ADULT.** (1) An adult subject to guardianship, the guardian for the adult, or a person interested in the welfare of the adult may petition for:

(a) Termination of the guardianship on the ground that a basis for appointment under section 301 of this act does not exist or termination would be in the best interest of the adult or for other good cause; or

(b) Modification of the guardianship on the ground that the extent of protection or assistance granted is not appropriate or for other good cause.

(2) The court shall hold a hearing to determine whether termination or modification of a guardianship for an adult is appropriate on:

(a) Petition under subsection (1) of this section that contains allegations that, if true, would support a reasonable belief that termination or modification of the guardianship may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed during the preceding six months;

(b) Communication from the adult, guardian, or person interested in the welfare of the adult which supports a reasonable belief that termination or modification of the guardianship may be appropriate, including because the functional needs of the adult or supports or services available to the adult have changed;

(c) A report from a guardian or conservator which indicates that termination or modification may be appropriate because the functional needs of the adult or supports or services available to the adult have changed or a protective arrangement instead of guardianship or other less restrictive alternative for meeting the adult's needs is available; or

(d) A determination by the court that a hearing would be in the best interest of the adult.

(3) Notice of a petition under subsection (2)(a) of this section must be given to the adult subject to guardianship, the guardian, and any other person the court determines.

(4) On presentation of prima facie evidence for termination of a guardianship for an adult, the court shall order termination unless it is proven that a basis for appointment of a guardian under section 301 of this act exists.

(5) The court shall modify the powers granted to a guardian for an adult if the powers are excessive or inadequate due to a change in the abilities or limitations of the adult, the adult's supports, or other circumstances.

(6) Unless the court otherwise orders for good cause, before terminating or modifying a guardianship for an adult, the court shall follow the same procedures to safeguard the rights of the adult which apply to a petition for guardianship.

(7) An adult subject to guardianship who seeks to terminate or modify the terms of the guardianship has the right to choose an attorney to represent the adult in the matter. The court shall award reasonable attorneys' fees to the attorney for the adult as provided in section 120 of this act.

#### ARTICLE 4 CONSERVATORSHIP

NEW SECTION. **Sec. 401.** BASIS FOR APPOINTMENT OF CONSERVATOR. (1) On petition and after notice and hearing, the court may appoint a conservator for the property or financial affairs of a minor if the court finds by a preponderance of evidence that appointment of a conservator is in the minor's best interest, and:

(a) If the minor has a parent, the court gives weight to any recommendation of the parent whether an appointment is in the minor's best interest; and

(b) Either:

(i) The minor owns funds or other property requiring management or protection that otherwise cannot be provided;

(ii) The minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age; or

(iii) Appointment is necessary or desirable to obtain or provide funds or other property needed for the support, care, education, health, or welfare of the minor.

(2) On petition and after notice and hearing, the court may appoint a conservator for the property or financial affairs of an adult if the court finds by clear and convincing evidence that:

(a) The adult is unable to manage property or financial affairs because:

(i) Of a limitation in the adult's ability to receive and evaluate information or make or communicate decisions, even with the use of appropriate supportive services, technological assistance, or supported decision making; or

(ii) The adult is missing, detained, or unable to return to the United States;

(b) Appointment is necessary to:

(i) Avoid harm to the adult or significant dissipation of the property of the adult; or

(ii) Obtain or provide funds or other property needed for the support, care, education, health, or welfare of the adult or of an individual entitled to the adult's support; and

(c) The respondent's identified needs cannot be met by a protective arrangement instead of conservatorship or other less restrictive alternatives.

(3) The court shall grant a conservator only those powers necessitated by demonstrated limitations and needs of the respondent and issue orders that will encourage development of the respondent's maximum self-determination and independence. The court may not establish a full conservatorship if a limited conservatorship, protective arrangement instead of conservatorship, or other less restrictive alternative would meet the needs of the respondent.

NEW SECTION. **Sec. 402.** PETITION FOR APPOINTMENT OF CONSERVATOR. (1) The following may petition for the appointment of a conservator:

(a) The individual for whom the order is sought;

(b) A person interested in the estate, financial affairs, or welfare of the individual, including a person that would be adversely affected by lack of effective management of property or financial affairs of the individual; or

(c) The guardian for the individual.

(2) A petition under subsection (1) of this section must state the petitioner's name, principal residence, current street address, if different, relationship to the respondent, interest in the appointment, the name and address of any attorney representing the petitioner, and, to the extent known, the following:

(a) The respondent's name, age, principal residence, current street address, if different, and, if different, address of the dwelling in which it is proposed the respondent will reside if the petition is granted;

(b) The name and address of the respondent's:

(i) Spouse or domestic partner or, if the respondent has none, an adult with whom the respondent has shared household responsibilities for more than six months in the twelve-month period before the filing of the petition;

(ii) Adult children or, if none, each parent and adult sibling of the respondent, or, if none, at least one adult nearest in kinship to the respondent who can be found with reasonable diligence; and

(iii) Adult stepchildren whom the respondent actively parented during the stepchildren's minor years and with whom the respondent had an ongoing relationship during the two years immediately before the filing of the petition;

(c) The name and current address of each of the following, if applicable:

(i) A person responsible for the care or custody of the respondent;

(ii) Any attorney currently representing the respondent;

(iii) The representative payee appointed by the social security administration for the respondent;

(iv) A guardian or conservator acting for the respondent in this state or another jurisdiction;

(v) A trustee or custodian of a trust or custodianship of which the respondent is a beneficiary;

(vi) The fiduciary appointed for the respondent by the department of veterans affairs;

(vii) An agent designated under a power of attorney for health care in which the respondent is identified as the principal;

(viii) An agent designated under a power of attorney for finances in which the respondent is identified as the principal;

(ix) A person known to have routinely assisted the respondent with decision making in the six-month period immediately before the filing of the petition;

(x) Any proposed conservator, including a person nominated by the respondent, if the respondent is twelve years of age or older; and

(xi) If the individual for whom a conservator is sought is a minor:

(A) An adult not otherwise listed with whom the minor resides; and

(B) Each person not otherwise listed that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition;

(d) A general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts;

(e) The reason conservatorship is necessary, including a brief description of:

(i) The nature and extent of the respondent's alleged need;

(ii) If the petition alleges the respondent is missing, detained, or unable to return to the United States, the relevant circumstances, including the time and nature of the disappearance or detention and any search or inquiry concerning the respondent's whereabouts;

(iii) Any protective arrangement instead of conservatorship or other less restrictive alternative for meeting the respondent's alleged need which has been considered or implemented;

(iv) If no protective arrangement or other less restrictive alternatives have been considered or implemented, the reason it has not been considered or implemented; and

(v) The reason a protective arrangement or other less restrictive alternative is insufficient to meet the respondent's need;

(f) Whether the petitioner seeks a limited conservatorship or a full conservatorship;

(g) If the petitioner seeks a full conservatorship, the reason a limited conservatorship or protective arrangement instead of conservatorship is not appropriate;

(h) If the petition includes the name of a proposed conservator, the reason the proposed conservator should be appointed;

(i) If the petition is for a limited conservatorship, a description of the property to be placed under the conservator's control and any requested limitation on the authority of the conservator;

(j) Whether the respondent needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings; and

(k) The name and address of an attorney representing the petitioner, if any.

**NEW SECTION. Sec. 403. NOTICE AND HEARING FOR APPOINTMENT OF CONSERVATOR.**

(1) All petitions filed under section 402 of this act for appointment of a conservator shall be heard within sixty days unless an extension of time is requested by a party or the visitor within such sixty-day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date.

(2) A copy of a petition under section 402 of this act and notice of a hearing on the petition must be served personally on the respondent and the visitor appointed under section 405 of this act not more than five court days after the petition under section 402 of this act has been filed. If the respondent's whereabouts are unknown or personal service cannot be made, service on the respondent must be made by publication. The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the petition. The court may not grant a petition for appointment of a conservator if notice substantially complying with this subsection is not served on the respondent.

(3) In a proceeding on a petition under section 402 of this act, the notice required under subsection (2) of this section must be given to the persons required to be listed in the petition under section 402(2) (a) through (c) of this act and any other person interested in the respondent's welfare the court determines. Failure to give notice under this subsection does not preclude the court from appointing a conservator.

(4) After the appointment of a conservator, notice of a hearing on a petition for an order under this article, together with a copy of the petition, must be given to:

- (a) The individual subject to conservatorship, if the individual is twelve years of age or older and not missing, detained, or unable to return to the United States;
- (b) The conservator; and
- (c) Any other person the court determines.

**NEW SECTION. Sec. 404. ORDER TO PRESERVE OR APPLY PROPERTY WHILE PROCEEDING PENDING.** While a petition under section 402 of this act is pending, after preliminary hearing and without notice to others, the court may issue an order to preserve and apply property of the respondent as required for the support of the respondent or an individual who is in fact dependent on the respondent. The court may appoint a special agent to assist in implementing the order.

**NEW SECTION. Sec. 405. APPOINTMENT AND ROLE OF VISITOR.** (1) If the respondent in a proceeding to appoint a conservator is a minor, the court may appoint a visitor to investigate a matter related to the petition or inform the minor or a parent of the minor about the petition or a related matter.

(2) If the respondent in a proceeding to appoint a conservator is an adult, the court shall appoint a visitor. The duties and reporting requirements of the visitor are limited to the relief requested in the petition. The visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.

(3) The court, in the order appointing visitor, shall specify the hourly rate the visitor may charge for his or her services, and shall specify the maximum amount the visitor may charge without additional court review and approval.

(4)(a) The visitor appointed under subsection (1) or (2) of this section shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, the respondent or his or her legal counsel, the petitioner or his or her legal counsel, and any interested party entitled to notice under section 116 of this act with a statement including: His or her training relating to the duties as a visitor; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the guardian ad litem has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the visitor's statement, any party may set a hearing and file and serve a motion for an order to show cause why the visitor should not be removed for one of the following three reasons:

- (i) Lack of expertise necessary for the proceeding;
  - (ii) An hourly rate higher than what is reasonable for the particular proceeding; or
  - (iii) A conflict of interest.
- (b) Notice of the hearing shall be provided to the visitor and all parties. If, after a hearing, the court enters an order replacing the visitor, findings shall be included,

expressly stating the reasons for the removal. If the visitor is not removed, the court has the authority to assess to the moving party attorneys' fees and costs related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.

(5) A visitor appointed under subsection (2) of this section for an adult shall interview the respondent in person and in a manner the respondent is best able to understand:

(a) Explain to the respondent the substance of the petition, the nature, purpose, and effect of the proceeding, the respondent's rights at the hearing on the petition, and the general powers and duties of a conservator;

(b) Determine the respondent's views about the appointment sought by the petitioner, including views about a proposed conservator, the conservator's proposed powers and duties, and the scope and duration of the proposed conservatorship; and

(c) Inform the respondent that all costs and expenses of the proceeding, including respondent's attorneys' fees, may be paid from the respondent's assets.

(6) A visitor appointed under subsection (2) of this section for an adult shall:

(a) Interview the petitioner and proposed conservator, if any;

(b) Review financial records of the respondent, if relevant to the visitor's recommendation under subsection (7)(b) of this section;

(c) Investigate whether the respondent's needs could be met by a protective arrangement instead of conservatorship or other less restrictive alternative and, if so, identify the arrangement or other less restrictive alternative; and

(d) Investigate the allegations in the petition and any other matter relating to the petition the court directs.

(7) A visitor appointed under subsection (2) of this section for an adult shall file a report in a record with the court and provide a copy of the report to the respondent, petitioner, and any interested party entitled to notice under section 116 of this act at least fifteen days prior to the hearing on the petition filed under section 402 of this act, which must include:

(a) A recommendation:

(i) Regarding the appropriateness of conservatorship, or whether a protective arrangement instead of conservatorship or other less restrictive alternative for meeting the respondent's needs is available;

(ii) If a conservatorship is recommended, whether it should be full or limited;

(iii) If a limited conservatorship is recommended, the powers to be granted to the conservator, and the property that should be placed under the conservator's control; and

(iv) If a conservatorship is recommended, the amount of the bond or other verified receipt needed under sections 416 and 417 of this act;

(b) A statement of the qualifications of the proposed conservator and whether the respondent approves or disapproves of the proposed conservator;

(c) A recommendation whether a professional evaluation under section 407 of this act is necessary;

(d) A statement whether the respondent is able to attend a hearing at the location court proceedings typically are held;

(e) A statement whether the respondent is able to participate in a hearing and which identifies any technology or other form of support that would enhance the respondent's ability to participate; and

(f) Any other matter the court directs.

**NEW SECTION. Sec. 406. APPOINTMENT AND ROLE OF ATTORNEY.** (1) Unless the respondent in a proceeding for appointment of a conservator is represented by an attorney, the court is not required, but may appoint an attorney to represent the respondent, regardless of the respondent's ability to pay.

(2) An attorney representing the respondent in a proceeding for appointment of a conservator shall:

(a) Make reasonable efforts to ascertain the respondent's wishes;

(b) Advocate for the respondent's wishes to the extent reasonably ascertainable; and

(c) If the respondent's wishes are not reasonably ascertainable, advocate for the result that is the least restrictive in type, duration, and scope, consistent with the respondent's interests.

(3) The court is not required, but may appoint an attorney to represent a parent of a minor who is the subject of a proceeding under section 402 of this act if:

(a) The parent objects to appointment of a conservator;

(b) The court determines that counsel is needed to ensure that consent to appointment of a conservator is informed; or

(c) The court otherwise determines the parent needs representation.

**NEW SECTION. Sec. 407. PROFESSIONAL EVALUATION.** (1) At or before a hearing on a petition for conservatorship for an adult, the court shall order a professional evaluation of the respondent:

(a) If the respondent requests the evaluation; or

(b) In other cases, unless the court finds it has sufficient information to determine the respondent's needs and abilities without the evaluation.

(2) If the court orders an evaluation under subsection (1) of this section, the respondent must be examined by a physician licensed to practice under chapter 18.71 or 18.57 RCW, psychologist licensed under chapter 18.83 RCW, or advanced registered nurse practitioner licensed under chapter 18.79 RCW selected by the visitor who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest. The individual conducting the evaluation promptly shall file a report in a record with the court. Unless otherwise directed by the court, the report must contain:

(a) A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitations with regard to the management of the respondent's property and financial affairs;

(b) An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills;

(c) A prognosis for improvement with regard to the ability to manage the respondent's property and financial affairs; and

(d) The date of the examination on which the report is based.

(3) A respondent may decline to participate in an evaluation ordered under subsection (1) of this section.

**NEW SECTION. Sec. 408. ATTENDANCE AND RIGHTS AT HEARING.** (1) Except as otherwise provided in subsection (2) of this section, a hearing under section 403 of this act may not proceed unless the respondent attends the hearing. If it is not reasonably feasible for the respondent to attend a hearing at the location court proceedings typically are held, the court shall make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or allow the respondent to attend the hearing using real-time audio-visual technology.

(2) A hearing under section 403 of this act may proceed without the respondent in attendance if the court finds by clear and convincing evidence that:

(a) The respondent consistently and repeatedly has refused to attend the hearing after having been fully informed of the right to attend and the potential consequences of failing to do so;

(b) There is no practicable way for the respondent to attend and participate in the hearing even with appropriate supportive services or technological assistance; or

(c) The respondent is a minor who has received proper notice and attendance would be harmful to the minor.

(3) The respondent may be assisted in a hearing under section 403 of this act by a person or persons of the respondent's choosing, assistive technology, or an interpreter or translator, or a combination of these supports. If assistance would facilitate the respondent's participation in the hearing, but is not otherwise available to the respondent, the court shall make reasonable efforts to provide it.

(4) The respondent has a right to choose an attorney to represent the respondent at a hearing under section 403 of this act.

(5) At a hearing under section 403 of this act, the respondent may:

(a) Present evidence and subpoena witnesses and documents;

(b) Examine witnesses, including any court-appointed evaluator and the visitor; and

(c) Otherwise participate in the hearing.

(6) Unless excused by the court for good cause, a proposed conservator shall attend a hearing under section 403 of this act.

(7) A hearing under section 403 of this act must be closed on request of the respondent and a showing of good cause.

(8) Any person may request to participate in a hearing under section 403 of this act. The court may grant the request, with or without a hearing, on determining that the best interest of the respondent will be served. The court

may impose appropriate conditions on the person's participation.

**NEW SECTION. Sec. 409. CONFIDENTIALITY OF RECORDS.** (1) The existence of a proceeding for or the existence of conservatorship is a matter of public record unless the court seals the record after:

(a) The respondent, the individual subject to conservatorship, or the parent of a minor subject to conservatorship requests the record be sealed; and

(b) Either:

- (i) The petition for conservatorship is dismissed; or
- (ii) The conservatorship is terminated.

(2) An individual subject to a proceeding for a conservatorship, whether or not a conservator is appointed, an attorney designated by the individual, and a person entitled to notice under section 411(6) of this act or a subsequent order may access court records of the proceeding and resulting conservatorship, including the conservator's plan under section 419 of this act and the conservator's report under section 423 of this act. A person not otherwise entitled access to court records under this section for good cause may petition the court for access to court records of the conservatorship, including the conservator's plan and report. The court shall grant access if access is in the best interest of the respondent or individual subject to conservatorship or furthers the public interest and does not endanger the welfare or financial interests of the respondent or individual.

(3) A report under section 405 of this act of a visitor or professional evaluation under section 407 of this act is confidential and must be sealed on filing, but is available to:

(a) The court;

(b) The individual who is the subject of the report or evaluation, without limitation as to use;

(c) The petitioner, visitor, and petitioner's and respondent's attorneys, for purposes of the proceeding;

(d) Unless the court directs otherwise, an agent appointed under a power of attorney for finances in which the respondent is identified as the principal; and

(e) Any other person if it is in the public interest or for a purpose the court orders for good cause.

**NEW SECTION. Sec. 410. WHO MAY BE CONSERVATOR—ORDER OF PRIORITY.** (1) Except as otherwise provided in subsection (3) of this section, the court in appointing a conservator shall consider persons qualified to be a conservator in the following order of priority:

(a) A conservator, other than a temporary or emergency conservator, currently acting for the respondent in another jurisdiction;

(b) A person nominated as conservator by the respondent, including the respondent's most recent nomination made in a power of attorney for finances;

(c) An agent appointed by the respondent to manage the respondent's property under a power of attorney for finances;

(d) A spouse or domestic partner of the respondent;

(e) A relative or other individual who has shown special care and concern for the respondent; and

(f) A certified professional guardian or conservator or other entity the court determines is suitable.

(2) If two or more persons have equal priority under subsection (1) of this section, the court shall select as conservator the person the court considers best qualified. In determining the best qualified person, the court shall consider the person's relationship with the respondent, the person's skills, the expressed wishes of the respondent, the extent to which the person and the respondent have similar values and preferences, and the likelihood the person will be able to perform the duties of a conservator successfully.

(3) The court, acting in the best interest of the respondent, may decline to appoint as conservator a person having priority under subsection (1) of this section and appoint a person having a lower priority or no priority.

(4) A person that provides paid services to the respondent, or an individual who is employed by a person that provides paid services to the respondent or is the spouse, domestic partner, parent, or child of an individual who provides or is employed to provide paid services to the respondent, may not be appointed as conservator unless:

(a) The individual is related to the respondent by blood, marriage, or adoption; or

(b) The court finds by clear and convincing evidence that the person is the best qualified person available for appointment and the appointment is in the best interest of the respondent.

(5) An owner, operator, or employee of a long-term care facility at which the respondent is receiving care may not be appointed as conservator unless the owner, operator, or employee is related to the respondent by blood, marriage, or adoption.

**NEW SECTION. Sec. 411. ORDER OF APPOINTMENT OF CONSERVATOR.** (1) A court order appointing a conservator for a minor must include findings to support appointment of a conservator and, if a full conservatorship is granted, the reason a limited conservatorship would not meet the identified needs of the minor.

(2) A court order appointing a conservator for a minor may dispense with the requirement for the conservator to file reports with the court under section 423 of this act if all the property of the minor subject to the conservatorship is protected by a verified receipt.

(3) A court order appointing a conservator for an adult must:

(a) Include a specific finding that clear and convincing evidence has established that the identified needs of the respondent cannot be met by a protective arrangement instead of conservatorship or other less restrictive alternatives, including use of appropriate supportive services, technological assistance, or supported decision making; and

(b) Include a specific finding that clear and convincing evidence established the respondent was given proper notice of the hearing on the petition.

(4) A court order establishing a full conservatorship for an adult must state the basis for granting a full conservatorship and include specific findings to support the

conclusion that a limited conservatorship would not meet the functional needs of the adult.

(5) A court order establishing a limited conservatorship must state the specific property placed under the control of the conservator and the powers granted to the conservator.

(6) The court, as part of an order establishing a conservatorship, shall identify any person that subsequently is entitled to:

(a) Notice of the rights of the individual subject to conservatorship under section 412(2) of this act;

(b) Notice of a sale of or surrender of a lease to the primary dwelling of the individual;

(c) Notice that the conservator has delegated a power that requires court approval under section 414 of this act or substantially all powers of the conservator;

(d) Notice that the conservator will be unavailable to perform the conservator's duties for more than one month;

(e) A copy of the conservator's plan under section 419 of this act and the conservator's report under section 423 of this act;

(f) Access to court records relating to the conservatorship;

(g) Notice of a transaction involving a substantial conflict between the conservator's fiduciary duties and personal interests;

(h) Notice of the death or significant change in the condition of the individual;

(i) Notice that the court has limited or modified the powers of the conservator; and

(j) Notice of the removal of the conservator.

(7) If an individual subject to conservatorship is an adult, the spouse, domestic partner, and adult children of the adult subject to conservatorship are entitled under subsection (6) of this section to notice unless the court determines notice would be contrary to the preferences or prior directions of the adult subject to conservatorship or not in the best interest of the adult.

(8) If an individual subject to conservatorship is a minor, each parent and adult sibling of the minor is entitled under subsection (6) of this section to notice unless the court determines notice would not be in the best interest of the minor.

(9) All orders establishing a conservatorship for an adult must contain:

(a) A conservatorship summary placed directly below the case caption or on a separate cover page in the form or substantially the same form as set forth in section 606 of this act;

(b) The date which the limited conservator or conservator must file the conservator's plan under section 419 of this act;

(c) The date which the limited conservator or conservator must file an inventory under section 420 of this act;

(d) The date by which the court will review the conservator's plan as required by section 419 of this act;

(e) The report interval which the conservator must file its report under section 423 of this act. The report interval may be annual, biennial, or triennial;

(f) The date the limited conservator or conservator must file its report under section 423 of this act. The due date

of the filing of the report shall be within ninety days after the anniversary date of the appointment;

(g) The date for the court to review the report under section 423 of this act and enter its order. The court shall conduct the review within one hundred twenty days after the anniversary date of the appointment.

**NEW SECTION. Sec. 412. NOTICE OF ORDER OF APPOINTMENT—RIGHTS.** (1) A conservator appointed under section 411 of this act shall give to the individual subject to conservatorship and to all other persons given notice under section 403 of this act a copy of the order of appointment, together with notice of the right to request termination or modification. The order and notice must be given not later than fourteen days after the appointment.

(2) Not later than thirty days after appointment of a conservator under section 411 of this act, the conservator shall give to the individual subject to conservatorship and any other person entitled to notice under section 411(6) of this act a statement of the rights of the individual subject to conservatorship and procedures to seek relief if the individual is denied those rights. The statement must be in plain language, in at least sixteen-point font, and to the extent feasible, in a language in which the individual subject to conservatorship is proficient. The statement must notify the individual subject to conservatorship of the right to:

(a) Seek termination or modification of the conservatorship, or removal of the conservator, and choose an attorney to represent the individual in these matters;

(b) Participate in decision making to the extent reasonably feasible;

(c) Receive a copy of the conservator's plan under section 419 of this act, the conservator's inventory under section 420 of this act, and the conservator's report under section 423 of this act; and

(d) Object to the conservator's inventory, plan, or report.

(3) If a conservator is appointed for the reasons stated in section 401(2)(a)(ii) of this act and the individual subject to conservatorship is missing, notice under this section to the individual is not required.

**NEW SECTION. Sec. 413. EMERGENCY CONSERVATOR.** (1) On its own or on petition by a person interested in an individual's welfare after a petition has been filed under section 402 of this act, the court may appoint an emergency conservator for the individual if the court finds:

(a) Appointment of an emergency conservator is likely to prevent substantial and irreparable harm to the individual's property or financial interests;

(b) No other person appears to have authority and willingness to act in the circumstances; and

(c) There is reason to believe that a basis for appointment of a conservator under section 401 of this act exists.

(2) The duration of authority of an emergency conservator may not exceed sixty days and the emergency conservator may exercise only the powers specified in the order of appointment. The emergency conservator's authority may be extended once for not more than sixty days

if the court finds that the conditions for appointment of an emergency conservator under subsection (1) of this section continue.

(3) Immediately on filing of a petition for an emergency conservator, the court shall appoint an attorney to represent the respondent in the proceeding. Except as otherwise provided in subsection (4) of this section, reasonable notice of the date, time, and place of a hearing on the petition must be given to the respondent, the respondent's attorney, and any other person the court determines.

(4) The court may appoint an emergency conservator without notice to the respondent and any attorney for the respondent only if the court finds from an affidavit or testimony that the respondent's property or financial interests will be substantially and irreparably harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency conservator without giving notice under subsection (3) of this section, the court must give notice of the appointment not later than forty-eight hours after the appointment to:

- (a) The respondent;
- (b) The respondent's attorney; and
- (c) Any other person the court determines.

(5) Not later than five days after the appointment, the court shall hold a hearing on the appropriateness of the appointment.

(6) Appointment of an emergency conservator under this section is not a determination that a basis exists for appointment of a conservator under section 401 of this act.

(7) The court may remove an emergency conservator appointed under this section at any time. The emergency conservator shall make any report the court requires.

**NEW SECTION. Sec. 414. POWERS OF CONSERVATOR REQUIRING COURT APPROVAL.** (1) Except as otherwise ordered by the court, a conservator must give notice to persons entitled to notice under section 403(4) of this act and receive specific authorization by the court before the conservator may exercise with respect to the conservatorship the power to:

- (a) Make a gift, except a gift of de minimis value;
- (b) Sell, encumber an interest in, or surrender a lease to the primary dwelling of the individual subject to conservatorship;
- (c) Convey, release, or disclaim a contingent or expectant interest in property, including marital property and any right of survivorship incident to joint tenancy or tenancy by the entireties;
- (d) Exercise or release a power of appointment;
- (e) Create a revocable or irrevocable trust of property of the conservatorship estate, whether or not the trust extends beyond the duration of the conservatorship, or revoke or amend a trust revocable by the individual subject to conservatorship;
- (f) Exercise a right to elect an option or change a beneficiary under an insurance policy or annuity or surrender the policy or annuity for its cash value;
- (g) Exercise a right to an elective share in the estate of a deceased spouse or domestic partner of the individual

subject to conservatorship or renounce or disclaim a property interest;

(h) Grant a creditor priority for payment over creditors of the same or higher class if the creditor is providing property or services used to meet the basic living and care needs of the individual subject to conservatorship and preferential treatment otherwise would be impermissible under section 428(5) of this act; and

(i) Make, modify, amend, or revoke the will of the individual subject to conservatorship in compliance with chapter 11.12 RCW.

(2) In approving a conservator's exercise of a power listed in subsection (1) of this section, the court shall consider primarily the decision the individual subject to conservatorship would make if able, to the extent the decision can be ascertained.

(3) To determine under subsection (2) of this section the decision the individual subject to conservatorship would make if able, the court shall consider the individual's prior or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the conservator. The court also shall consider:

- (a) The financial needs of the individual subject to conservatorship and individuals who are in fact dependent on the individual subject to conservatorship for support, and the interests of creditors of the individual;
- (b) Possible reduction of income, estate, inheritance, or other tax liabilities;
- (c) Eligibility for governmental assistance;
- (d) The previous pattern of giving or level of support provided by the individual;
- (e) Any existing estate plan or lack of estate plan of the individual;
- (f) The life expectancy of the individual and the probability the conservatorship will terminate before the individual's death; and
- (g) Any other relevant factor.

(4) A conservator may not revoke or amend a power of attorney for finances executed by the individual subject to conservatorship. If a power of attorney for finances is in effect, a decision of the agent takes precedence over that of the conservator, unless the court orders otherwise.

**NEW SECTION. Sec. 415. PETITION FOR ORDER AFTER APPOINTMENT.** An individual subject to conservatorship or a person interested in the welfare of the individual may petition for an order:

- (1) Requiring the conservator to furnish a bond or collateral or additional bond or collateral or allowing a reduction in a bond or collateral previously furnished;
- (2) Requiring an accounting for the administration of the conservatorship estate;
- (3) Directing distribution;
- (4) Removing the conservator and appointing a temporary or successor conservator;
- (5) Modifying the type of appointment or powers granted to the conservator, if the extent of protection or management previously granted is excessive or insufficient to meet the individual's needs, including because the individual's abilities or supports have changed;

(6) Rejecting or modifying the conservator's plan under section 419 of this act, the conservator's inventory under section 420 of this act, or the conservator's report under section 423 of this act; or

(7) Granting other appropriate relief.

**NEW SECTION. Sec. 416. BOND—ALTERNATIVE VERIFIED RECEIPT.** (1) Except as otherwise provided in subsections (3) and (4) of this section, the court shall require a conservator to furnish a bond with a surety the court specifies, or require a verified receipt, conditioned on faithful discharge of all duties of the conservator. The court may waive the requirement only if the court finds that a bond or other verified receipt is not necessary to protect the interests of the individual subject to conservatorship. Except as otherwise provided in subsections (3) and (4) of this section, the court may not waive the requirement if the conservator is in the business of serving as a conservator and is being paid for the conservator's service.

(2) Unless the court directs otherwise, the bond required under this section must be in the amount of the aggregate capital value of the conservatorship estate, plus the estimated income for the accounting and report review interval, less the value of property deposited under a verified receipt requiring a court order for its removal and real property the conservator lacks power to sell or convey without specific court authorization. The court, in place of surety on a bond, may accept collateral for the performance of the bond, including a pledge of securities or a mortgage of real property.

(3) A regulated financial institution qualified to do trust business in this state is not required to give a bond under this section.

(4) In all conservatorships where the person subject to conservatorship has total assets of a value of less than three thousand dollars, the court may dispense with the requirement of a bond: **PROVIDED**, That the conservator swears to report to the court any changes in the total assets of the person subject to conservatorship increasing their value to over three thousand dollars: **PROVIDED FURTHER**, That the conservator files a yearly statement showing the monthly income of the person subject to conservatorship if such monthly income, excluding moneys from state or federal benefits, is over the sum of five hundred dollars per month for any three consecutive months.

**NEW SECTION. Sec. 417. TERMS AND REQUIREMENTS OF BOND.** (1) The following rules apply to the bond required under section 416 of this act:

(a) Except as otherwise provided by the bond, the surety and the conservator are jointly and severally liable.

(b) By executing a bond provided by a conservator, the surety submits to the personal jurisdiction of the court that issued letters of office to the conservator in a proceeding relating to the duties of the conservator in which the surety is named as a party. Notice of the proceeding must be given to the surety at the address shown in the records of the court in which the bond is filed and any other address of the surety then known to the person required to provide the notice.

(c) On petition of a successor conservator or person affected by a breach of the obligation of the bond, a proceeding may be brought against the surety for breach of the obligation of the bond.

(d) A proceeding against the bond may be brought until liability under the bond is exhausted.

(2) A proceeding may not be brought under this section against a surety of a bond on a matter as to which a proceeding against the conservator is barred.

(3) If a bond under section 416 of this act is not renewed by the conservator, the surety or sureties immediately shall give notice to the court and the individual subject to conservatorship.

**NEW SECTION. Sec. 418. DUTIES OF CONSERVATOR.** (1) A conservator is a fiduciary and has duties of prudence and loyalty to the individual subject to conservatorship.

(2) A conservator shall promote the self-determination of the individual subject to conservatorship and, to the extent feasible, encourage the individual to participate in decisions, act on the individual's own behalf, and develop or regain the capacity to manage the individual's personal affairs.

(3) In making a decision for an individual subject to conservatorship, the conservator shall make the decision the conservator reasonably believes the individual would make if able, unless doing so would fail to preserve the resources needed to maintain the individual's well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or personal or financial interests of the individual. To determine the decision the individual would make if able, the conservator shall consider the individual's prior or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the conservator.

(4) If a conservator cannot make a decision under subsection (3) of this section because the conservator does not know and cannot reasonably determine the decision the individual subject to conservatorship probably would make if able, or the conservator reasonably believes the decision the individual would make would fail to preserve resources needed to maintain the individual's well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or personal or financial interests of the individual, the conservator shall act in accordance with the best interests of the individual. In determining the best interests of the individual, the conservator shall consider:

(a) Information received from professionals and persons that demonstrate sufficient interest in the welfare of the individual;

(b) Other information the conservator believes the individual would have considered if the individual were able to act; and

(c) Other factors a reasonable person in the circumstances of the individual would consider, including consequences for others.

(5) Except when inconsistent with the conservator's duties under subsections (1) through (4) of this section, a conservator shall invest and manage the conservatorship estate as a prudent investor would, by considering:

- (a) The circumstances of the individual subject to conservatorship and the conservatorship estate;
- (b) General economic conditions;
- (c) The possible effect of inflation or deflation;
- (d) The expected tax consequences of an investment decision or strategy;
- (e) The role of each investment or course of action in relation to the conservatorship estate as a whole;
- (f) The expected total return from income and appreciation of capital;
- (g) The need for liquidity, regularity of income, and preservation or appreciation of capital; and
- (h) The special relationship or value, if any, of specific property to the individual subject to conservatorship.
- (6) The propriety of a conservator's investment and management of the conservatorship estate is determined in light of the facts and circumstances existing when the conservator decides or acts and not by hindsight.
- (7) A conservator shall make a reasonable effort to verify facts relevant to the investment and management of the conservatorship estate.
- (8) A conservator that has special skills or expertise, or is named conservator in reliance on the conservator's representation of special skills or expertise, has a duty to use the special skills or expertise in carrying out the conservator's duties.
- (9) In investing, selecting specific property for distribution, and invoking a power of revocation or withdrawal for the use or benefit of the individual subject to conservatorship, a conservator shall consider any estate plan of the individual known or reasonably ascertainable to the conservator and may examine the will or other donative, nominative, or appointive instrument of the individual.
- (10) A conservator shall maintain insurance on the insurable real and personal property of the individual subject to conservatorship, unless the conservatorship estate lacks sufficient funds to pay for insurance or the court finds:
- (a) The property lacks sufficient equity; or
- (b) Insuring the property would unreasonably dissipate the conservatorship estate or otherwise not be in the best interest of the individual.
- (11) If a power of attorney for finances is in effect, a conservator shall cooperate with the agent to the extent feasible.
- (12) A conservator has access to and authority over a digital asset of the individual subject to conservatorship to the extent provided by the revised uniform fiduciary access to digital assets act (chapter 11.120 RCW) or court order.
- (13) A conservator for an adult shall notify the court if the condition of the adult has changed so that the adult is capable of exercising rights previously removed. The notice must be given immediately on learning of the change.
- (14) A conservator shall notify the court within thirty days of any substantial change in the value of the property of the person subject to conservatorship and shall provide a copy of the notice to the person subject to guardianship, a person entitled to notice under section 403 of this act or a subsequent order, and any other person the court has determined is entitled to notice and schedule a hearing for the court to review the adequacy of the bond or other verified receipt under sections 416 and 417 of this act.

**NEW SECTION. Sec. 419. CONSERVATOR'S PLAN.** (1) A conservator, not later than ninety days after appointment, shall file with the court a plan for protecting, managing, expending, and distributing the assets of the conservatorship estate. The plan must be based on the needs of the individual subject to conservatorship and take into account the best interest of the individual as well as the individual's preferences, values, and prior directions, to the extent known to or reasonably ascertainable by the conservator. The conservator shall include in the plan:

(a) A budget containing projected expenses and resources, including an estimate of the total amount of fees the conservator anticipates charging per year and a statement or list of the amount the conservator proposes to charge for each service the conservator anticipates providing to the individual;

(b) How the conservator will involve the individual in decisions about management of the conservatorship estate;

(c) Any step the conservator plans to take to develop or restore the ability of the individual to manage the conservatorship estate; and

(d) An estimate of the duration of the conservatorship.

(2) A conservator shall give notice of the filing of the conservator's plan under subsection (1) of this section, together with a copy of the plan, to the individual subject to conservatorship, a person entitled to notice under section 411(6) of this act or a subsequent order, and any other person the court determines. The notice must include a statement of the right to object to the plan and be given not later than fourteen days after the filing.

(3) An individual subject to conservatorship and any person entitled under subsection (2) of this section to receive notice and a copy of the conservator's plan may object to the plan.

(4) The court shall review the conservator's plan filed under subsection (1) of this section and determine whether to approve the plan or require a new plan. In deciding whether to approve the plan, the court shall consider an objection under subsection (3) of this section and whether the plan is consistent with the conservator's duties and powers. The court may not approve the plan until thirty days after its filing.

(5) After a conservator's plan under this section is approved by the court, the conservator shall provide a copy of the plan to the individual subject to conservatorship, a person entitled to notice under section 411(6) of this act or a subsequent order, and any other person the court determines.

**NEW SECTION. Sec. 420. INVENTORY—RECORDS.** (1) Not later than sixty days after appointment, a conservator shall prepare and file with the appointing court a detailed inventory of the conservatorship estate, together with an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits.

(2) A conservator shall give notice of the filing of an inventory to the individual subject to conservatorship, a person entitled to notice under section 411(6) of this act or a subsequent order, and any other person the court determines.

The notice must be given not later than fourteen days after the filing.

(3) A conservator shall keep records of the administration of the conservatorship estate and make them available for examination on reasonable request of the individual subject to conservatorship, a guardian for the individual, or any other person the conservator or the court determines.

**NEW SECTION. Sec. 421. ADMINISTRATIVE POWERS OF CONSERVATOR NOT REQUIRING COURT APPROVAL.** (1) Except as otherwise provided in section 414 of this act or qualified or limited in the court's order of appointment and stated in the letters of office, a conservator has all powers granted in this section and any additional power granted to a trustee by law of this state other than this chapter.

(2) A conservator, acting reasonably and consistent with the fiduciary duties of the conservator to accomplish the purpose of the conservatorship, without specific court authorization or confirmation, may with respect to the conservatorship estate:

(a) Collect, hold, and retain property, including property in which the conservator has a personal interest and real property in another state, until the conservator determines disposition of the property should be made;

(b) Receive additions to the conservatorship estate;

(c) Continue or participate in the operation of a business or other enterprise;

(d) Acquire an undivided interest in property in which the conservator, in a fiduciary capacity, holds an undivided interest;

(e) Invest assets;

(f) Deposit funds or other property in a financial institution, including one operated by the conservator;

(g) Acquire or dispose of property, including real property in another state, for cash or on credit, at public or private sale, and manage, develop, improve, exchange, partition, change the character of, or abandon property;

(h) Make ordinary or extraordinary repairs or alterations in a building or other structure, demolish any improvement, or raze an existing or erect a new party wall or building;

(i) Subdivide or develop land, dedicate land to public use, make or obtain the vacation of a plat and adjust a boundary, adjust a difference in valuation of land, exchange or partition land by giving or receiving consideration, and dedicate an easement to public use without consideration;

(j) Enter for any purpose into a lease of property as lessor or lessee, with or without an option to purchase or renew, for a term within or extending beyond the term of the conservatorship;

(k) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or a pooling or unitization agreement;

(l) Grant an option involving disposition of property or accept or exercise an option for the acquisition of property;

(m) Vote a security, in person or by general or limited proxy;

(n) Pay a call, assessment, or other sum chargeable or accruing against or on account of a security;

(o) Sell or exercise a stock subscription or conversion right;

(p) Consent, directly or through a committee or agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(q) Hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery;

(r) Insure:

(i) The conservatorship estate, in whole or in part, against damage or loss in accordance with section 418(10) of this act; and

(ii) The conservator against liability with respect to a third person;

(s) Borrow funds, with or without security, to be repaid from the conservatorship estate or otherwise;

(t) Advance funds for the protection of the conservatorship estate or the individual subject to conservatorship and all expenses, losses, and liability sustained in the administration of the conservatorship estate or because of holding any property for which the conservator has a lien on the conservatorship estate;

(u) Pay or contest a claim, settle a claim by or against the conservatorship estate or the individual subject to conservatorship by compromise, arbitration, or otherwise, or release, in whole or in part, a claim belonging to the conservatorship estate to the extent the claim is uncollectible;

(v) Pay a tax, assessment, compensation of the conservator or any guardian, and other expense incurred in the collection, care, administration, and protection of the conservatorship estate;

(w) Pay a sum distributable to the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship by paying the sum to the distributee or for the use of the distributee:

(i) To the guardian for the distributee;

(ii) To the custodian of the distributee under the uniform transfers to minors act (chapter 11.114 RCW); or

(iii) If there is no guardian, custodian, or custodial trustee, to a relative or other person having physical custody of the distributee;

(x) Bring or defend an action, claim, or proceeding in any jurisdiction for the protection of the conservatorship estate or the conservator in the performance of the conservator's duties;

(y) Structure the finances of the individual subject to conservatorship to establish eligibility for a public benefit, including by making gifts consistent with the individual's preferences, values, and prior directions, if the conservator's action does not jeopardize the individual's welfare and otherwise is consistent with the conservator's duties; and

(z) Execute and deliver any instrument that will accomplish or facilitate the exercise of a power of the conservator.

**NEW SECTION. Sec. 422. DISTRIBUTION FROM CONSERVATORSHIP ESTATE.** Except as

otherwise provided in section 414 of this act or qualified or limited in the court's order of appointment and stated in the letters of office, and unless contrary to a conservator's plan under section 419 of this act, the conservator may expend or distribute income or principal of the conservatorship estate without specific court authorization or confirmation for the support, care, education, health, or welfare of the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship, including the payment of child or spousal support, in accordance with the following rules:

(1) The conservator shall consider a recommendation relating to the appropriate standard of support, care, education, health, or welfare for the individual subject to conservatorship or individual who is dependent on the individual subject to conservatorship, made by a guardian for the individual subject to conservatorship, if any, and, if the individual subject to conservatorship is a minor, a recommendation made by a parent of the minor.

(2) The conservator acting in compliance with the conservator's duties under section 418 of this act is not liable for an expenditure or distribution made based on a recommendation under subsection (1) of this section unless the conservator knows the expenditure or distribution is not in the best interest of the individual subject to conservatorship.

(3) In making an expenditure or distribution under this section, the conservator shall consider:

(a) The size of the conservatorship estate, the estimated duration of the conservatorship, and the likelihood the individual subject to conservatorship, at some future time, may be fully self-sufficient and able to manage the individual's financial affairs and the conservatorship estate;

(b) The accustomed standard of living of the individual subject to conservatorship and individual who is dependent on the individual subject to conservatorship;

(c) Other funds or source used for the support of the individual subject to conservatorship; and

(d) The preferences, values, and prior directions of the individual subject to conservatorship.

(4) Funds expended or distributed under this section may be paid by the conservator to any person, including the individual subject to conservatorship, as reimbursement for expenditures the conservator might have made, or in advance for services to be provided to the individual subject to conservatorship or individual who is dependent on the individual subject to conservatorship if it is reasonable to expect the services will be performed and advance payment is customary or reasonably necessary under the circumstances.

**NEW SECTION. Sec. 423. CONSERVATOR'S REPORT AND ACCOUNTING—MONITORING.** (1) A conservator shall file with the court by the date established by the court a report in a record regarding the administration of the conservatorship estate unless the court otherwise directs, on resignation or removal, on termination of the conservatorship, and at any other time the court directs.

(2) A report under subsection (1) of this section must state or contain:

(a) An accounting that lists property included in the conservatorship estate and the receipts, disbursements, liabilities, and distributions during the period for which the report is made;

(b) A list of the services provided to the individual subject to conservatorship;

(c) A copy of the conservator's most recently approved plan and a statement whether the conservator has deviated from the plan and, if so, how the conservator has deviated and why;

(d) A recommendation as to the need for continued conservatorship and any recommended change in the scope of the conservatorship;

(e) To the extent feasible, a copy of the most recent reasonably available financial statements evidencing the status of bank accounts, investment accounts, and mortgages or other debts of the individual subject to conservatorship with all but the last four digits of the account numbers and social security number redacted;

(f) Anything of more than de minimis value which the conservator, any individual who resides with the conservator, or the spouse, domestic partner, parent, child, or sibling of the conservator has received from a person providing goods or services to the individual subject to conservatorship;

(g) Any business relation the conservator has with a person the conservator has paid or that has benefited from the property of the individual subject to conservatorship; and

(h) Whether any co-conservator or successor conservator appointed to serve when a designated event occurs is alive and able to serve.

(3) The court may appoint a visitor to review a report under this section or conservator's plan under section 419 of this act, interview the individual subject to conservatorship or conservator, or investigate any other matter involving the conservatorship. In connection with the report, the court may order the conservator to submit the conservatorship estate to appropriate examination in a manner the court directs.

(4) Notice of the filing under this section of a conservator's report, together with a copy of the report, must be provided to the individual subject to conservatorship, a person entitled to notice under section 411(6) of this act or a subsequent order, and other persons the court determines. The notice and report must be given not later than fourteen days after filing.

(5) The court shall establish procedures for monitoring a report submitted under this section and review each report at least annually to determine whether:

(a) The reports provide sufficient information to establish the conservator has complied with the conservator's duties;

(b) The conservatorship should continue; and

(c) The conservator's requested fees, if any, should be approved.

(6) If the court determines there is reason to believe a conservator has not complied with the conservator's duties or the conservatorship should not continue, the court:

(a) Shall notify the individual subject to conservatorship, the conservator, and any other person entitled to notice under section 411(6) of this act or a subsequent order;

(b) May require additional information from the conservator;

(c) May appoint a visitor to interview the individual subject to conservatorship or conservator or investigate any matter involving the conservatorship; and

(d) Consistent with sections 430 and 431 of this act, may hold a hearing to consider removal of the conservator, termination of the conservatorship, or a change in the powers granted to the conservator or terms of the conservatorship.

(7) If the court has reason to believe fees requested by a conservator are not reasonable, the court shall hold a hearing to determine whether to adjust the requested fees.

(8) A conservator must petition the court for approval of a report filed under this section. The court after review may approve the report. If the court approves the report, there is a rebuttable presumption the report is accurate as to a matter adequately disclosed in the report.

(9) An order, after notice and hearing, approving an interim report of a conservator filed under this section adjudicates liabilities concerning a matter adequately disclosed in the report, as to a person given notice of the report or accounting.

(10) If the court approves a report filed under this section, the order approving the report shall set the due date for the filing of the next report to be filed under this section. The court may set the review at annual, biennial, or triennial intervals with the report due date to be within ninety days of the anniversary date of appointment. When determining the report interval, the court can consider: The length of time the conservator has been serving the person under conservatorship; whether the conservator has timely filed all required reports with the court; whether the conservator is monitored by other state or local agencies; the income of the person subject to conservatorship; the value of the property of the person subject to conservatorship; the adequacy of the bond and other verified receipt; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the conservator.

(11) If the court approves a report filed under this section, the order approving the report shall contain a conservatorship summary or accompanied by a conservatorship summary in the form or substantially in the same form as set forth in section 606 of this act.

(12) If the court approves a report filed under this section, the order approving the report shall direct the clerk of the court to reissue letters of office in the form or substantially in the same form as set forth in section 605 of this act to the conservator containing an expiration date which will be within one hundred twenty days after the date the court directs the conservator file its next report.

(13) An order, after notice and hearing, approving a final report filed under this section discharges the conservator from all liabilities, claims, and causes of action by a person given notice of the report and the hearing as to a matter adequately disclosed in the report.

(14) Any requirement to establish a monitoring program under this section is subject to appropriation.

**NEW SECTION. Sec. 424. ATTEMPTED TRANSFER OF PROPERTY BY INDIVIDUAL SUBJECT TO CONSERVATORSHIP.** (1) The interest of an

individual subject to conservatorship in property included in the conservatorship estate is not transferable or assignable by the individual and is not subject to levy, garnishment, or similar process for claims against the individual unless allowed under section 428 of this act.

(2) If an individual subject to conservatorship enters into a contract after having the right to enter the contract removed by the court, the contract is void against the individual and the individual's property but is enforceable against the person that contracted with the individual.

(3) A person other than the conservator that deals with an individual subject to conservatorship with respect to property included in the conservatorship estate is entitled to protection provided by law of this state other than this chapter.

**NEW SECTION. Sec. 425. TRANSACTION INVOLVING CONFLICT OF INTEREST.** A transaction involving a conservatorship estate which is affected by a substantial conflict between the conservator's fiduciary duties and personal interests is voidable unless the transaction is authorized by court order after notice to persons entitled to notice under section 411(6) of this act or a subsequent order. A transaction affected by a substantial conflict includes a sale, encumbrance, or other transaction involving the conservatorship estate entered into by the conservator, an individual with whom the conservator resides, the spouse, domestic partner, descendant, sibling, agent, or attorney of the conservator, or a corporation or other enterprise in which the conservator has a substantial beneficial interest.

**NEW SECTION. Sec. 426. PROTECTION OF PERSON DEALING WITH CONSERVATOR.** (1) A person that assists or deals with a conservator in good faith and for value in any transaction, other than a transaction requiring a court order under section 414 of this act, is protected as though the conservator properly exercised any power in question. Knowledge by a person that the person is dealing with a conservator alone does not require the person to inquire into the existence of authority of the conservator or the propriety of the conservator's exercise of authority, but restrictions on authority stated in letters of office, or otherwise provided by law, are effective as to the person. A person that pays or delivers property to a conservator is not responsible for proper application of the property.

(2) Protection under subsection (1) of this section extends to a procedural irregularity or jurisdictional defect in the proceeding leading to the issuance of letters of office and does not substitute for protection for a person that assists or deals with a conservator provided by comparable provisions in law of this state other than this chapter relating to a commercial transaction or simplifying a transfer of securities by a fiduciary.

**NEW SECTION. Sec. 427. DEATH OF INDIVIDUAL SUBJECT TO CONSERVATORSHIP.** (1) If an individual subject to conservatorship dies, the conservator shall deliver to the court for safekeeping any

will of the individual in the conservator's possession and inform the personal representative named in the will if feasible, or if not feasible, a beneficiary named in the will, of the delivery.

(2) If forty days after the death of an individual subject to conservatorship no personal representative has been appointed and no application or petition for appointment is before the court, the conservator may apply to exercise the powers and duties of a personal representative to administer and distribute the decedent's estate. The conservator shall give notice of his or her appointment and the pendency of any probate proceedings as provided in RCW 11.28.237 and shall also give notice to a person nominated as personal representative by a will of the decedent of which the conservator is aware. The court may grant the application if there is no objection and endorse the letters of office to note that the individual formerly subject to conservatorship is deceased and the conservator has acquired the powers and duties of a personal representative.

(3) On the death of an individual subject to conservatorship, the conservator shall conclude the administration of the conservatorship estate as provided in section 431 of this act.

**NEW SECTION. Sec. 428. PRESENTATION AND ALLOWANCE OF CLAIM.** (1) A conservator may pay, or secure by encumbering property included in the conservatorship estate, a claim against the conservatorship estate or the individual subject to conservatorship arising before or during the conservatorship, on presentation and allowance in accordance with the priorities under subsection (4) of this section. A claimant may present a claim by:

(a) Sending or delivering to the conservator a statement in a record of the claim, indicating its basis, the name and address of the claimant, and the amount claimed; or

(b) Filing the claim with the court, in a form acceptable to the court, and sending or delivering a copy of the claim to the conservator.

(2) A claim under subsection (1) of this section is presented on receipt by the conservator of the statement of the claim or the filing with the court of the claim, whichever first occurs. A presented claim is allowed if it is not disallowed in whole or in part by the conservator in a record sent or delivered to the claimant not later than sixty days after its presentation. Before payment, the conservator may change an allowance of the claim to a disallowance in whole or in part, but not after allowance under a court order or order directing payment of the claim. Presentation of a claim tolls until thirty days after disallowance of the claim the running of a statute of limitations that has not expired relating to the claim.

(3) A claimant whose claim under subsection (1) of this section has not been paid may petition the court to determine the claim at any time before it is barred by a statute of limitations, and the court may order its allowance, payment, or security by encumbering property included in the conservatorship estate. If a proceeding is pending against the individual subject to conservatorship at the time of appointment of the conservator or is initiated thereafter, the moving party shall give the conservator notice of the

proceeding if it could result in creating a claim against the conservatorship estate.

(4) If a conservatorship estate is likely to be exhausted before all existing claims are paid, the conservator shall distribute the estate in money or in kind in payment of claims in the following order:

(a) Costs and expenses of administration;

(b) A claim of the federal or state government having priority under law other than this chapter;

(c) A claim incurred by the conservator for support, care, education, health, or welfare previously provided to the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship;

(d) A claim arising before the conservatorship; and

(e) All other claims.

(5) Preference may not be given in the payment of a claim under subsection (4) of this section over another claim of the same class. A claim due and payable may not be preferred over a claim not due unless:

(a) Doing so would leave the conservatorship estate without sufficient funds to pay the basic living and health care expenses of the individual subject to conservatorship; and

(b) The court authorizes the preference under section 414(1)(h) of this act.

(6) If assets of a conservatorship estate are adequate to meet all existing claims, the court, acting in the best interest of the individual subject to conservatorship, may order the conservator to grant a security interest in the conservatorship estate for payment of a claim at a future date.

**NEW SECTION. Sec. 429. PERSONAL LIABILITY OF CONSERVATOR.** (1) Except as otherwise agreed by a conservator, the conservator is not personally liable on a contract properly entered into in a fiduciary capacity in the course of administration of the conservatorship estate unless the conservator fails to reveal the conservator's representative capacity in the contract or before entering into the contract.

(2) A conservator is personally liable for an obligation arising from control of property of the conservatorship estate or an act or omission occurring in the course of administration of the conservatorship estate only if the conservator is personally at fault.

(3) A claim based on a contract entered into by a conservator in a fiduciary capacity, an obligation arising from control of property included in the conservatorship estate, or a tort committed in the course of administration of the conservatorship estate may be asserted against the conservatorship estate in a proceeding against the conservator in a fiduciary capacity, whether or not the conservator is personally liable for the claim.

(4) A question of liability between a conservatorship estate and the conservator personally may be determined in a proceeding for accounting, surcharge, or indemnification or another appropriate proceeding or action.

**NEW SECTION. Sec. 430. REMOVAL OF CONSERVATOR—APPOINTMENT OF SUCCESSOR.**

(1) The court may remove a conservator for failure to perform the conservator's duties or other good cause and appoint a successor conservator to assume the duties of the conservator.

(2) The court shall hold a hearing to determine whether to remove a conservator and appoint a successor on:

(a) Petition of the individual subject to conservatorship, conservator, or person interested in the welfare of the individual which contains allegations that, if true, would support a reasonable belief that removal of the conservator and appointment of a successor may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed during the preceding six months;

(b) Communication from the individual subject to conservatorship, conservator, or person interested in the welfare of the individual which supports a reasonable belief that removal of the conservator and appointment of a successor may be appropriate; or

(c) Determination by the court that a hearing would be in the best interest of the individual subject to conservatorship.

(3) Notice of a hearing under subsection (2)(a) of this section and notice of the individual's right to be represented at the hearing by counsel of the individual's choosing must be given to the individual subject to conservatorship, the conservator, and any other person the court determines.

(4) An individual subject to conservatorship who seeks to remove the conservator and have a successor appointed has the right to choose an attorney to represent the individual in this matter. The court shall award reasonable attorneys' fees to the attorney as provided in section 120 of this act.

(5) In selecting a successor conservator, the court shall follow the priorities under section 410 of this act.

(6) Not later than fourteen days after appointing a successor conservator, the successor conservator shall give notice of the appointment to the individual subject to conservatorship and any person entitled to notice under section 411(6) of this act or a subsequent order.

**NEW SECTION. Sec. 431. TERMINATION OR MODIFICATION OF CONSERVATORSHIP.**

(1) A conservatorship for a minor terminates on the earliest of:

(a) A court order terminating the conservatorship;

(b) The minor becoming an adult or, if the minor consents or the court finds by clear and convincing evidence that substantial harm to the minor's interests is otherwise likely, attaining twenty-one years of age;

(c) Emancipation of the minor; or

(d) Death of the minor.

(2) A conservatorship for an adult terminates on order of the court or when the adult dies.

(3) An individual subject to conservatorship, the conservator, or a person interested in the welfare of the individual may petition for:

(a) Termination of the conservatorship on the ground that a basis for appointment under section 401 of this

act does not exist or termination would be in the best interest of the individual or for other good cause; or

(b) Modification of the conservatorship on the ground that the extent of protection or assistance granted is not appropriate or for other good cause.

(4) The court shall hold a hearing to determine whether termination or modification of a conservatorship is appropriate on:

(a) Petition under subsection (3) of this section that contains allegations that, if true, would support a reasonable belief that termination or modification of the conservatorship may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed within the preceding six months;

(b) A communication from the individual subject to conservatorship, conservator, or person interested in the welfare of the individual which supports a reasonable belief that termination or modification of the conservatorship may be appropriate, including because the functional needs of the individual or supports or services available to the individual have changed;

(c) A report from a guardian or conservator which indicates that termination or modification may be appropriate because the functional needs or supports or services available to the individual have changed or a protective arrangement instead of conservatorship or other less restrictive alternative is available; or

(d) A determination by the court that a hearing would be in the best interest of the individual.

(5) Notice of a petition under subsection (3) of this section must be given to the individual subject to conservatorship, the conservator, and any such other person the court determines.

(6) On presentation of prima facie evidence for termination of a conservatorship, the court shall order termination unless it is proven that a basis for appointment of a conservator under section 401 of this act exists.

(7) The court shall modify the powers granted to a conservator if the powers are excessive or inadequate due to a change in the abilities or limitations of the individual subject to conservatorship, the individual's supports, or other circumstances.

(8) Unless the court otherwise orders for good cause, before terminating a conservatorship, the court shall follow the same procedures to safeguard the rights of the individual subject to conservatorship which apply to a petition for conservatorship.

(9) An individual subject to conservatorship who seeks to terminate or modify the terms of the conservatorship has the right to choose an attorney to represent the individual in this matter. The court shall award reasonable attorneys' fees to the attorney as provided in section 120 of this act.

(10) On termination of a conservatorship other than by reason of the death of the individual subject to conservatorship, property of the conservatorship estate passes to the individual. The order of termination must direct the conservator to file a final report and petition for discharge on approval by the court of the final report.

(11) On termination of a conservatorship by reason of the death of the individual subject to conservatorship, the conservator shall file a final report and petition for discharge

on approval by the court of the final report within ninety days of death of the person subject to conservatorship. On approval of the final report, the conservator shall proceed expeditiously to distribute the conservatorship estate to the individual's estate or as otherwise ordered by the court. The conservator may take reasonable measures necessary to preserve the conservatorship estate until distribution can be made.

(12) The court shall issue a final order of discharge on the approval by the court of the final report and satisfaction by the conservator of any other condition the court imposed on the conservator's discharge.

**NEW SECTION. Sec. 432. TRANSFER FOR BENEFIT OF MINOR WITHOUT APPOINTMENT OF CONSERVATOR.** (1) Unless a person required to transfer funds or other property to a minor knows that a conservator for the minor has been appointed or a proceeding is pending for conservatorship, the person may transfer an amount or value not exceeding fifteen thousand dollars in a twelve-month period to:

- (a) A person that has care or custody of the minor and with whom the minor resides;
- (b) A guardian for the minor;
- (c) A custodian under the uniform transfers to minors act (chapter 11.114 RCW); or
- (d) A financial institution as a deposit in an interest-bearing account or certificate solely in the name of the minor and shall give notice to the minor of the deposit.

(2) A person that transfers funds or other property under this section is not responsible for its proper application.

(3) A person that receives funds or other property for a minor under subsection (1)(a) or (b) of this section may apply it only to the support, care, education, health, or welfare of the minor, and may not derive a personal financial benefit from it, except for reimbursement for necessary expenses. Funds not applied for these purposes must be preserved for the future support, care, education, health, or welfare of the minor, and the balance, if any, transferred to the minor when the minor becomes an adult or otherwise is emancipated.

## ARTICLE 5 OTHER PROTECTIVE ARRANGEMENTS

**NEW SECTION. Sec. 501. AUTHORITY FOR PROTECTIVE ARRANGEMENT.** (1) Under this article, a court:

- (a) On receiving a petition for a guardianship for an adult may order a protective arrangement instead of guardianship as a less restrictive alternative to guardianship; and
- (b) On receiving a petition for a conservatorship for an individual may order a protective arrangement instead of conservatorship as a less restrictive alternative to conservatorship.

(2) A person interested in an adult's welfare, including the adult or a conservator for the adult, may

petition under this article for a protective arrangement instead of guardianship.

(3) The following persons may petition under this article for a protective arrangement instead of conservatorship:

- (a) The individual for whom the protective arrangement is sought;
- (b) A person interested in the property, financial affairs, or welfare of the individual, including a person that would be affected adversely by lack of effective management of property or financial affairs of the individual; and
- (c) The guardian for the individual.

**NEW SECTION. Sec. 502. BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP FOR ADULT.** (1) After the hearing on a petition under section 302 of this act for a guardianship or under section 501(2) of this act for a protective arrangement instead of guardianship, the court may issue an order under subsection (2) of this section for a protective arrangement instead of guardianship if the court finds by clear and convincing evidence that:

(a) The respondent lacks the ability to meet essential requirements for physical health, safety, or self-care because the respondent is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making; and

(b) The respondent's identified needs cannot be met by a less restrictive alternative.

(2) If the court makes the findings under subsection (1) of this section, the court, instead of appointing a guardian, may:

(a) Authorize or direct a transaction necessary to meet the respondent's need for health, safety, or care, including:

- (i) A particular medical treatment or refusal of a particular medical treatment;
- (ii) A move to a specified place of dwelling; or
- (iii) Visitation or supervised visitation between the respondent and another person;

(b) Restrict access to the respondent by a specified person whose access places the respondent at serious risk of physical, psychological, or financial harm; and

(c) Reorder other arrangements on a limited basis that are appropriate.

(3) In deciding whether to issue an order under this section, the court shall consider the factors under sections 314 and 315 of this act that a guardian must consider when making a decision on behalf of an adult subject to guardianship.

**NEW SECTION. Sec. 503. BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP FOR ADULT OR MINOR.** (1) After the hearing on a petition under section 402 of this act for conservatorship for an adult or under section 501(3) of this act for a protective arrangement instead of a conservatorship for an adult, the court may issue an order

under subsection (3) of this section for a protective arrangement instead of conservatorship for the adult if the court finds by clear and convincing evidence that:

(a) The adult is unable to manage property or financial affairs because:

(i) Of a limitation in the ability to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making; or

(ii) The adult is missing, detained, or unable to return to the United States;

(b) An order under subsection (3) of this section is necessary to:

(i) Avoid harm to the adult or significant dissipation of the property of the adult; or

(ii) Obtain or provide funds or other property needed for the support, care, education, health, or welfare of the adult or an individual entitled to the adult's support; and

(c) The respondent's identified needs cannot be met by a less restrictive alternative.

(2) After the hearing on a petition under section 402 of this act for conservatorship for a minor or under section 501(3) of this act for a protective arrangement instead of conservatorship for a minor, the court may issue an order under subsection (3) of this section for a protective arrangement instead of conservatorship for the respondent if the court finds by a preponderance of the evidence that the arrangement is in the minor's best interest, and:

(a) If the minor has a parent, the court gives weight to any recommendation of the parent whether an arrangement is in the minor's best interest;

(b) Either:

(i) The minor owns money or property requiring management or protection that otherwise cannot be provided;

(ii) The minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age; or

(iii) The arrangement is necessary or desirable to obtain or provide funds or other property needed for the support, care, education, health, or welfare of the minor; and

(iv) The order under subsection (3) of this section is necessary or desirable to obtain or provide money needed for the support, care, education, health, or welfare of the minor.

(3) If the court makes the findings under subsection (1) or (2) of this section, the court, instead of appointing a conservator, may:

(a) Authorize or direct a transaction necessary to protect the financial interest or property of the respondent, including:

(i) An action to establish eligibility for benefits;

(ii) Payment, delivery, deposit, or retention of funds or property;

(iii) Sale, mortgage, lease, or other transfer of property;

(iv) Purchase of an annuity;

(v) Entry into a contractual relationship, including a contract to provide for personal care, supportive services, education, training, or employment;

(vi) Addition to or establishment of a trust;

(vii) Ratification or invalidation of a contract, trust, will, or other transaction, including a transaction related to the property or business affairs of the respondent; or

(viii) Settlement of a claim; or

(b) Restrict access to the respondent's property by a specified person whose access to the property places the respondent at serious risk of financial harm.

(4) After the hearing on a petition under section 501 (1)(b) or (3) of this act, whether or not the court makes the findings under subsection (1) or (2) of this section, the court may issue an order to restrict access to the respondent or the respondent's property by a specified person that the court finds by clear and convincing evidence:

(a) Through fraud, coercion, duress, or the use of deception and control caused or attempted to cause an action that would have resulted in financial harm to the respondent or the respondent's property; and

(b) Poses a serious risk of substantial financial harm to the respondent or the respondent's property.

(5) Before issuing an order under subsection (3) or (4) of this section, the court shall consider the factors under section 418 of this act a conservator must consider when making a decision on behalf of an individual subject to conservatorship.

(6) Before issuing an order under subsection (3) or (4) of this section for a respondent who is a minor, the court also shall consider the best interest of the minor, the preference of the parents of the minor, and the preference of the minor, if the minor is twelve years of age or older.

**NEW SECTION. Sec. 504. PETITION FOR PROTECTIVE ARRANGEMENT.** A petition for a protective arrangement instead of guardianship or conservatorship must state the petitioner's name, principal residence, current street address, if different, relationship to the respondent, interest in the protective arrangement, the name and address of any attorney representing the petitioner, and, to the extent known, the following:

(1) The respondent's name, age, principal residence, current street address, if different, and, if different, address of the dwelling in which it is proposed the respondent will reside if the petition is granted;

(2) The name and address of the respondent's:

(a) Spouse or domestic partner or, if the respondent has none, an adult with whom the respondent has shared household responsibilities for more than six months in the twelve-month period before the filing of the petition;

(b) Adult children or, if none, each parent and adult sibling of the respondent, or, if none, at least one adult nearest in kinship to the respondent who can be found with reasonable diligence; and

(c) Adult stepchildren whom the respondent actively parented during the stepchildren's minor years and with whom the respondent had an ongoing relationship in the two-year period immediately before the filing of the petition;

(3) The name and current address of each of the following, if applicable:

(a) A person responsible for the care or custody of the respondent;

(b) Any attorney currently representing the respondent;

(c) The representative payee appointed by the social security administration for the respondent;

(d) A guardian or conservator acting for the respondent in this state or another jurisdiction;

(e) A trustee or custodian of a trust or custodianship of which the respondent is a beneficiary;

(f) The fiduciary appointed for the respondent by the department of veterans affairs;

(g) An agent designated under a power of attorney for health care in which the respondent is identified as the principal;

(h) An agent designated under a power of attorney for finances in which the respondent is identified as the principal;

(i) A person nominated as guardian or conservator by the respondent if the respondent is twelve years of age or older;

(j) A person nominated as guardian by the respondent's parent, spouse, or domestic partner in a will or other signed record;

(k) A person known to have routinely assisted the respondent with decision making in the six-month period immediately before the filing of the petition; and

(l) If the respondent is a minor:

(i) An adult not otherwise listed with whom the respondent resides; and

(ii) Each person not otherwise listed that had primary care or custody of the respondent for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition;

(4) The nature of the protective arrangement sought;

(5) The reason the protective arrangement sought is necessary, including a brief description of:

(a) The nature and extent of the respondent's alleged need;

(b) Any less restrictive alternative for meeting the respondent's alleged need which has been considered or implemented;

(c) If no less restrictive alternative has been considered or implemented, the reason less restrictive alternatives have not been considered or implemented; and

(d) The reason other less restrictive alternatives are insufficient to meet the respondent's alleged need;

(6) The name and current address, if known, of any person with whom the petitioner seeks to limit the respondent's contact;

(7) Whether the respondent needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings;

(8) If a protective arrangement instead of guardianship is sought and the respondent has property other than personal effects, a general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of any other anticipated income or receipts; and

(9) If a protective arrangement instead of conservatorship is sought, a general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts.

NEW SECTION. **Sec. 505.** NOTICE AND HEARING. (1) All petitions filed under section 504 of this act for appointment of a guardian for an adult shall be heard within sixty days unless an extension of time is requested by a party or the visitor within such sixty-day period and granted for good cause shown.

(2) A copy of a petition under section 501 of this act and notice of a hearing on the petition must be served personally on the respondent and the visitor appointed under section 506 of this act not more than five court days after the petition under section 504 of this act has been filed. The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the petition. The court may not grant the petition if notice substantially complying with this subsection is not served on the respondent.

(3) In a proceeding on a petition under section 501 of this act, the notice required under subsection (2) of this section must be given to the persons required to be listed in the petition under section 504 (1) through (3) of this act and any other person interested in the respondent's welfare the court determines. Failure to give notice under this subsection does not preclude the court from granting the petition.

(4) After the court has ordered a protective arrangement under this article, notice of a hearing on a petition filed under this chapter, together with a copy of the petition, must be given to the respondent and any other person the court determines.

NEW SECTION. **Sec. 506.** APPOINTMENT AND ROLE OF VISITOR. (1) On filing of a petition under section 501 of this act for a protective arrangement instead of guardianship, the court shall appoint a visitor. The visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.

(2) On filing of a petition under section 501 of this act for a protective arrangement instead of conservatorship for a minor, the court may appoint a visitor to investigate a matter related to the petition or inform the minor or a parent of the minor about the petition or a related matter.

(3) On filing of a petition under section 501 of this act or a protective arrangement instead of conservatorship for an adult, the court shall appoint a visitor unless the respondent is represented by an attorney appointed by the court. The visitor must be an individual with training or experience in the types of abilities, limitations, and needs alleged in the petition.

(4) The court, in the order appointing visitor, shall specify the hourly rate the visitor may charge for his or her services, and shall specify the maximum amount the visitor may charge without additional court review and approval.

(5)(a) The visitor appointed under subsection (1) or (3) of this section shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, the respondent or his or her legal counsel, the petitioner or his or her legal counsel, and any interested party entitled to notice under section 116 of this act with a statement including: His or her training relating to the duties as a visitor; his or her

criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the guardian ad litem has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the visitor's statement, any party may set a hearing and file and serve a motion for an order to show cause why the visitor should not be removed for one of the following three reasons:

- (i) Lack of expertise necessary for the proceeding;
- (ii) An hourly rate higher than what is reasonable for the particular proceeding; or
- (iii) A conflict of interest.

(b) Notice of the hearing shall be provided to the visitor and all parties. If, after a hearing, the court enters an order replacing the visitor, findings shall be included, expressly stating the reasons for the removal. If the visitor is not removed, the court has the authority to assess to the moving party attorneys' fees and costs related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.

(6) A visitor appointed under subsection (1) or (3) of this section shall interview the respondent in person and in a manner the respondent is best able to understand:

(a) Explain to the respondent the substance of the petition, the nature, purpose, and effect of the proceeding, and the respondent's rights at the hearing on the petition;

(b) Determine the respondent's views with respect to the order sought;

(c) Inform the respondent that all costs and expenses of the proceeding, including respondent's attorneys' fees, may be paid from the respondent's assets;

(d) If the petitioner seeks an order related to the dwelling of the respondent, visit the respondent's present dwelling and any dwelling in which it is reasonably believed the respondent will live if the order is granted;

(e) If a protective arrangement instead of guardianship is sought, obtain information from any physician or other person known to have treated, advised, or assessed the respondent's relevant physical or mental condition;

(f) If a protective arrangement instead of conservatorship is sought, review financial records of the respondent, if relevant to the visitor's recommendation under subsection (7)(b) of this section; and

(g) Investigate the allegations in the petition and any other matter relating to the petition the court directs.

(7) A visitor under this section promptly shall file a report in a record with the court, which must include:

(a) To the extent relevant to the order sought, a summary of self-care, independent living tasks, and financial management tasks the respondent:

(i) Can manage without assistance or with existing supports;

(ii) Could manage with the assistance of appropriate supportive services, technological assistance, or supported decision making; and

(iii) Cannot manage;

(b) A recommendation regarding the appropriateness of the protective arrangement sought and

whether a less restrictive alternative for meeting the respondent's needs is available;

(c) If the petition seeks to change the physical location of the dwelling of the respondent, a statement whether the proposed dwelling meets the respondent's needs and whether the respondent has expressed a preference as to the respondent's dwelling;

(d) A recommendation whether a professional evaluation under section 508 of this act is necessary;

(e) A statement whether the respondent is able to attend a hearing at the location court proceedings typically are held;

(f) A statement whether the respondent is able to participate in a hearing and which identifies any technology or other form of support that would enhance the respondent's ability to participate; and

(g) Any other matter the court directs.

**NEW SECTION. Sec. 507. APPOINTMENT AND ROLE OF ATTORNEY.** (1) Unless the respondent in a proceeding under this article is represented by an attorney, the court is not required, but may appoint an attorney to represent the respondent, regardless of the respondent's ability to pay.

(2) An attorney representing the respondent in a proceeding under this article shall:

(a) Make reasonable efforts to ascertain the respondent's wishes;

(b) Advocate for the respondent's wishes to the extent reasonably ascertainable; and

(c) If the respondent's wishes are not reasonably ascertainable, advocate for the result that is the least restrictive alternative in type, duration, and scope, consistent with the respondent's interests.

(3) The court is not required, but may appoint an attorney to represent a parent of a minor who is the subject of a proceeding under this article if:

(a) The parent objects to the entry of an order for a protective arrangement instead of guardianship or conservatorship;

(b) The court determines that counsel is needed to ensure that consent to the entry of an order for a protective arrangement is informed; or

(c) The court otherwise determines the parent needs representation.

**NEW SECTION. Sec. 508. PROFESSIONAL EVALUATION.** (1) At or before a hearing on a petition under this article for a protective arrangement, the court shall order a professional evaluation of the respondent:

(a) If the respondent requests the evaluation; or

(b) In other cases, unless the court finds that it has sufficient information to determine the respondent's needs and abilities without the evaluation.

(2) If the court orders an evaluation under subsection (1) of this section, the respondent must be examined by a licensed physician, psychologist, social worker, or other individual appointed by the court who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or

disadvantaged by a decision to grant the petition or otherwise have a conflict of interest. The individual conducting the evaluation promptly shall file a report in a record with the court. Unless otherwise directed by the court, the report must contain:

(a) A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitations;

(b) An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills;

(c) A prognosis for improvement, including with regard to the ability to manage the respondent's property and financial affairs if a limitation in that ability is alleged, and recommendation for the appropriate treatment, support, or habilitation plan; and

(d) The date of the examination on which the report is based.

(3) The respondent may decline to participate in an evaluation ordered under subsection (1) of this section.

**NEW SECTION. Sec. 509. ATTENDANCE AND RIGHTS AT HEARING.** (1) Except as otherwise provided in subsection (2) of this section, a hearing under this article may not proceed unless the respondent attends the hearing. If it is not reasonably feasible for the respondent to attend a hearing at the location court proceedings typically are held, the court shall make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or allow the respondent to attend the hearing using real-time audio-visual technology.

(2) A hearing under this article may proceed without the respondent in attendance if the court finds by clear and convincing evidence that:

(a) The respondent consistently and repeatedly has refused to attend the hearing after having been fully informed of the right to attend and the potential consequences of failing to do so;

(b) There is no practicable way for the respondent to attend and participate in the hearing even with appropriate supportive services and technological assistance; or

(c) The respondent is a minor who has received proper notice and attendance would be harmful to the minor.

(3) The respondent may be assisted in a hearing under this article by a person or persons of the respondent's choosing, assistive technology, or an interpreter or translator, or a combination of these supports. If assistance would facilitate the respondent's participation in the hearing, but is not otherwise available to the respondent, the court shall make reasonable efforts to provide it.

(4) The respondent has a right to choose an attorney to represent the respondent at a hearing under this article.

(5) At a hearing under this article, the respondent may:

(a) Present evidence and subpoena witnesses and documents;

(b) Examine witnesses, including any court-appointed evaluator and the visitor; and

(c) Otherwise participate in the hearing.

(6) A hearing under this article must be closed on request of the respondent and a showing of good cause.

(7) Any person may request to participate in a hearing under this article. The court may grant the request, with or without a hearing, on determining that the best interests of the respondent will be served. The court may impose appropriate conditions on the person's participation.

**NEW SECTION. Sec. 510. NOTICE OF ORDER.**

The court shall give notice of an order under this article to the individual who is subject to the protective arrangement instead of guardianship or conservatorship, a person whose access to the individual is restricted by the order, and any other person the court determines.

**NEW SECTION. Sec. 511. CONFIDENTIALITY OF RECORDS.** (1) The existence of a proceeding for or the existence of a protective arrangement instead of guardianship or conservatorship is a matter of public record unless the court seals the record after:

(a) The respondent, the individual subject to the protective arrangement, or the parent of a minor subject to the protective arrangement requests the record be sealed; and

(b) Either:

(i) The proceeding is dismissed;

(ii) The protective arrangement is no longer in effect; or

(iii) An act authorized by the order granting the protective arrangement has been completed.

(2) A respondent, an individual subject to a protective arrangement instead of guardianship or conservatorship, an attorney designated by the respondent or individual, a parent of a minor subject to a protective arrangement, and any other person the court determines are entitled to access court records of the proceeding and resulting protective arrangement. A person not otherwise entitled access to court records under this subsection for good cause may petition the court for access. The court shall grant access if access is in the best interest of the respondent or individual subject to the protective arrangement or furthers the public interest and does not endanger the welfare or financial interests of the respondent or individual.

(3) A report of a visitor or professional evaluation generated in the course of a proceeding under this article must be sealed on filing but is available to:

(a) The court;

(b) The individual who is the subject of the report or evaluation, without limitation as to use;

(c) The petitioner, visitor, and petitioner's and respondent's attorneys, for purposes of the proceeding;

(d) Unless the court orders otherwise, an agent appointed under a power of attorney for finances in which the respondent is the principal;

(e) If the order is for a protective arrangement instead of guardianship and unless the court orders otherwise, an agent appointed under a power of attorney for health care in which the respondent is identified as the principal; and

(f) Any other person if it is in the public interest or for a purpose the court orders for good cause.

NEW SECTION. **Sec. 512.** APPOINTMENT OF SPECIAL AGENT. The court may appoint a special agent, to assist in implementing a protective arrangement under this article. The special agent has the authority conferred by the order of appointment and serves until discharged by court order.

**ARTICLE 6  
FORMS**

NEW SECTION. **Sec. 601.** USE OF FORMS. Unless otherwise provided in this chapter, use of the forms contained in this article is optional. Failure to use these forms does not prejudice any party.

NEW SECTION. **Sec. 602.** PETITION FOR GUARDIANSHIP FOR MINOR. This form may be used to petition for guardianship for a minor.

Petition for Guardianship for Minor

State of: .....  
County of: .....  
Name and address of attorney representing petitioner, if applicable: .....  
.....  
.....

Note to petitioner: This form can be used to petition for a guardian for a minor. A court may appoint a guardian for a minor who does not have a guardian if the court finds the appointment is in the minor's best interest, and: The parents, after being fully informed of the nature and consequences of guardianship, consent; all parental rights have been terminated; or the court finds by clear and convincing evidence that the parents are unwilling or unable to exercise their parental rights.

- (1) Information about the person filing this petition (the petitioner.)
  - (a) Name:.....
  - (b) Principal residence:.....
  - (c) Current street address (if different): .....
  - (d) Relationship to minor:.....
  - (e) Interest in this petition:.....
  - (f) Telephone number (optional): .....
  - (g) Email address (optional): .....
- (2) Information about the minor alleged to need a guardian. Provide the following information to the extent known.
  - (a) Name:.....
  - (b) Age: .....
  - (c) Principal residence: .....
  - (d) Current street address (if different): .....
  - (e) If petitioner anticipates the minor moving, or seeks to move the minor, proposed new address: .....
  - (f) Does the minor need an interpreter, translator, or other form of support to communicate with the court or understand court proceedings? If so, please explain: .....
  - (g) Telephone number (optional):.....
  - (h) Email address (optional): .....

- (3) Information about the minor's parent(s).
  - (a) Name(s) of living parent(s):.....
  - (b) Current street address(es) of living parent(s):.....
  - (c) Does any parent need an interpreter, translator, or other form of support to communicate with the court or understand court proceedings? If so, please explain:.....  
.....  
.....
  - (4) People who are required to be notified of this petition. State the name and current address of the people listed in Appendix A.  
.....  
.....
  - (5) Appointment requested. State the name and address of any proposed guardian and the reason the proposed guardian should be selected.  
.....  
.....
  - (6) State why petitioner seeks the appointment. Include a description of the nature and extent of the minor's alleged need.  
.....
  - (7) Property. If the minor has property other than personal effects, state the minor's property with an estimate of its value.  
.....  
.....
  - (8) Other proceedings. If there are any other proceedings concerning the care or custody of the minor currently pending in any court in this state or another jurisdiction, please describe them.  
.....  
.....
  - (9) Attorney(s). If the minor or the minor's parent is represented by an attorney in this matter, state the name, telephone number, email address, and address of the attorney(s).  
.....  
.....

SIGNATURE

.....  
Signature of Petitioner Date  
.....  
Signature of Petitioner's Attorney if

Date  
Petitioner is Represented by Counsel

APPENDIX A:

People whose name and address must be listed in subsection (4) of this petition if they are not the petitioner:  
The minor, if the minor is twelve years of age or older;  
Each parent of the minor or, if there are none, the adult nearest in kinship that can be found;  
An adult with whom the minor resides;  
Each person that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the

petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition;

If the minor is twelve years of age or older, any person nominated as guardian by the minor;

Any person nominated as guardian by a parent of the minor;

The grandparents of the minor;

Adult siblings of the minor; and

Any current guardian or conservator for the minor appointed in this state or another jurisdiction.

**NEW SECTION. Sec. 603. PETITION FOR GUARDIANSHIP, CONSERVATORSHIP, OR PROTECTIVE ARRANGEMENT.** This form may be used to petition for:

Guardianship for an adult;

Conservatorship for an adult or minor;

A protective arrangement instead of guardianship for an adult; or

A protective arrangement instead of conservatorship for an adult or minor.

Petition for Guardianship, Conservatorship, or Protective Arrangement

State of: .....

County of: .....

Name and address of attorney representing petitioner, if applicable: .....

.....

.....

Note to petitioner: This form can be used to petition for a guardian, conservator, or both, or for a protective arrangement instead of either a guardianship or conservatorship. This form should not be used to petition for guardianship for a minor.

The court may appoint a guardian or order a protective arrangement instead of guardianship for an adult if the adult lacks the ability to meet essential requirements for physical health, safety, or self-care because (1) the adult is unable to receive and evaluate information or make or communicate decisions even with the use of supportive services, technological assistance, and supported decision making, and (2) the adult's identified needs cannot be met by a less restrictive alternative.

The court may appoint a conservator or order a protective arrangement instead of conservatorship for an adult if (1) the adult is unable to manage property and financial affairs because of a limitation in the ability to receive and evaluate information or make or communicate decisions even with the use of supportive services, technological assistance, and supported decision making or the adult is missing, detained, or unable to return to the United States, and (2) appointment is necessary to avoid harm to the adult or significant dissipation of the property of the adult, or to obtain or provide funds or other property needed for the support, care, education, health, or welfare of the adult, or of an individual who is entitled to the adult's support, and

protection is necessary or desirable to provide funds or other property for that purpose.

The court may appoint a conservator or order a protective arrangement instead of conservatorship for a minor if: (1) The minor owns funds or other property requiring management or protection that cannot otherwise be provided; or (2) it would be in the minor's best interests, and the minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age, or appointment is necessary or desirable to provide funds or other property needed for the support, care, education, health, or welfare of the minor.

The court may also order a protective arrangement instead of conservatorship that restricts access to an individual or an individual's property by a person that the court finds: (1) Through fraud, coercion, duress, or the use of deception and control, caused, or attempted to cause, an action that would have resulted in financial harm to the individual or the individual's property; and (2) poses a serious risk of substantial financial harm to the individual or the individual's property.

(1) Information about the person filing this petition (the petitioner.)

(a) Name: .....

(b) Principal residence: .....

(c) Current street address (if different): .....

(d) Relationship to respondent: .....

(e) Interest in this petition: .....

(f) Telephone number (optional): .....

(g) Email address (optional): .....

(2) Information about the individual alleged to need protection (the "respondent"). Provide the following information to the extent known.

(a) Name: .....

(b) Age: .....

(c) Principal residence: .....

(d) Current street address (if different): .....

(e) If petitioner anticipates respondent moving, or seeks to move respondent, proposed new address: .....

(f) Does respondent need an interpreter, translator, or other form of support to communicate with the court or understand court proceedings? If so, please explain: .....

.....

(g) Telephone number (optional): .....

(h) Email address (optional): .....

(3) People who are required to be notified of this petition. State the name and address of the people listed in Appendix A.

.....

.....

(4) Existing agents. State the name and address of any person appointed as an agent under a power of attorney for finances or power of attorney for health care, or who has been appointed as the individual's representative for payment of benefits.

.....

.....

(5) Action requested. State whether petitioner is seeking appointment of a guardian, a conservator, or a protective arrangement instead of an appointment.

.....  
.....

(6) Order requested or appointment requested. If seeking a protective arrangement instead of a guardianship or conservatorship, state the transaction or other action you want the court to order. If seeking appointment of a guardian or conservator, state the powers petitioner requests the court grant to a guardian or conservator.

.....  
.....

(7) State why the appointment or protective arrangement sought is necessary. Include a description of the nature and extent of respondent's alleged need.

.....  
.....

(8) State all less restrictive alternatives to meeting respondent's alleged need that have been considered or implemented. Less restrictive alternatives could include supported decision making, technological assistance, or the appointment of an agent by respondent including appointment under a power of attorney for health care or power of attorney for finances. If no alternative has been considered or implemented, state the reason why not.

.....  
.....

(9) Explain why less restrictive alternatives will not meet respondent's alleged need.

.....  
.....

(10) Provide a general statement of respondent's property and an estimate of its value. Include any real property such as a house or land, insurance or pension, and the source and amount of any other anticipated income or receipts. As part of this statement, indicate, if known, how the property is titled (for example, is it jointly owned?).

.....  
.....

(11) For a petition seeking appointment of a conservator. (Skip this section if not asking for appointment of a conservator.)

(a) If seeking appointment of a conservator with all powers permissible under this state's law, explain why appointment of a conservator with fewer powers (i.e., a "limited conservatorship") or other protective arrangement instead of conservatorship will not meet the individual's alleged needs.

.....  
.....

(b) If seeking a limited conservatorship, state the property petitioner requests be placed under the conservator's control and any proposed limitation on the conservator's powers and duties.

.....  
.....  
(c) State the name and address of any proposed conservator and the reason the proposed conservator should be selected.

.....  
.....

(d) If respondent is twelve years of age or older, state the name and address of any person respondent nominates as conservator.

.....  
.....

(e) If alleging a limitation in respondent's ability to receive and evaluate information, provide a brief description of the nature and extent of respondent's alleged limitation.

.....  
.....

(f) If alleging that respondent is missing, detained, or unable to return to the United States, state the relevant circumstances, including the time and nature of the disappearance or detention and a description of any search or inquiry concerning respondent's whereabouts.

.....  
.....

(12) For a petition seeking appointment of a guardian. (Skip this section if not asking for appointment of a guardian.)

(a) If seeking appointment of a guardian with all powers permissible under this state's law, explain why appointment of a guardian with fewer powers (i.e., a "limited guardianship") or other protective arrangement instead of guardianship will not meet the individual's alleged needs.

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.....

(b) If seeking a limited guardianship, state the powers petitioner requests be granted to the guardian.

.....  
.....

(c) State the name and address of any proposed guardian and the reason the proposed guardian should be selected.

.....  
.....

(d) State the name and address of any person nominated as guardian by respondent, or, in a will or other signed writing or other record, by respondent's parent or spouse or domestic partner.

.....  
.....

(13) Attorney. If petitioner, respondent, or, if respondent is a minor, respondent's parent is represented by an attorney in this matter, state the name, telephone number, email address, and address of the attorney(s).

.....  
.....

SIGNATURE

.....

Signature of Petitioner \_\_\_\_\_ Date \_\_\_\_\_  
 .....  
 Signature of Petitioner's Attorney if \_\_\_\_\_

Date \_\_\_\_\_  
 Petitioner is Represented by Counsel \_\_\_\_\_

APPENDIX A:

People whose name and address must be listed in subsection (3) of this petition, if they are not the petitioner.

Respondent's spouse or domestic partner, or if respondent has none, any adult with whom respondent has shared household responsibilities in the past six months;

Respondent's adult children, or, if respondent has none, respondent's parents and adult siblings, or if respondent has none, one or more adults nearest in kinship to respondent who can be found with reasonable diligence;

Respondent's adult stepchildren whom respondent actively parented during the stepchildren's minor years and with whom respondent had an ongoing relationship within two years of this petition;

Any person responsible for the care or custody of respondent;

Any attorney currently representing respondent;

Any representative payee for respondent appointed by the social security administration;

Any current guardian or conservator for respondent appointed in this state or another jurisdiction;

Any trustee or custodian of a trust or custodianship of which respondent is a beneficiary;

Any veterans administration fiduciary for respondent;

Any person respondent has designated as agent under a power of attorney for finances;

Any person respondent has designated as agent under a power of attorney for health care;

Any person known to have routinely assisted the individual with decision making in the previous six months;

Any person respondent nominates as guardian or conservator; and

Any person nominated as guardian by respondent's parent or spouse or domestic partner in a will or other signed writing or other record.

**NEW SECTION. Sec. 604.** NOTIFICATION OF RIGHTS FOR ADULT SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP. This form may be used to notify an adult subject to guardianship or conservatorship of the adult's rights under sections 311 and 412 of this act.

**Notification of Rights**

You are getting this notice because a guardian, conservator, or both have been appointed for you. It tells you about some important rights you have. It does not tell you about all your rights. If you have questions about your rights, you can ask an

attorney or another person, including your guardian or conservator, to help you understand your rights.

**General rights:**

You have the right to exercise any right the court has not given to your guardian or conservator.

You also have the right to ask the court to:

End your guardianship, conservatorship, or both;

Increase or decrease the powers granted to your guardian, conservator, or both;

Make other changes that affect what your guardian or conservator can do or how they do it; and

Replace the person that was appointed with someone else.

You also have a right to hire an attorney to help you do any of these things.

**Additional rights for persons for whom a guardian has been appointed:**

As an adult subject to guardianship, you have a right to:

(1) Be involved in decisions affecting you, including decisions about your care, where you live, your activities, and your social interactions, to the extent reasonably feasible;

(2) Be involved in decisions about your health care to the extent reasonably feasible, and to have other people help you understand the risks and benefits of health care options;

(3) Be notified at least fourteen days in advance of a change in where you live or a permanent move to a nursing home, mental health facility, or other facility that places restrictions on your ability to leave or have visitors, unless the guardian has proposed this change in the guardian's plan or the court has expressly authorized it;

(4) Ask the court to prevent your guardian from changing where you live or selling or surrendering your primary dwelling by following the appropriate process for objecting to such a move in compliance with section 314(5) of this act;

(5) Vote and get married unless the court order appointing your guardian states that you cannot do so;

(6) Receive a copy of your guardian's report and your guardian's plan; and

(7) Communicate, visit, or interact with other people (this includes the right to have visitors, to make and receive telephone calls, personal mail, or electronic communications) unless:

(a) Your guardian has been authorized by the court by specific order to restrict these communications, visits, or interactions;

(b) A protective order is in effect that limits contact between you and other people; or

(c) Your guardian has good cause to believe the restriction is needed to protect you from significant physical, psychological, or financial harm and the restriction is for not more than seven business days if the person has a relative or preexisting social relationship with you or not more



Letters Expire On: .....

Bond Amount: \$ .....

Restricted Account Agreements Required: .....

Due Date for Inventory, if applicable: .....

Due Date for Guardian's Plan, if applicable: .....

Person subject to Guardian/Conservator guardianship/conservatorship	
Name:	Name:
Address:	Address:
Phone:	Phone:
Facsimile:	Facsimile:

Interested Parties	Address	Relation

**ARTICLE 7  
CERTIFIED PROFESSIONAL  
GUARDIANSHIP BOARD OF RESOLUTION  
GRIEVANCES**

NEW SECTION. **Sec. 701.** CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD RESOLUTION OF GRIEVANCES. (1) The certified professional guardianship board must resolve grievances against professional guardians and/or conservators within a reasonable time for alleged violations of the certified professional guardianship board's standards of practice.

(a) All grievances must initially be reviewed within thirty days by certified professional guardianship board members, or a subset thereof, to determine if the grievance is complete, states facts that allege a violation of the standards of practice, and relates to the conduct of a professional guardian and/or conservator, before any investigation or response is requested from the professional guardian or the superior court. Grievances must provide the dates of the alleged violations and must be signed and dated by the person filing the grievance. Grievance investigations by the board are limited to the allegations contained in the grievance unless, after review by a majority of the members of the certified professional guardianship board, further investigation is justified.

(b) If the certified professional guardianship board determines the grievance is complete, states facts that allege a violation of the standards of practice, and relates to the conduct of a professional guardian and/or conservator, the

certified professional guardianship board must forward that grievance within ten days to the superior court for that guardianship or conservatorship and to the professional guardian and/or conservator. The court must review the matter as set forth in section 128 of this act, and must direct the clerk of the court to send a copy of the order entered under this section to the certified professional guardianship board. The certified professional guardianship board must act consistently with any finding of fact issued in that order.

(2) Grievances received by the certified professional guardianship board must be resolved within one hundred eighty days of receipt.

(3) If the grievance cannot be resolved within one hundred eighty days, the certified professional guardianship board must notify the professional guardian and/or conservator. The professional guardian or conservator may propose a resolution of the grievance with facts and/or arguments. The certified professional guardianship board may accept the proposed resolution or determine that an additional ninety days are needed to review the grievance. If the certified professional guardianship board has not resolved the grievance within the additional ninety days the professional guardian or conservator may:

(a) File a motion for a court order to compel the certified professional guardianship board to resolve the grievance within a reasonable time; or

(b) Move for the court to resolve the grievance instead of being resolved by the certified professional guardianship board.

(4) The court has authority to enforce the certified professional guardianship board's standards of practice in this article to the extent those standards are related to statutory or fiduciary duties of guardians and conservators.

(5) Any unresolved grievances filed with the certified professional guardianship board at the time of the effective date of this section must be forwarded to the superior court for that guardianship or conservatorship for review by the court as set forth in section 128 of this act.

**ARTICLE 8  
MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec. 801.** REPEALS. The following acts or parts of acts are each repealed:

(1)RCW 11.88.005 (Legislative intent) and 1990 c 122 s 1, 1977 ex.s. c 309 s 1, & 1975 1st ex.s. c 95 s 1;

(2)RCW 11.88.008 ("Professional guardian" defined) and 1997 c 312 s 2;

(3)RCW 11.88.010 (Authority to appoint guardians—Definitions—Venue—Nomination by principal) and 2016 c 209 s 403, 2008 c 6 s 802, 2005 c 236 s 3, (2005 c 236 s 2 expired January 1, 2006), 2004 c 267 s 139, 1991 c 289 s 1, 1990 c 122 s 2, 1984 c 149 s 176, 1977 ex.s. c 309 s 2, 1975 1st ex.s. c 95 s 2, & 1965 c 145 s 11.88.010;

(4)RCW 11.88.020 (Qualifications) and 2011 c 329 s 1, 1997 c 312 s 1, 1990 c 122 s 3, 1975 1st ex.s. c 95 s 3, 1971 c 28 s 4, & 1965 c 145 s 11.88.020;

(5)RCW 11.88.030 (Petition—Contents—Hearing) and 2011 c 329 s 2, 2009 c 521 s 36, 1996 c 249 s 8, 1995 c

297 s 1, 1991 c 289 s 2, 1990 c 122 s 4, 1977 ex.s. c 309 s 3, 1975 1st ex.s. c 95 s 4, & 1965 c 145 s 11.88.030;

(6)RCW 11.88.040 (Notice and hearing, when required—Service—Procedure) and 2008 c 6 s 803, 1995 c 297 s 2, 1991 c 289 s 3, 1990 c 122 s 5, 1984 c 149 s 177, 1977 ex.s. c 309 s 4, 1975 1st ex.s. c 95 s 5, 1969 c 70 s 1, & 1965 c 145 s 11.88.040;

(7)RCW 11.88.045 (Legal counsel and jury trial—Proof—Medical report—Examinations—Waiver) and 2001 c 148 s 1, 1996 c 249 s 9, 1995 c 297 s 3, 1991 c 289 s 4, 1990 c 122 s 6, 1977 ex.s. c 309 s 5, & 1975 1st ex.s. c 95 s 7;

(8)RCW 11.88.080 (Guardians nominated by will or durable power of attorney) and 2016 c 209 s 401, 2005 c 97 s 11, 1990 c 122 s 7, & 1965 c 145 s 11.88.080;

(9)RCW 11.88.090 (Guardian ad litem—Mediation—Appointment—Qualifications—Notice of and statement by guardian ad litem—Hearing and notice—Attorneys' fees and costs—Registry—Duties—Report—Responses—Fee) and 2008 c 6 s 804, 2000 c 124 s 1, 1999 c 360 s 1, 1996 c 249 s 10, 1995 c 297 s 4, 1991 c 289 s 5, 1990 c 122 s 8, 1977 ex.s. c 309 s 6, 1975 1st ex.s. c 95 s 9, & 1965 c 145 s 11.88.090;

(10)RCW 11.88.093 (Ex parte communications—Removal) and 2000 c 124 s 10;

(11)RCW 11.88.095 (Disposition of guardianship petition) and 2011 c 329 s 4, 1995 c 297 s 5, 1991 c 289 s 6, & 1990 c 122 s 9;

(12)RCW 11.88.097 (Guardian ad litem—Fees) and 2000 c 124 s 13;

(13)RCW 11.88.100 (Oath and bond of guardian or limited guardian) and 2010 c 8 s 2088, 1990 c 122 s 10, 1983 c 271 s 1, 1977 ex.s. c 309 s 7, 1975 1st ex.s. c 95 s 10, & 1965 c 145 s 11.88.100;

(14)RCW 11.88.105 (Reduction in amount of bond) and 1990 c 122 s 11, 1975 1st ex.s. c 95 s 11, & 1965 c 145 s 11.88.105;

(15)RCW 11.88.107 (When bond not required) and 1990 c 122 s 12, 1977 ex.s. c 309 s 8, 1975 1st ex.s. c 95 s 12, & 1965 c 145 s 11.88.107;

(16)RCW 11.88.110 (Law on executors' and administrators' bonds applicable) and 1975 1st ex.s. c 95 s 13 & 1965 c 145 s 11.88.110;

(17)RCW 11.88.120 (Modification or termination of guardianship—Procedure) and 2017 c 271 s 2, 2015 c 293 s 1, 1991 c 289 s 7, 1990 c 122 s 14, 1977 ex.s. c 309 s 9, 1975 1st ex.s. c 95 s 14, & 1965 c 145 s 11.88.120;

(18)RCW 11.88.125 (Standby limited guardian or limited guardian) and 2013 c 304 s 1, 2011 c 329 s 5, 2008 c 6 s 805, 1991 c 289 s 8, 1990 c 122 s 15, 1979 c 32 s 1, 1977 ex.s. c 309 s 10, & 1975 1st ex.s. c 95 s 6;

(19)RCW 11.88.127 (Guardianship—Incapacitated person—Letters of guardianship) and 2011 c 329 s 6;

(20)RCW 11.88.130 (Transfer of jurisdiction and venue) and 1990 c 122 s 16, 1975 1st ex.s. c 95 s 15, & 1965 c 145 s 11.88.130;

(21)RCW 11.88.140 (Termination of guardianship or limited guardianship) and 2016 c 202 s 9, 2011 c 329 s 7, 1991 c 289 s 9, 1990 c 122 s 17, 1977 ex.s. c 309 s 11, 1975 1st ex.s. c 95 s 16, & 1965 c 145 s 11.88.140;

(22)RCW 11.88.150 (Administration of deceased incapacitated person's estate) and 2010 c 8 s 2089, 1990 c

122 s 18, 1977 ex.s. c 309 s 12, 1975 1st ex.s. c 95 s 17, & 1965 c 145 s 11.88.150;

(23)RCW 11.88.160 (Guardianships involving veterans) and 1990 c 122 s 13;

(24)RCW 11.88.170 (Guardianship courthouse facilitator program) and 2015 c 295 s 1;

(25)RCW 11.88.900 (Construction—Chapter applicable to state registered domestic partnerships—2009 c 521) and 2009 c 521 s 35;

(26)RCW 11.92.010 (Guardians or limited guardians under court control—Legal age) and 1975 1st ex.s. c 95 s 18, 1971 c 28 s 5, & 1965 c 145 s 11.92.010;

(27)RCW 11.92.035 (Claims) and 1990 c 122 s 19, 1975 1st ex.s. c 95 s 19, & 1965 c 145 s 11.92.035;

(28)RCW 11.92.040 (Duties of guardian or limited guardian in general) and 2011 c 329 s 9, 1991 c 289 s 10, 1990 c 122 s 20, & 1985 c 30 s 9;

(29)RCW 11.92.043 (Additional duties) and 2017 c 268 s 3, 2011 c 329 s 3, 1991 c 289 s 11, & 1990 c 122 s 21;

(30)RCW 11.92.050 (Intermediate accounts or reports—Hearing—Order) and 2011 c 329 s 10, 1995 c 297 s 6, 1990 c 122 s 23, 1975 1st ex.s. c 95 s 21, & 1965 c 145 s 11.92.050;

(31)RCW 11.92.053 (Settlement of estate upon termination) and 2011 c 329 s 8, 1995 c 297 s 7, 1990 c 122 s 24, & 1965 c 145 s 11.92.053;

(32)RCW 11.92.056 (Citation of surety on bond) and 1990 c 122 s 25, 1975 1st ex.s. c 95 s 22, & 1965 c 145 s 11.92.056;

(33)RCW 11.92.060 (Guardian to represent incapacitated person—Compromise of claims—Service of process) and 1990 c 122 s 26, 1975 1st ex.s. c 95 s 23, & 1965 c 145 s 11.92.060;

(34)RCW 11.92.090 (Sale, exchange, lease, or mortgage of property) and 1990 c 122 s 27, 1975 1st ex.s. c 95 s 24, & 1965 c 145 s 11.92.090;

(35)RCW 11.92.096 (Guardian access to certain held assets) and 1991 c 289 s 13;

(36)RCW 11.92.100 (Petition—Contents) and 1990 c 122 s 28, 1975 1st ex.s. c 95 s 25, & 1965 c 145 s 11.92.100;

(37)RCW 11.92.110 (Sale of real estate) and 1990 c 122 s 29, 1975 1st ex.s. c 95 s 26, & 1965 c 145 s 11.92.110;

(38)RCW 11.92.115 (Return and confirmation of sale) and 2010 c 8 s 2090, 1990 c 122 s 30, 1975 1st ex.s. c 95 s 27, & 1965 c 145 s 11.92.115;

(39)RCW 11.92.120 (Confirmation conclusive) and 1975 1st ex.s. c 95 s 28 & 1965 c 145 s 11.92.120;

(40)RCW 11.92.125 (Broker's fee and closing expenses—Sale, exchange, mortgage, or lease of real estate) and 1977 ex.s. c 309 s 15 & 1965 c 145 s 11.92.125;

(41)RCW 11.92.130 (Performance of contracts) and 1990 c 122 s 31, 1975 1st ex.s. c 95 s 29, & 1965 c 145 s 11.92.130;

(42)RCW 11.92.140 (Court authorization for actions regarding guardianship funds) and 2008 c 6 s 807, 1999 c 42 s 616, 1991 c 193 s 32, 1990 c 122 s 32, & 1985 c 30 s 10;

(43)RCW 11.92.150 (Request for special notice of proceedings) and 1990 c 122 s 33 & 1985 c 30 s 11;

(44)RCW 11.92.160 (Citation for failure to file account or report) and 1990 c 122 s 34, 1975 1st ex.s. c 95 s 31, & 1965 c 145 s 11.92.160;

(45)RCW 11.92.170 (Removal of property of nonresident incapacitated person) and 1990 c 122 s 35, 1977 ex.s. c 309 s 16, 1975 1st ex.s. c 95 s 32, & 1965 c 145 s 11.92.170;

(46)RCW 11.92.180 (Compensation and expenses of guardian or limited guardian—Attorney's fees—Department of social and health services clients paying part of costs—Rules) and 1995 c 297 s 8, 1994 c 68 s 1, 1991 c 289 s 12, 1990 c 122 s 36, 1975 1st ex.s. c 95 s 33, & 1965 c 145 s 11.92.180;

(47)RCW 11.92.185 (Concealed or embezzled property) and 1990 c 122 s 37, 1975 1st ex.s. c 95 s 34, & 1965 c 145 s 11.92.185;

(48)RCW 11.92.190 (Detention of person in residential placement facility against will prohibited—Effect of court order—Service of notice of residential placement) and 2016 sp.s. c 29 s 412, 1996 c 249 s 11, & 1977 ex.s. c 309 s 14;

(49)RCW 11.92.195 (Incapacitated persons—Right to associate with persons of their choosing) and 2017 c 268 s 1;

(50)RCW 26.10.010 (Intent) and 1987 c 460 s 25;

(51)RCW 26.10.015 (Mandatory use of approved forms) and 1992 c 229 s 4 & 1990 1st ex.s. c 2 s 27;

(52)RCW 26.10.020 (Civil practice to govern—Designation of proceedings—Decrees) and 1987 c 460 s 26;

(53)RCW 26.10.030 (Child custody proceeding—Commencement—Notice—Intervention) and 2003 c 105 s 3, 2000 c 135 s 3, 1998 c 130 s 4, & 1987 c 460 s 27;

(54)RCW 26.10.032 (Child custody motion—Affidavit required—Notice—Denial of motion—Show cause hearing) and 2003 c 105 s 6;

(55)RCW 26.10.034 (Petitions—Indian child statement—Application of federal Indian child welfare act) and 2011 c 309 s 31, 2004 c 64 s 1, & 2003 c 105 s 7;

(56)RCW 26.10.040 (Provisions for child support, custody, and visitation—Federal tax exemption—Continuing restraining orders—Domestic violence or antiharassment protection orders—Notice of modification or termination of restraining order) and 2000 c 119 s 8, 1995 c 93 s 3, 1994 sp.s. c 7 s 453, 1989 c 375 s 31, & 1987 c 460 s 28;

(57)RCW 26.10.045 (Child support schedule) and 1988 c 275 s 12;

(58)RCW 26.10.050 (Child support by parents—Apportionment of expense) and 2008 c 6 s 1023 & 1987 c 460 s 29;

(59)RCW 26.10.060 (Health insurance coverage—Conditions) and 1989 c 375 s 19 & 1987 c 460 s 30;

(60)RCW 26.10.070 (Minor or dependent child—Court appointed attorney to represent—Payment of costs, fees, and disbursements) and 1989 c 375 s 20 & 1987 c 460 s 31;

(61)RCW 26.10.080 (Payment of costs, attorney's fees, etc) and 1987 c 460 s 35;

(62)RCW 26.10.090 (Failure to comply with decree or temporary injunction—Obligation to make support payments or permit visitation not suspended—Motion) and 1987 c 460 s 36;

(63)RCW 26.10.100 (Determination of custody—Child's best interests) and 1987 c 460 s 38;

(64)RCW 26.10.110 (Temporary custody order—Vacation of order) and 1987 c 460 s 39;

(65)RCW 26.10.115 (Temporary orders—Support—Restraining orders—Domestic violence or antiharassment protection orders—Notice of modification or termination of restraining order—Preservation of support debt) and 2000 c 119 s 9, 1995 c 246 s 29, 1994 sp.s. c 7 s 454, & 1989 c 375 s 32;

(66)RCW 26.10.120 (Interview with child by court—Advice of professional personnel) and 1987 c 460 s 40;

(67)RCW 26.10.130 (Investigation and report) and 1993 c 289 s 2 & 1987 c 460 s 41;

(68)RCW 26.10.135 (Custody orders—Background information to be consulted) and 2017 3rd sp.s. c 6 s 333 & 2003 c 105 s 1;

(69)RCW 26.10.140 (Hearing—Record—Expenses of witnesses) and 1987 c 460 s 42;

(70)RCW 26.10.150 (Access to child's education and medical records) and 1987 c 460 s 43;

(71)RCW 26.10.160 (Visitation rights—Limitations) and 2018 c 183 s 7, 2011 c 89 s 7, 2004 c 38 s 13, 1996 c 303 s 2, 1994 c 267 s 2, 1989 c 326 s 2, & 1987 c 460 s 44;

(72)RCW 26.10.170 (Powers and duties of custodian—Supervision by appropriate agency when necessary) and 1987 c 460 s 45;

(73)RCW 26.10.180 (Remedies when a child is taken, enticed, or concealed) and 2008 c 6 s 1024, 1989 c 375 s 21, & 1987 c 460 s 46;

(74)RCW 26.10.190 (Petitions for modification and proceedings concerning relocation of child—Assessment of attorneys' fees) and 2000 c 21 s 21, 1989 c 375 s 24, & 1987 c 460 s 47;

(75)RCW 26.10.200 (Temporary custody order or modification of custody decree—Affidavits required) and 1987 c 460 s 48;

(76)RCW 26.10.210 (Venue) and 1987 c 460 s 49;

(77)RCW 26.10.220 (Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity) and 2000 c 119 s 22, 1999 c 184 s 11, 1996 c 248 s 10, 1995 c 246 s 30, & 1987 c 460 s 50; and

(78)RCW 26.10.910 (Short title—1987 c 460).

**NEW SECTION. Sec. 802. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**NEW SECTION. Sec. 803. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** This act modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

NEW SECTION. **Sec. 804.** APPLICABILITY.

This chapter applies to:

(1) A proceeding for appointment of a guardian or conservator or for a protective arrangement instead of guardianship or conservatorship commenced after the effective date of this section; and

(2) A guardianship, conservatorship, or protective arrangement instead of a guardianship or conservatorship in existence on the effective date of this section unless the court finds application of a particular provision of this act would substantially interfere with the effective conduct of the proceeding or prejudice the rights of a party, in which case the particular provision of this act does not apply and the superseded law applies.

NEW SECTION. **Sec. 805.** SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 806.** Articles I through VII and sections 802 through 804 and 807 of this act constitute a new chapter in Title 11 RCW.

NEW SECTION. **Sec. 807.** EFFECTIVE DATE.

This act takes effect January 1, 2021."

Correct the title.

Signed by Representatives Jinkins, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Goodman; Hansen; Kilduff; Kirby; Orwall; Valdez and Walen.

MINORITY recommendation: Do not pass. Signed by Representatives Klippert and Shea.

Referred to Committee on Appropriations.

March 28, 2019

E2SSB 5662 Prime Sponsor, Committee on Ways & Means: Concerning cloud computing solutions. Reported by Committee on Innovation, Technology & Economic Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.105.020 and 2017 c 92 s 2 are each amended to read as follows:

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

(1) "Agency" means the consolidated technology services agency.

(2) "Board" means the technology services board.

(3) "Customer agencies" means all entities that purchase or use information technology resources, telecommunications, or services from the consolidated technology services agency.

(4) "Director" means the state chief information officer, who is the director of the consolidated technology services agency.

(5) "Enterprise architecture" means an ongoing activity for translating business vision and strategy into effective enterprise change. It is a continuous activity. Enterprise architecture creates, communicates, and improves the key principles and models that describe the enterprise's future state and enable its evolution.

(6) "Equipment" means the machines, devices, and transmission facilities used in information processing, including but not limited to computers, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment.

(7) "Information" includes, but is not limited to, data, text, voice, and video.

(8) "Information security" means the protection of communication and information resources from unauthorized access, use, disclosure, disruption, modification, or destruction in order to:

(a) Prevent improper information modification or destruction;

(b) Preserve authorized restrictions on information access and disclosure;

(c) Ensure timely and reliable access to and use of information; and

(d) Maintain the confidentiality, integrity, and availability of information.

(9) "Information technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation, electronic commerce, radio technologies, and all related interactions between people and machines.

(10) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments.

(11) "K-20 network" means the network established in RCW 43.41.391.

(12) "Local governments" includes all municipal and quasi-municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately.

(13) "Office" means the office of the state chief information officer within the consolidated technology services agency.

(14) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications.

(15) "Proprietary software" means that software offered for sale or license.

(16) "Public agency" means any agency of this state or another state; any political subdivision or unit of local government of this state or another state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any public benefit nonprofit corporation; any agency of the United States; and any Indian tribe recognized as such by the federal government.

(17) "Public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03.005 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or political subdivision of another state.

(18) "Public record" has the definitions in RCW 42.56.010 and chapter 40.14 RCW and includes legislative records and court records that are available for public inspection.

(19) "Public safety" refers to any entity or services that ensure the welfare and protection of the public.

(20) "Security incident" means an accidental or deliberative event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of communication and information resources.

(21) "State agency" means every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official.

(22) "Telecommunications" includes, but is not limited to, wireless or wired systems for transport of voice, video, and data communications, network systems, requisite facilities, equipment, system controls, simulation, electronic commerce, and all related interactions between people and machines.

(23) "Utility-based infrastructure services" includes personal computer and portable device support, servers and server administration, security administration, network administration, telephony, email, and other information technology services commonly used by state agencies.

(24) "Cloud computing" has the same meaning as provided by the special publication 800-145 issued by the national institute of standards and technology of the United States department of commerce as of September 2011.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.105 RCW to read as follows:

(1) Prior to selecting and implementing a cloud computing solution of any size, or requesting a cloud computing solution waiver under RCW 43.105.375, state agencies must evaluate:

(a) The ability of the cloud computing solution to meet security and compliance requirements for all workload types including low, moderate, and high impact data, and leveraging defined federal authorization or accreditation programs to the fullest extent possible;

(b) The portability of data, should the state agency choose to discontinue use of the cloud service;

(c) All costs related to the migration away from public investments to the private sector cloud;

(d) The service level requirements and business requirements to provide optimal public service of agency missions;

(e) The impact on civil service employees; and

(f) The rapidity of return to service from any outages and order of return to service compared to other customers with the same provider.

(2) Subject to the availability of amounts appropriated for this specific purpose, the office must conduct a statewide cloud computing readiness assessment to prepare for the migration of core services to cloud services, including ways it can leverage cloud computing to reduce costs. The assessment must:

(a) Inventory state agency assets, associated service contracts, and other relevant information;

(b) Identify impacts to state agency staffing resulting from the migration to cloud computing including: (i) Skill gaps between current on-premises computing practices and how cloud services are procured, secured, administered, maintained, and developed; and (ii) necessary retraining and ongoing training and development to ensure state agency staff maintain the skills necessary to effectively maintain information security and understand changes to enterprise architectures;

(c) Identify additional resources needed by the agency to enable sufficient cloud migration support to state agencies; and

(d) Identify the impacts of cloud migration to state data center investments, debt, plans, financing, space, or other legal obligations.

(3) By June 30, 2020, the office must submit a report to the governor and the appropriate committees of the legislature that summarizes statewide cloud migration readiness and makes recommendations for migration goals."

Correct the title.

Signed by Representatives Wylie; Tarleton; Slatter; Morris; Smith, Ranking Minority Member; Kloba, Vice Chair Hudgins, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Boehnke, Assistant Ranking Minority Member and Van Werven.

Referred to Committee on Appropriations.

March 28, 2019

2SSB 5718

Prime Sponsor, Committee on Ways & Means: Establishing the child welfare housing assistance program that provides housing assistance to parents reunifying with a child and parents at risk of having a child removed. Reported by Committee on Human Services & Early Learning

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 74.13 RCW to read as follows:

(1) Beginning July 1, 2020, the department shall establish a child welfare housing assistance pilot program, which provides housing vouchers, rental assistance, navigation, and other support services to eligible families.

(a) The department shall operate or contract for the operation of the child welfare housing assistance pilot program under subsection (3) of this section in one county west of the crest of the Cascade mountain range and one county east of the crest of the Cascade mountain range.

(b) The child welfare housing assistance pilot program is intended to shorten the time that children remain in out-of-home care.

(2) A parent with a child who is dependent pursuant to chapter 13.34 RCW and whose primary remaining barrier to reunification is the lack of appropriate housing is eligible for the child welfare housing assistance pilot program.

(3) The department shall contract with an outside entity or entities to operate the child welfare housing assistance pilot program. If no outside entity or entities are available to operate the program or specific parts of the program, the department may operate the program or the specific parts that are not operated by an outside entity.

(4) Families may be referred to the child welfare housing assistance pilot program by a caseworker, an attorney, a guardian ad litem as defined in chapter 13.34 RCW, a child welfare parent mentor as defined in RCW 2.70.060, an office of public defense social worker, or the court.

(5) The department shall consult with a stakeholder group that must include, but is not limited to, the following:

- (a) Parent allies;
- (b) Parent attorneys and social workers managed by the office of public defense parent representation program;
- (c) The department of commerce;
- (d) Housing experts;
- (e) Community-based organizations;
- (f) Advocates; and
- (g) Behavioral health providers.

(6) The stakeholder group established in subsection (5) of this section shall begin meeting after the effective date of this section and assist the department in design of the child welfare housing assistance pilot program in areas including, but not limited to:

- (a) Equitable racial, geographic, ethnic, and gender distribution of program support;
- (b) Eligibility criteria;
- (c) Creating a definition of homeless for purposes of eligibility for the program; and
- (d) Options for program design that include outside entities operating the entire program or specific parts of the program.

(7) By December 1, 2021, the department shall report outcomes for the child welfare housing assistance pilot program to the oversight board for children, youth, and families established pursuant to RCW 43.216.015. The report must include racial, geographic, ethnic, and gender distribution of program support.

(8) The child welfare housing assistance pilot program established in this section is subject to the availability of funds appropriated for this purpose.

(9) This section expires June 30, 2022." Correct the title.

Signed by Representatives Ortiz-Self; Lovick; Kilduff; Griffey; Goodman; Corry; McCaslin, Assistant Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Frame, Vice Chair; Callan, Vice Chair Senn, Chair.

MINORITY recommendation: Do not pass. Signed by Representative Klippert.

Referred to Committee on Appropriations.

March 28, 2019

E2SSB 5720 Prime Sponsor, Committee on Ways & Means: Concerning the involuntary treatment act. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 71.05.010 and 2016 sp.s. c 29 s 203 are each amended to read as follows:

(1) The provisions of this chapter apply to persons who are eighteen years of age or older and are intended by the legislature:

(a) To protect the health and safety of persons suffering from ~~((mental disorders and substance use))~~ behavioral health disorders and to protect public safety through use of the parens patriae and police powers of the state;

(b) To prevent inappropriate, indefinite commitment of ~~((mentally disordered persons and persons with substance use disorders))~~ persons living with behavioral health disorders and to eliminate legal disabilities that arise from such commitment;

(c) To provide prompt evaluation and timely and appropriate treatment of persons with serious ~~((mental disorders and substance use))~~ behavioral health disorders;

(d) To safeguard individual rights;

(e) To provide continuity of care for persons with serious ~~((mental disorders and substance use))~~ behavioral health disorders;

(f) To encourage the full use of all existing agencies, professional personnel, and public funds to prevent duplication of services and unnecessary expenditures; and

(g) To encourage, whenever appropriate, that services be provided within the community.

(2) When construing the requirements of this chapter the court must focus on the merits of the petition, except where requirements have been totally disregarded, as provided in *In re C.W.*, 147 Wn.2d 259, 281 (2002). A presumption in favor of deciding petitions on their merits furthers both public and private interests because the mental and physical well-being of individuals as well as public

safety may be implicated by the decision to release an individual and discontinue his or her treatment.

**Sec. 2.** RCW 71.05.012 and 1997 c 112 s 1 are each amended to read as follows:

It is the intent of the legislature to enhance continuity of care for persons with serious ~~((mental))~~ behavioral health disorders that can be controlled or stabilized in a less restrictive alternative commitment. Within the guidelines stated in *In re LaBelle* 107 Wn. 2d 196 (1986), the legislature intends to encourage appropriate interventions at a point when there is the best opportunity to restore the person to or maintain satisfactory functioning.

For persons with a prior history or pattern of repeated hospitalizations or law enforcement interventions due to decompensation, the consideration of prior ~~((mental))~~ history is particularly relevant in determining whether the person would receive, if released, such care as is essential for his or her health or safety.

Therefore, the legislature finds that for persons who are currently under a commitment order, a prior history of decompensation leading to repeated hospitalizations or law enforcement interventions should be given great weight in determining whether a new less restrictive alternative commitment should be ordered.

**Sec. 3.** RCW 71.05.020 and 2018 c 305 s 1, 2018 c 291 s 1, and 2018 c 201 s 3001 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(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) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) (~~"Chemical dependency" means:~~

~~(a) Alcoholism;~~

~~(b) Drug addiction; or~~

~~(e) Dependence on alcohol and one or more psychoactive chemicals, as the context requires;~~

~~(8))~~ (8) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department under chapter 18.205 RCW;

~~((9))~~ (8) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

~~((10))~~ (9) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

~~((11))~~ (10) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department under RCW 71.24.035, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

~~((12))~~ (11) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

~~((13))~~ (12) "Department" means the department of health;

~~((14))~~ (13) "Designated crisis responder" means a mental health professional appointed by the county, an entity appointed by the county, or the behavioral health organization to perform the duties specified in this chapter;

~~((15))~~ (14) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

~~((16))~~ (15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

~~((17))~~ (16) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

~~((18))~~ (17) "Director" means the director of the authority;

~~((19))~~ (18) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

~~((20))~~ (19) "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;

~~((21))~~ (20) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering

from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

~~((22))~~ (21) "Gravely disabled" means a condition in which a person, as a result of a ~~((mental)) behavioral health disorder~~ ~~(-or as a result of the use of alcohol or other psychoactive chemicals)~~: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration ~~((in routine functioning))~~ from safe behavior evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

~~((23))~~ (22) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

~~((24))~~ (23) "Hearing" means any proceeding conducted in open court ~~(-For purposes of this chapter, at any hearing the petitioner, the respondent, the witnesses, and the presiding judicial officer may be present and participate either in person or by video, as determined by the court. The term "video" as used herein shall include any functional equivalent. At any hearing conducted by video, the technology used must permit the judicial officer, counsel, all parties, and the witnesses to be able to see, hear, and speak, when authorized, during the hearing; to allow attorneys to use exhibits or other materials during the hearing; and to allow respondent's counsel to be in the same location as the respondent unless otherwise requested by the respondent or the respondent's counsel. Witnesses in a proceeding may also appear in court through other means, including telephonically, pursuant to the requirements of superior court civil rule 43. Notwithstanding the foregoing, the court, upon its own motion or upon a motion for good cause by any party, may require all parties and witnesses to participate in the hearing in person rather than by video. In ruling on any such motion, the court may allow in person or video testimony; and the court may consider, among other things, whether the respondent's alleged mental illness affects the respondent's ability to perceive or participate in the proceeding by video)~~ that conforms to the requirements of section 100 of this act;

~~((25))~~ (24) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a ~~((mental)) behavioral health facility~~ ~~(-a long term alcoholism or drug treatment~~

~~facility))~~, or in confinement as a result of a criminal conviction;

~~((26))~~ (25) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

~~((27))~~ (26) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

~~((28) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;~~

~~((29))~~ (27) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

~~((30))~~ (28) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a ~~((mental disorder or substance use)) behavioral health disorder~~: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

~~((31))~~ (29) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

~~((32))~~ (30) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public ~~((mental)) behavioral health~~ ~~(and substance use disorder)~~ service providers under RCW 71.05.130;

~~((33))~~ (31) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

~~((34))~~ (32) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

~~((35))~~ (33) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused ~~((such))~~ harm, substantial pain, or which places another person or persons in reasonable fear of ~~((sustaining such))~~ harm to themselves or others; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

~~((36))~~ (34) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

~~((37))~~ (35) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

~~((38))~~ (36) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

~~((39))~~ (37) "~~(Mental)~~ Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with ~~((mental disorders or substance use))~~ behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure detoxification facilities as defined in this section, and correctional facilities operated by state and local governments;

~~((40))~~ (38) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

~~((41))~~ (39) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW;

~~((42))~~ (40) "Private agency" means any person, partnership, corporation, or association that is not a public

agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with ~~((mental illness, substance use disorders, or both mental illness and substance use))~~ behavioral health disorders;

~~((43))~~ (41) "Professional person" means a mental health professional, chemical dependency professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

~~((44))~~ (42) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

~~((45))~~ (43) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

~~((46))~~ (44) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

~~((47))~~ (45) "Public agency" means any evaluation and treatment facility or institution, secure detoxification facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with ~~((mental illness, substance use disorders, or both mental illness and substance use))~~ behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

~~((48))~~ (46) "Release" means legal termination of the commitment under the provisions of this chapter;

~~((49))~~ (47) "Resource management services" has the meaning given in chapter 71.24 RCW;

~~((50))~~ (48) "Secretary" means the secretary of the department of health, or his or her designee;

~~((51))~~ (49) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that:

(a) Provides for intoxicated persons:

(i) Evaluation and assessment, provided by certified chemical dependency professionals;

(ii) Acute or subacute detoxification services; and

(iii) Discharge assistance provided by certified chemical dependency professionals, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Includes security measures sufficient to protect the patients, staff, and community; and

(c) Is licensed or certified as such by the department of health;

~~((52))~~ "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

~~(53))~~ (50) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

~~((54))~~ (51) "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;

~~((55))~~ (52) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

~~((56))~~ (53) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for ~~((mental illness))~~ behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health organizations, or a treatment facility if the notes or records are not available to others;

~~((57))~~ (54) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

~~((58))~~ (55) "Violent act" means behavior that resulted in homicide, attempted suicide, ~~((nonfatal injuries))~~ injury, or substantial loss or damage to property;

(56) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(57) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior;

(58) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room as determined by the designated crisis responder. Such orders shall be

entered into the Washington crime information center database;

(59) "Video" means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment.

**Sec. 4.** RCW 71.05.025 and 2016 sp.s. c 29 s 205 are each amended to read as follows:

The legislature intends that the procedures and services authorized in this chapter be integrated with those in chapter 71.24 RCW to the maximum extent necessary to assure ~~((a))~~ an appropriate continuum of care ~~((to))~~ for persons with ~~((mental illness or who have mental disorders or substance use))~~ behavioral health disorders, as defined in either or both this chapter and chapter 71.24 RCW. To this end, behavioral health organizations established in accordance with chapter 71.24 RCW shall institute procedures which require timely consultation with resource management services by designated crisis responders, evaluation and treatment facilities, secure detoxification facilities, and approved substance use disorder treatment programs to assure that determinations to admit, detain, commit, treat, discharge, or release persons with ~~((mental disorders or substance use))~~ behavioral health disorders under this chapter are made only after appropriate information regarding such person's treatment history and current treatment plan has been sought from resource management services.

**Sec. 5.** RCW 71.05.026 and 2018 c 201 s 3002 are each amended to read as follows:

(1) Except for monetary damage claims which have been reduced to final judgment by a superior court, this section applies to all claims against the state, state agencies, state officials, or state employees that exist on or arise after March 29, 2006.

(2) Except as expressly provided in contracts entered into between the authority and the behavioral health organizations after March 29, 2006, the entities identified in subsection (3) of this section shall have no claim for declaratory relief, injunctive relief, judicial review under chapter 34.05 RCW, or civil liability against the state or state agencies for actions or inactions performed pursuant to the administration of this chapter with regard to the following: (a) The allocation or payment of federal or state funds; (b) the use or allocation of state hospital beds; or (c) financial responsibility for the provision of inpatient ~~((mental))~~ behavioral health ~~((care or inpatient substance use))~~ disorder treatment and care.

(3) This section applies to counties, behavioral health organizations, and entities which contract to provide

behavioral health organization services and their subcontractors, agents, or employees.

**Sec. 6.** RCW 71.05.027 and 2018 c 201 s 3003 are each amended to read as follows:

~~((1) Not later than January 1, 2007,)) All persons providing treatment under this chapter shall also implement the integrated comprehensive screening and assessment process for ~~((chemical dependency and mental))~~ behavioral health disorders adopted pursuant to RCW 71.24.630 ~~((and shall document the numbers of clients with co-occurring mental and substance abuse disorders based on a quadrant system of low and high needs.~~~~

~~(2) Treatment providers and behavioral health organizations who fail to implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders by July 1, 2007, shall be subject to contractual penalties established under RCW 71.24.630).~~

**Sec. 7.** RCW 71.05.030 and 1998 c 297 s 4 are each amended to read as follows:

Persons suffering from a ~~((mental))~~ behavioral health disorder may not be involuntarily committed for treatment of such disorder except pursuant to provisions of this chapter, chapter 10.77 RCW, chapter 71.06 RCW, chapter 71.34 RCW, transfer pursuant to RCW 72.68.031 through 72.68.037, or pursuant to court ordered evaluation and treatment not to exceed ninety days pending a criminal trial or sentencing.

**Sec. 8.** RCW 71.05.040 and 2018 c 201 s 3004 are each amended to read as follows:

Persons with developmental disabilities, impaired by substance use disorder, or suffering from dementia shall not be detained for evaluation and treatment or judicially committed solely by reason of that condition unless such condition causes a person to be gravely disabled or ~~((as a result of a mental disorder such condition exists that constitutes))~~ to present a likelihood of serious harm. However, persons with developmental disabilities, impaired by substance use disorder, or suffering from dementia and who otherwise meet the criteria for detention or judicial commitment are not ineligible for detention or commitment based on this condition alone.

**Sec. 9.** RCW 71.05.050 and 2016 sp.s. c 29 s 207 are each amended to read as follows:

(1) Nothing in this chapter shall be construed to limit the right of any person to apply voluntarily to any public or private agency or practitioner for treatment of a ~~((mental disorder or substance use))~~ behavioral health disorder, either by direct application or by referral. Any person voluntarily admitted for inpatient treatment to any public or private agency shall be released immediately upon his or her request. Any person voluntarily admitted for inpatient treatment to any public or private agency shall orally be advised of the right to immediate discharge, and further

advised of such rights in writing as are secured to them pursuant to this chapter and their rights of access to attorneys, courts, and other legal redress. Their condition and status shall be reviewed at least once each one hundred eighty days for evaluation as to the need for further treatment or possible discharge, at which time they shall again be advised of their right to discharge upon request.

(2) If the professional staff of any public or private agency or hospital regards a person voluntarily admitted who requests discharge as presenting, as a result of a ~~((mental disorder or substance use))~~ behavioral health disorder, an imminent likelihood of serious harm, or is gravely disabled, they may detain such person for sufficient time to notify the designated crisis responder of such person's condition to enable the designated crisis responder to authorize such person being further held in custody or transported to an evaluation and treatment center, secure detoxification facility, or approved substance use disorder treatment program pursuant to the provisions of this chapter, which shall in ordinary circumstances be no later than the next judicial day.

(3) If a person is brought to the emergency room of a public or private agency or hospital for observation or treatment, the person refuses voluntary admission, and the professional staff of the public or private agency or hospital regard such person as presenting as a result of a ~~((mental disorder or substance use))~~ behavioral health disorder an imminent likelihood of serious harm, or as presenting an imminent danger because of grave disability, they may detain such person for sufficient time to notify the designated crisis responder of such person's condition to enable the designated crisis responder to authorize such person being further held in custody or transported to an evaluation treatment center, secure detoxification facility, or approved substance use disorder treatment program pursuant to the conditions in this chapter, but which time shall be no more than six hours from the time the professional staff notify the designated crisis responder of the need for evaluation, not counting time periods prior to medical clearance.

(4) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated crisis responder has totally disregarded the requirements of this section.

**Sec. 10.** RCW 71.05.100 and 2018 c 201 s 3005 are each amended to read as follows:

In addition to the responsibility provided for by RCW 43.20B.330, any person, or his or her estate, or his or her spouse, ~~((or the parents of a minor person))~~ who is involuntarily detained pursuant to this chapter for the purpose of treatment and evaluation outside of a facility maintained and operated by the department of social and health services shall be responsible for the cost of such care and treatment. In the event that an individual is unable to pay for such treatment or in the event payment would result in a substantial hardship upon the individual or his or her family, then the county of residence of such person shall be responsible for such costs. If it is not possible to determine

the county of residence of the person, the cost shall be borne by the county where the person was originally detained. The department of social and health services, or the authority, as appropriate, shall, pursuant to chapter 34.05 RCW, adopt standards as to (1) inability to pay in whole or in part, (2) a definition of substantial hardship, and (3) appropriate payment schedules. Financial responsibility with respect to services and facilities of the department of social and health services shall continue to be as provided in RCW 43.20B.320 through 43.20B.360 and 43.20B.370.

**Sec. 11.** RCW 71.05.120 and 2016 sp.s. c 29 s 208 and 2016 c 158 s 4 are each reenacted and amended to read as follows:

(1) No officer of a public or private agency, nor the superintendent, professional person in charge, his or her professional designee, or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a person pursuant to this chapter, nor any designated crisis responder, nor the state, a unit of local government, an evaluation and treatment facility, a secure detoxification facility, or an approved substance use disorder treatment program shall be civilly or criminally liable for performing duties pursuant to this chapter with regard to the decision of whether to admit, discharge, release, administer antipsychotic medications, or detain a person for evaluation and treatment: PROVIDED, That such duties were performed in good faith and without gross negligence.

(2) Peace officers and their employing agencies are not liable for the referral of a person, or the failure to refer a person, to a ~~((mental))~~ behavioral health agency pursuant to a policy adopted pursuant to RCW 71.05.457 if such action or inaction is taken in good faith and without gross negligence.

(3) This section does not relieve a person from giving the required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn or to take reasonable precautions to provide protection from violent behavior where the patient has communicated an actual threat of physical violence against a reasonably identifiable victim or victims. The duty to warn or to take reasonable precautions to provide protection from violent behavior is discharged if reasonable efforts are made to communicate the threat to the victim or victims and to law enforcement personnel.

**Sec. 12.** RCW 71.05.132 and 2016 sp.s. c 29 s 209 are each amended to read as follows:

When any court orders a person to receive treatment under this chapter, the order shall include a statement that if the person is, or becomes, subject to supervision by the department of corrections, the person must notify the treatment provider and the person's ~~((mental health))~~ treatment ~~((information and substance use disorder treatment information))~~ records must be shared with the department of corrections for the duration of the offender's incarceration and supervision, under RCW 71.05.445. Upon a petition by a person who does not have a history of one or more violent acts, the court may, for good cause, find that

public safety would not be enhanced by the sharing of this person's information.

**Sec. 13.** RCW 71.05.150 and 2018 c 291 s 4 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a ~~((mental))~~ behavioral health disorder, ~~((substance use disorder, or both))~~ presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient behavioral health treatment; the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, or approved substance use disorder treatment program. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is available at the time of the interview.

(2)(a) ~~((A))~~ A written order of apprehension to detain a person with a ~~((mental))~~ behavioral health disorder to a designated evaluation and treatment facility, ~~((or to detain a person with a substance use disorder to))~~ a secure detoxification facility, or an approved substance use disorder treatment program, for not more than a seventy-two-hour evaluation and treatment period, may be issued by a judge of the superior court upon request of a designated crisis responder, subject to (d) of this subsection, whenever it appears to the satisfaction of a judge of the superior court:

(i) That there is probable cause to support the petition; and

(ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(d) A court may not issue an order to detain a person to a secure detoxification facility or approved substance use disorder treatment program unless there is an available secure detoxification facility or approved substance use disorder treatment program that has adequate space for the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a

notice of rights, and a petition for initial detention. After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

**Sec. 14.** RCW 71.05.150 and 2018 c 291 s 4 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a ~~((mental)) behavioral health~~ disorder, ~~((substance use disorder, or both))~~ presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient behavioral health treatment; the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, or approved substance use disorder treatment program. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is available at the time of the interview.

(2)(a) ~~((An))~~ A written order of apprehension to detain a person with a ~~((mental)) behavioral health~~ disorder

to a designated evaluation and treatment facility, ~~((or to detain a person with a substance use disorder to))~~ a secure detoxification facility, or an approved substance use disorder treatment program, for a period of not more than ~~((a seventy-two hour))~~ five days for evaluation and treatment ~~((period))~~, may be issued by a judge of the superior court upon request of a designated crisis responder, subject to (d) of this subsection, whenever it appears to the satisfaction of a judge of the superior court:

(i) That there is probable cause to support the petition; and

(ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(d) A court may not issue an order to detain a person to a secure detoxification facility or approved substance use disorder treatment program unless there is an available secure detoxification facility or approved substance use disorder treatment program that has adequate space for the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within ~~((seventy-two hours))~~ five days of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

**Sec. 15.** RCW 71.05.150 and 2018 c 291 s 5 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a ~~((mental)) behavioral health disorder, ((substance use disorder, or both))~~ presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient behavioral health treatment; the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, or approved substance use disorder treatment program. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is available at the time of the interview.

(2)(a) ~~((An))~~ A written order of apprehension to detain a person with a ~~((mental)) behavioral health disorder to a designated evaluation and treatment facility, ((or to detain a person with a substance use disorder to))~~ a secure detoxification facility, or an approved substance use disorder treatment program, for a period of not more than ~~((a seventy-two hour))~~ five days for evaluation and treatment ~~((period))~~, may be issued by a judge of the superior court upon request of a designated crisis responder whenever it appears to the satisfaction of a judge of the superior court:

(i) That there is probable cause to support the petition; and

(ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within ~~((seventy two hours))~~ five days of the date and time of outpatient evaluation or admission to the evaluation

and treatment facility, secure detoxification facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

**Sec. 16.** RCW 71.05.153 and 2016 sp.s. c 29 s 212 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a ~~((mental)) behavioral health disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility, secure detoxification facility if available with adequate space for the person, or approved substance use disorder treatment program if available with adequate space for the person, for not more than seventy-two hours as described in RCW 71.05.180.~~

~~(2) ((When a designated crisis responder receives information alleging that a person, as the result of substance use disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken, into emergency custody in a secure detoxification facility or approved substance use disorder treatment program for not more than seventy two hours as described in RCW 71.05.180, if a secure detoxification facility or approved substance use disorder treatment program is available and has adequate space for the person.~~

~~(3))~~(a) Subject to (b) of this subsection, a peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure detoxification facility, approved substance use disorder

treatment program, or the emergency department of a local hospital under the following circumstances:

(i) Pursuant to subsection (1) ~~((or (2)))~~ of this section; or

(ii) When he or she has reasonable cause to believe that such person is suffering from a ~~((mental))~~ behavioral health disorder ~~((or substance use disorder))~~ and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(b) A peace officer's delivery of a person, ~~((based on a substance use disorder,))~~ to a secure detoxification facility or approved substance use disorder treatment program is subject to the availability of a secure detoxification facility or approved substance use disorder treatment program with adequate space for the person.

~~((4))~~ (3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure detoxification facility, or approved substance use disorder treatment program by peace officers pursuant to subsection ~~((3))~~ (2) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

~~((5))~~ (4) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional or chemical dependency professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is available at the time of the interview. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the ~~((mental))~~ behavioral health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

~~((6))~~ (5) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated ~~((mental health professional))~~ crisis responder has totally disregarded the requirements of this section.

**Sec. 17.** RCW 71.05.153 and 2016 sp.s. c 29 s 212 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a ~~((mental))~~ behavioral health disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and

credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility, secure detoxification facility if available with adequate space for the person, or approved substance use disorder treatment program if available with adequate space for the person, for not more than ~~((seventy two hours))~~ five days as described in RCW 71.05.180.

~~((2))~~ ~~((When a designated crisis responder receives information alleging that a person, as the result of substance use disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken, into emergency custody in a secure detoxification facility or approved substance use disorder treatment program for not more than seventy two hours as described in RCW 71.05.180, if a secure detoxification facility or approved substance use disorder treatment program is available and has adequate space for the person.~~

~~((3))~~(a) Subject to (b) of this subsection, a peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure detoxification facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(i) Pursuant to subsection (1) ~~((or (2)))~~ of this section; or

(ii) When he or she has reasonable cause to believe that such person is suffering from a ~~((mental))~~ behavioral health disorder ~~((or substance use disorder))~~ and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(b) A peace officer's delivery of a person, ~~((based on a substance use disorder,))~~ to a secure detoxification facility or approved substance use disorder treatment program is subject to the availability of a secure detoxification facility or approved substance use disorder treatment program with adequate space for the person.

~~((4))~~ (3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure detoxification facility, or approved substance use disorder treatment program by peace officers pursuant to subsection ~~((3))~~ (2) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

~~((5))~~ (4) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional or chemical dependency professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. The interview performed by the designated crisis responder may be conducted by video provided that a

licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is available at the time of the interview. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the ~~((mental))~~ behavioral health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

~~((6))~~ (5) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated ~~((mental health professional))~~ crisis responder has totally disregarded the requirements of this section.

**Sec. 18.** RCW 71.05.153 and 2016 sp.s. c 29 s 213 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a ~~((mental))~~ behavioral health disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, for not more than ~~((seventy two hours))~~ five days as described in RCW 71.05.180.

~~(2) ((When a designated crisis responder receives information alleging that a person, as the result of substance use disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken, into emergency custody in a secure detoxification facility or approved substance use disorder treatment program for not more than seventy two hours as described in RCW 71.05.180.~~

~~(3))~~ A peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure detoxification facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) ~~((or (2)))~~ of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a ~~((mental))~~ behavioral health disorder ~~((or substance use disorder))~~ and presents an

imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

~~((4))~~ (3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure detoxification facility, or approved substance use disorder treatment program by peace officers pursuant to subsection ~~((3))~~ (2) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

~~((5))~~ (4) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional or chemical dependency professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is available at the time of the interview. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the ~~((mental))~~ behavioral health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

~~((6))~~ (5) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated ~~((mental health professional))~~ crisis responder has totally disregarded the requirements of this section.

**Sec. 19.** RCW 71.05.160 and 2016 sp.s. c 29 s 217 are each amended to read as follows:

(1) Any facility receiving a person pursuant to RCW 71.05.150 or 71.05.153 shall require the designated crisis responder to prepare a petition for initial detention stating the circumstances under which the person's condition was made known and stating that there is evidence, as a result of his or her personal observation or investigation, that the actions of the person for which application is made constitute a likelihood of serious harm, or that he or she is gravely disabled, and stating the specific facts known to him or her as a result of his or her personal observation or investigation, upon which he or she bases the belief that such person should be detained for the purposes and under the authority of this chapter.

(2)(a) If a person is involuntarily placed in an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program pursuant to RCW 71.05.150 or 71.05.153, on the next judicial day following the initial detention, the designated crisis responder shall file with the court and serve

the designated attorney of the detained person the petition or supplemental petition for initial detention, proof of service of notice, and a copy of a notice of emergency detention.

(b) If the person is involuntarily detained at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program in a different county from where the person was initially detained, the facility or program may file with the court and serve the designated attorney of the detained person the petition or supplemental petition for initial detention, proof of service of notice, and a copy of a notice of emergency detention at the request of the designated crisis responder.

**Sec. 20.** RCW 71.05.170 and 2016 sp.s. c 29 s 218 are each amended to read as follows:

Whenever the designated crisis responder petitions for detention of a person whose actions constitute a likelihood of serious harm, or who is gravely disabled, the facility providing ~~((seventy-two hour))~~ five-day evaluation and treatment must immediately accept on a provisional basis the petition and the person. The facility shall then evaluate the person's condition and admit, detain, transfer, or discharge such person in accordance with RCW 71.05.210. The facility shall notify in writing the court and the designated crisis responder of the date and time of the initial detention of each person involuntarily detained in order that a probable cause hearing shall be held no later than ~~((seventy-two hours))~~ five days after detention.

The duty of a state hospital to accept persons for evaluation and treatment under this section shall be limited by chapter 71.24 RCW.

**Sec. 21.** RCW 71.05.180 and 2016 sp.s. c 29 s 219 are each amended to read as follows:

If the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program admits the person, it may detain him or her for evaluation and treatment for a period not to exceed ~~((seventy-two hours))~~ five days from the time of acceptance as set forth in RCW 71.05.170. The computation of such ~~((seventy-two hour))~~ five-day period shall exclude Saturdays, Sundays, and holidays.

**Sec. 22.** RCW 71.05.190 and 2016 sp.s. c 29 s 220 are each amended to read as follows:

If the person is not approved for admission by a facility providing ~~((seventy-two hour))~~ five-day evaluation and treatment, and the individual has not been arrested, the facility shall furnish transportation, if not otherwise available, for the person to his or her place of residence or other appropriate place. If the individual has been arrested, the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program shall detain the individual for not more than eight hours at the request of the peace officer. The facility shall make reasonable attempts to contact the requesting peace officer during this time to inform the peace officer that the person is not approved for admission in order to enable a

peace officer to return to the facility and take the individual back into custody.

**Sec. 23.** RCW 71.05.195 and 2016 sp.s. c 29 s 221 are each amended to read as follows:

(1) A civil commitment may be initiated under the procedures described in RCW 71.05.150 or 71.05.153 for a person who has been found not guilty by reason of insanity in a state other than Washington and who has fled from detention, commitment, or conditional release in that state, on the basis of a request by the state in which the person was found not guilty by reason of insanity for the person to be detained and transferred back to the custody or care of the requesting state. A finding of likelihood of serious harm or grave disability is not required for a commitment under this section. The detention may occur at either an evaluation and treatment facility or a state hospital. The petition for ~~((seventy-two hour))~~ five-day detention filed by the designated crisis responder must be accompanied by the following documents:

(a) A copy of an order for detention, commitment, or conditional release of the person in a state other than Washington on the basis of a judgment of not guilty by reason of insanity;

(b) A warrant issued by a magistrate in the state in which the person was found not guilty by reason of insanity indicating that the person has fled from detention, commitment, or conditional release in that state and authorizing the detention of the person within the state in which the person was found not guilty by reason of insanity;

(c) A statement from the executive authority of the state in which the person was found not guilty by reason of insanity requesting that the person be returned to the requesting state and agreeing to facilitate the transfer of the person to the requesting state.

(2) The person shall be entitled to a probable cause hearing within the time limits applicable to other detentions under this chapter and shall be afforded the rights described in this chapter including the right to counsel. At the probable cause hearing, the court shall determine the identity of the person and whether the other requirements of this section are met. If the court so finds, the court may order continued detention in a treatment facility for up to thirty days for the purpose of the transfer of the person to the custody or care of the requesting state. The court may order a less restrictive alternative to detention only under conditions which ensure the person's safe transfer to the custody or care of the requesting state within thirty days without undue risk to the safety of the person or others.

(3) For the purposes of this section, "not guilty by reason of insanity" shall be construed to include any provision of law which is generally equivalent to a finding of criminal insanity within the state of Washington; and "state" shall be construed to mean any state, district, or territory of the United States.

**Sec. 24.** RCW 71.05.201 and 2018 c 291 s 11 are each amended to read as follows:

(1) If a designated crisis responder decides not to detain a person for evaluation and treatment under RCW

71.05.150 or 71.05.153 or forty-eight hours have elapsed since a designated crisis responder received a request for investigation and the designated crisis responder has not taken action to have the person detained, an immediate family member or guardian or conservator of the person may petition the superior court for the person's initial detention.

(2) A petition under this section must be filed within ten calendar days following the designated crisis responder investigation or the request for a designated crisis responder investigation. If more than ten days have elapsed, the immediate family member, guardian, or conservator may request a new designated crisis responder investigation.

(3)(a) The petition must be filed in the county in which the designated crisis responder investigation occurred or was requested to occur and must be submitted on forms developed by the administrative office of the courts for this purpose. The petition must be accompanied by a sworn declaration from the petitioner, and other witnesses if desired, describing why the person should be detained for evaluation and treatment. The description of why the person should be detained may contain, but is not limited to, the information identified in RCW 71.05.212.

(b) The petition must contain:

(i) A description of the relationship between the petitioner and the person; and

(ii) The date on which an investigation was requested from the designated crisis responder.

(4) The court shall, within one judicial day, review the petition to determine whether the petition raises sufficient evidence to support the allegation. If the court so finds, it shall provide a copy of the petition to the designated crisis responder agency with an order for the agency to provide the court, within one judicial day, with a written sworn statement describing the basis for the decision not to seek initial detention and a copy of all information material to the designated crisis responder's current decision.

(5) Following the filing of the petition and before the court reaches a decision, any person, including a mental health professional, may submit a sworn declaration to the court in support of or in opposition to initial detention.

(6) The court shall dismiss the petition at any time if it finds that a designated crisis responder has filed a petition for the person's initial detention under RCW 71.05.150 or 71.05.153 or that the person has voluntarily accepted appropriate treatment.

(7) The court must issue a final ruling on the petition within five judicial days after it is filed. After reviewing all of the information provided to the court, the court may enter an order for initial detention or an order instructing the designated crisis responder to file a petition for assisted outpatient behavioral health treatment if the court finds that:

(a) There is probable cause to support a petition for detention or assisted outpatient behavioral health treatment; and (b) the person has refused or failed to accept appropriate evaluation and treatment voluntarily. The court shall transmit its final decision to the petitioner.

(8) If the court enters an order for initial detention, it shall provide the order to the designated crisis responder agency and issue a written order for apprehension ~~((of the person by a peace officer for delivery of the person to a facility or emergency room determined by the designated crisis responder))~~. The designated crisis responder agency

servicing the jurisdiction of the court must collaborate and coordinate with law enforcement regarding apprehensions and detentions under this subsection, including sharing of information relating to risk and which would assist in locating the person. A person may not be detained to jail pursuant to a written order issued under this subsection. An order for detention under this section should contain the advisement of rights which the person would receive if the person were detained by a designated crisis responder. An order for initial detention under this section expires one hundred eighty days from issuance.

(9) Except as otherwise expressly stated in this chapter, all procedures must be followed as if the order had been entered under RCW 71.05.150. RCW 71.05.160 does not apply if detention was initiated under the process set forth in this section.

(10) For purposes of this section, "immediate family member" means a spouse, domestic partner, child, stepchild, parent, stepparent, grandparent, or sibling.

**Sec. 25.** RCW 71.05.210 and 2017 3rd sp.s. c 14 s 15 are each amended to read as follows:

(1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program:

(a) Shall, within twenty-four hours of his or her admission or acceptance at the facility, not counting time periods prior to medical clearance, be examined and evaluated by:

(i) One physician, physician assistant, or advanced registered nurse practitioner; and

(ii) One mental health professional. If the person is detained for substance use disorder evaluation and treatment, the person may be examined by a chemical dependency professional instead of a mental health professional; and

(b) Shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (i) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (ii) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to ~~((seventy-two hours))~~ five days, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for ~~((seventy-two hours))~~ five days shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

(2) If, after examination and evaluation, the mental health professional or chemical dependency professional and licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the person, if detained to an evaluation and

treatment facility, would be better served by placement in a substance use disorder treatment program, or, if detained to a secure detoxification facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility then the person shall be referred to the more appropriate placement; however, a person may only be referred to a secure detoxification facility or approved substance use disorder treatment program if there is an available secure detoxification facility or approved substance use disorder treatment program with adequate space for the person.

(3) An evaluation and treatment center, secure detoxification facility, or approved substance use disorder treatment program admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated crisis responder and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

**Sec. 26.** RCW 71.05.210 and 2017 3rd sp.s. c 14 s 16 are each amended to read as follows:

(1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program:

(a) Shall, within twenty-four hours of his or her admission or acceptance at the facility, not counting time periods prior to medical clearance, be examined and evaluated by:

(i) One physician, physician assistant, or advanced registered nurse practitioner; and

(ii) One mental health professional. If the person is detained for substance use disorder evaluation and treatment, the person may be examined by a chemical dependency professional instead of a mental health professional; and

(b) Shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (i) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (ii) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to ~~((seventy-two hours))~~ five days, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for ~~((seventy-two hours))~~ five days shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

(2) If, after examination and evaluation, the mental health professional or chemical dependency professional

and licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the person, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment program, or, if detained to a secure detoxification facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility then the person shall be referred to the more appropriate placement.

(3) An evaluation and treatment center, secure detoxification facility, or approved substance use disorder treatment program admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated crisis responder and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

**Sec. 27.** RCW 71.05.212 and 2018 c 291 s 13 are each amended to read as follows:

(1) Whenever a designated crisis responder or professional person is conducting an evaluation under this chapter, consideration shall include all reasonably available information from credible witnesses and records regarding:

(a) Prior recommendations for evaluation of the need for civil commitments when the recommendation is made pursuant to an evaluation conducted under chapter 10.77 RCW;

(b) Historical behavior, including history of one or more violent acts;

(c) Prior determinations of incompetency or insanity under chapter 10.77 RCW; and

(d) Prior commitments under this chapter.

(2) Credible witnesses may include family members, landlords, neighbors, or others with significant contact and history of involvement with the person. If the designated crisis responder relies upon information from a credible witness in reaching his or her decision to detain the individual, then he or she must provide contact information for any such witness to the prosecutor. The designated crisis responder or prosecutor shall provide notice of the date, time, and location of the probable cause hearing to such a witness.

(3) Symptoms and behavior of the respondent which standing alone would not justify civil commitment may support a finding of grave disability or likelihood of serious harm, or a finding that the person is in need of assisted outpatient behavioral health treatment, when:

(a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration from safe behavior, or one or more violent acts;

(b) These symptoms or behavior represent a marked and concerning change in the baseline behavior of the respondent; and

(c) Without treatment, the continued deterioration of the respondent is probable.

(4) When conducting an evaluation for offenders identified under RCW 72.09.370, the designated crisis responder or professional person shall consider an offender's history of judicially required or administratively ordered antipsychotic medication while in confinement.

**Sec. 28.** RCW 71.05.214 and 2018 c 201 s 3007 are each amended to read as follows:

The authority shall develop statewide protocols to be utilized by professional persons and designated crisis responders in administration of this chapter and chapters 10.77 and 71.34 RCW. The protocols shall be updated at least every three years. The protocols shall provide uniform development and application of criteria in evaluation and commitment recommendations, of persons who have, or are alleged to have, ~~((mental disorders or substance use))~~ behavioral health disorders and are subject to this chapter.

The initial protocols shall be developed not later than September 1, 1999. The authority shall develop and update the protocols in consultation with representatives of designated crisis responders, the department of social and health services, local government, law enforcement, county and city prosecutors, public defenders, and groups concerned with ~~((mental illness and substance use))~~ behavioral health disorders. The protocols shall be submitted to the governor and legislature upon adoption by the authority.

**Sec. 29.** RCW 71.05.215 and 2018 c 201 s 3008 are each amended to read as follows:

(1) A person found to be gravely disabled or ~~((presents))~~ to present a likelihood of serious harm as a result of a ~~((mental disorder or substance use))~~ behavioral health disorder has a right to refuse antipsychotic medication unless it is determined that the failure to medicate may result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication in the best interest of that person.

(2) The authority shall adopt rules to carry out the purposes of this chapter. These rules shall include:

(a) An attempt to obtain the informed consent of the person prior to administration of antipsychotic medication.

(b) For short-term treatment up to thirty days, the right to refuse antipsychotic medications unless there is an additional concurring medical opinion approving medication by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority.

(c) For continued treatment beyond thirty days through the hearing on any petition filed under RCW 71.05.217, the right to periodic review of the decision to medicate by the medical director or designee.

(d) Administration of antipsychotic medication in an emergency and review of this decision within twenty-four hours. An emergency exists if the person presents an imminent likelihood of serious harm, and medically acceptable alternatives to administration of antipsychotic

medications are not available or are unlikely to be successful; and in the opinion of the physician, physician assistant, or psychiatric advanced registered nurse practitioner, the person's condition constitutes an emergency requiring the treatment be instituted prior to obtaining a second medical opinion.

(e) Documentation in the medical record of the attempt by the physician, physician assistant, or psychiatric advanced registered nurse practitioner to obtain informed consent and the reasons why antipsychotic medication is being administered over the person's objection or lack of consent.

**Sec. 30.** RCW 71.05.217 and 2016 c 155 s 4 are each amended to read as follows:

(1) Insofar as danger to the individual or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

~~((1))~~ (a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

~~((2))~~ (b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

~~((3))~~ (c) To have access to individual storage space for his or her private use;

~~((4))~~ (d) To have visitors at reasonable times;

~~((5))~~ (e) To have reasonable access to a telephone, both to make and receive confidential calls;

~~((6))~~ (f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

~~((7))~~ (g) To have the right to individualized care and adequate treatment;

(h) To discuss treatment plans and decisions with professional persons;

(i) To not be denied access to treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination in addition to the treatment otherwise proposed;

(j) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.05.320(4) or the performance of electroconvulsant therapy or surgery, except emergency lifesaving surgery, unless ordered by a court of competent jurisdiction pursuant to the following standards and procedures:

~~((8))~~ (i) The administration of antipsychotic medication or electroconvulsant therapy shall not be ordered unless the petitioning party proves by clear, cogent, and convincing evidence that there exists a compelling state interest that justifies overriding the patient's lack of consent to the administration of antipsychotic medications or electroconvulsant therapy, that the proposed treatment is necessary and effective, and that medically acceptable

alternative forms of treatment are not available, have not been successful, or are not likely to be effective.

~~((b))~~ (ii) The court shall make specific findings of fact concerning: ~~((+))~~ (A) The existence of one or more compelling state interests; ~~((+))~~ (B) the necessity and effectiveness of the treatment; and ~~((+))~~ (C) the person's desires regarding the proposed treatment. If the patient is unable to make a rational and informed decision about consenting to or refusing the proposed treatment, the court shall make a substituted judgment for the patient as if he or she were competent to make such a determination.

~~((e))~~ (iii) The person shall be present at any hearing on a request to administer antipsychotic medication or electroconvulsant therapy filed pursuant to this subsection. The person has the right: ~~((+))~~ (A) To be represented by an attorney; ~~((+))~~ (B) to present evidence; ~~((+))~~ (C) to cross-examine witnesses; ~~((+))~~ (D) to have the rules of evidence enforced; ~~((+))~~ (E) to remain silent; ~~((+))~~ (F) to view and copy all petitions and reports in the court file; and ~~((+))~~ (G) to be given reasonable notice and an opportunity to prepare for the hearing. The court may appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician to examine and testify on behalf of such person. The court shall appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician designated by such person or the person's counsel to testify on behalf of the person in cases where an order for electroconvulsant therapy is sought.

~~((d))~~ (iv) An order for the administration of antipsychotic medications entered following a hearing conducted pursuant to this section shall be effective for the period of the current involuntary treatment order, and any interim period during which the person is awaiting trial or hearing on a new petition for involuntary treatment or involuntary medication.

~~((e))~~ (v) Any person detained pursuant to RCW 71.05.320(4), who subsequently refuses antipsychotic medication, shall be entitled to the procedures set forth in this subsection.

~~((f))~~ (vi) Antipsychotic medication may be administered to a nonconsenting person detained or committed pursuant to this chapter without a court order pursuant to RCW 71.05.215(2) or under the following circumstances:

~~((+))~~ (A) A person presents an imminent likelihood of serious harm;

~~((+))~~ (B) Medically acceptable alternatives to administration of antipsychotic medications are not available, have not been successful, or are not likely to be effective; and

~~((+))~~ (C) In the opinion of the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for treatment of the person, or his or her designee, the person's condition constitutes an emergency requiring the treatment be instituted before a judicial hearing as authorized pursuant to this section can be held.

If antipsychotic medications are administered over a person's lack of consent pursuant to this subsection, a petition for an order authorizing the administration of antipsychotic medications shall be filed on the next judicial day. The hearing shall be held within two judicial days. If deemed necessary by the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for the treatment of the person, administration of antipsychotic medications may continue until the hearing is held;

~~((g))~~ (k) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue;

~~((g))~~ (l) Not to have psychosurgery performed on him or her under any circumstances.

(2) Every person involuntarily detained or committed under the provisions of this chapter is entitled to all the rights set forth in this chapter and retains all rights not denied him or her under this chapter except as limited by chapter 9.41 RCW.

(3) No person may be presumed incompetent as a consequence of receiving evaluation or treatment for a behavioral health disorder. Competency may not be determined or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

(4) Subject to RCW 71.05.745 and related regulations, persons receiving evaluation or treatment under this chapter must be given a reasonable choice of an available physician, physician assistant, psychiatric advanced registered nurse practitioner, or other professional person qualified to provide such services.

(5) Whenever any person is detained under this chapter, the person must be advised that unless the person is released or voluntarily admits himself or herself for treatment within seventy-two hours of the initial detention, a judicial hearing must be held in a superior court within seventy-two hours to determine whether there is probable cause to detain the person for up to an additional fourteen days based on an allegation that because of a behavioral health disorder the person presents a likelihood of serious harm or is gravely disabled, and that at the probable cause hearing the person has the following rights:

(a) To communicate immediately with an attorney; to have an attorney appointed if the person is indigent; and to be told the name and address of the attorney that has been designated;

(b) To remain silent, and to know that any statement the person makes may be used against him or her;

(c) To present evidence on the person's behalf;

(d) To cross-examine witnesses who testify against him or her;

(e) To be proceeded against by the rules of evidence;

(f) To have the court appoint a reasonably available independent professional person to examine the person and testify in the hearing, at public expense unless the person is able to bear the cost;

(g) To view and copy all petitions and reports in the court file; and

(h) To refuse psychiatric medications, including antipsychotic medication beginning twenty-four hours prior to the probable cause hearing.

(6) The judicial hearing described in subsection (5) of this section must be held according to the provisions of subsection (5) of this section and rules promulgated by the supreme court.

(7)(a) Privileges between patients and physicians, physician assistants, psychologists, or psychiatric advanced registered nurse practitioners are deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under this chapter, the privileges are waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

(b) The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

(c) The record maker may not be required to testify in order to introduce medical or psychological records of the detained person so long as the requirements of RCW 5.45.020 are met except that portions of the record which contain opinions as to the detained person's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.

(8) Nothing contained in this chapter prohibits the patient from petitioning by writ of habeas corpus for release.

(9) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or an active condition of supervision by the department of corrections.

(10) The rights set forth under this section apply equally to ninety-day or one hundred eighty-day hearings under RCW 71.05.310.

**Sec. 31.** RCW 71.05.217 and 2016 c 155 s 4 are each amended to read as follows:

(1) Insofar as danger to the individual or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

~~((1))~~ (a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

~~((2))~~ (b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

~~((3))~~ (c) To have access to individual storage space for his or her private use;

~~((4))~~ (d) To have visitors at reasonable times;

~~((5))~~ (e) To have reasonable access to a telephone, both to make and receive confidential calls;

~~((6))~~ (f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

~~((7))~~ (g) To have the right to individualized care and adequate treatment;

(h) To discuss treatment plans and decisions with professional persons;

(i) To not be denied access to treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination in addition to the treatment otherwise proposed;

(j) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.05.320(4) or the performance of electroconvulsant therapy or surgery, except emergency lifesaving surgery, unless ordered by a court of competent jurisdiction pursuant to the following standards and procedures:

~~((a))~~ (i) The administration of antipsychotic medication or electroconvulsant therapy shall not be ordered unless the petitioning party proves by clear, cogent, and convincing evidence that there exists a compelling state interest that justifies overriding the patient's lack of consent to the administration of antipsychotic medications or electroconvulsant therapy, that the proposed treatment is necessary and effective, and that medically acceptable alternative forms of treatment are not available, have not been successful, or are not likely to be effective.

~~((b))~~ (ii) The court shall make specific findings of fact concerning: ~~((+))~~ (A) The existence of one or more compelling state interests; ~~((+))~~ (B) the necessity and effectiveness of the treatment; and ~~((+++))~~ (C) the person's desires regarding the proposed treatment. If the patient is unable to make a rational and informed decision about consenting to or refusing the proposed treatment, the court shall make a substituted judgment for the patient as if he or she were competent to make such a determination.

~~((c))~~ (iii) The person shall be present at any hearing on a request to administer antipsychotic medication or electroconvulsant therapy filed pursuant to this subsection. The person has the right: ~~((+))~~ (A) To be represented by an attorney; ~~((+))~~ (B) to present evidence; ~~((+++))~~ (C) to cross-examine witnesses; ~~((+))~~ (D) to have the rules of evidence enforced; ~~((+))~~ (E) to remain silent; ~~((+))~~ (F) to view and copy all petitions and reports in the court file; and ~~((+++))~~ (G) to be given reasonable notice and an opportunity to prepare for the hearing. The court may appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician to examine and testify on behalf of such person. The court shall appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician designated by such person or the person's counsel to testify on behalf of the person in cases where an order for electroconvulsant therapy is sought.

~~((d))~~ (iv) An order for the administration of antipsychotic medications entered following a hearing conducted pursuant to this section shall be effective for the period of the current involuntary treatment order, and any

interim period during which the person is awaiting trial or hearing on a new petition for involuntary treatment or involuntary medication.

~~((e))~~ (v) Any person detained pursuant to RCW 71.05.320(4), who subsequently refuses antipsychotic medication, shall be entitled to the procedures set forth in this subsection.

~~((#))~~ (vi) Antipsychotic medication may be administered to a nonconsenting person detained or committed pursuant to this chapter without a court order pursuant to RCW 71.05.215(2) or under the following circumstances:

~~((+))~~ (A) A person presents an imminent likelihood of serious harm;

~~((#))~~ (B) Medically acceptable alternatives to administration of antipsychotic medications are not available, have not been successful, or are not likely to be effective; and

~~((#))~~ (C) In the opinion of the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for treatment of the person, or his or her designee, the person's condition constitutes an emergency requiring the treatment be instituted before a judicial hearing as authorized pursuant to this section can be held.

If antipsychotic medications are administered over a person's lack of consent pursuant to this subsection, a petition for an order authorizing the administration of antipsychotic medications shall be filed on the next judicial day. The hearing shall be held within two judicial days. If deemed necessary by the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for the treatment of the person, administration of antipsychotic medications may continue until the hearing is held;

~~((8))~~ (k) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue;

~~((9))~~ (l) Not to have psychosurgery performed on him or her under any circumstances.

(2) Every person involuntarily detained or committed under the provisions of this chapter is entitled to all the rights set forth in this chapter and retains all rights not denied him or her under this chapter except as limited by chapter 9.41 RCW.

(3) No person may be presumed incompetent as a consequence of receiving evaluation or treatment for a behavioral health disorder. Competency may not be determined or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

(4) Subject to RCW 71.05.745 and related regulations, persons receiving evaluation or treatment under this chapter must be given a reasonable choice of an available physician, physician assistant, psychiatric advanced registered nurse practitioner, or other professional person qualified to provide such services.

(5) Whenever any person is detained under this chapter, the person must be advised that unless the person is released or voluntarily admits himself or herself for treatment within five days of the initial detention, a judicial hearing must be held in a superior court within five days to determine whether there is probable cause to detain the

person for up to an additional fourteen days based on an allegation that because of a behavioral health disorder the person presents a likelihood of serious harm or is gravely disabled, and that at the probable cause hearing the person has the following rights:

(a) To communicate immediately with an attorney; to have an attorney appointed if the person is indigent; and to be told the name and address of the attorney that has been designated;

(b) To remain silent, and to know that any statement the person makes may be used against him or her;

(c) To present evidence on the person's behalf;

(d) To cross-examine witnesses who testify against him or her;

(e) To be proceeded against by the rules of evidence;

(f) To have the court appoint a reasonably available independent professional person to examine the person and testify in the hearing, at public expense unless the person is able to bear the cost;

(g) To view and copy all petitions and reports in the court file; and

(h) To refuse psychiatric medications, including antipsychotic medication beginning twenty-four hours prior to the probable cause hearing.

(6) The judicial hearing described in subsection (5) of this section must be held according to the provisions of subsection (5) of this section and rules promulgated by the supreme court.

(7)(a) Privileges between patients and physicians, physician assistants, psychologists, or psychiatric advanced registered nurse practitioners are deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under this chapter, the privileges are waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

(b) The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

(c) The record maker may not be required to testify in order to introduce medical or psychological records of the detained person so long as the requirements of RCW 5.45.020 are met except that portions of the record which contain opinions as to the detained person's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.

(8) Nothing contained in this chapter prohibits the patient from petitioning by writ of habeas corpus for release.

(9) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or an active condition of supervision by the department of corrections.

(10) The rights set forth under this section apply equally to ninety-day or one hundred eighty-day hearings under RCW 71.05.310.

**Sec. 32.** RCW 71.05.230 and 2018 c 291 s 6 are each amended to read as follows:

A person detained for seventy-two hour evaluation and treatment may be committed for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative treatment. A petition may only be filed if the following conditions are met:

(1) The professional staff of the facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by ~~((mental disorder or substance use))~~ a behavioral health disorder and results in: (a) A likelihood of serious harm((, results in)); (b) the person being gravely disabled((:)); or ((results in)) (c) the person being in need of assisted outpatient behavioral health treatment((:)); and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The facility providing intensive treatment is certified to provide such treatment by the department or under RCW 71.05.745; and

(4)(a)(i) The professional staff of the facility or the designated crisis responder has filed a petition with the court for a fourteen day involuntary detention or a ninety day less restrictive alternative. The petition must be signed by:

(A) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(B) One physician, physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional.

(ii) If the petition is for substance use disorder treatment, the petition may be signed by a chemical dependency professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner. The persons signing the petition must have examined the person.

(b) If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of a ~~((mental disorder or substance use))~~ behavioral health disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of a ~~((mental disorder or as a result of a substance use))~~ behavioral health disorder, presents a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient behavioral health treatment, and shall set forth any recommendations for less restrictive alternative treatment services; and

(5) A copy of the petition has been served on the detained person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The petition reflects that the person was informed of the loss of firearm rights if involuntarily committed for mental health treatment; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the designated crisis responder may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide less restrictive alternative treatment is other than the facility providing involuntary treatment, the outpatient facility so designated to provide less restrictive alternative treatment has agreed to assume such responsibility.

**Sec. 33.** RCW 71.05.230 and 2018 c 291 s 6 are each amended to read as follows:

A person detained for ~~((seventy two hour))~~ five-day evaluation and treatment may be committed for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative treatment. A petition may only be filed if the following conditions are met:

(1) The professional staff of the facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by ~~((mental disorder or substance use))~~ a behavioral health disorder and results in: (a) A likelihood of serious harm((, results in)); (b) the person being gravely disabled((:)); or ((results in)) (c) the person being in need of assisted outpatient behavioral health treatment((:)); and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The facility providing intensive treatment is certified to provide such treatment by the department or under RCW 71.05.745; and

(4)(a)(i) The professional staff of the facility or the designated crisis responder has filed a petition with the court for a fourteen day involuntary detention or a ninety day less restrictive alternative. The petition must be signed by:

(A) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(B) One physician, physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional.

(ii) If the petition is for substance use disorder treatment, the petition may be signed by a chemical dependency professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner. The persons signing the petition must have examined the person.

(b) If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of a ~~((mental disorder or substance use))~~ behavioral

health disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of a ~~((mental disorder or as a result of a substance use))~~ behavioral health disorder, presents a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient behavioral health treatment, and shall set forth any recommendations for less restrictive alternative treatment services; and

(5) A copy of the petition has been served on the detained person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The petition reflects that the person was informed of the loss of firearm rights if involuntarily committed for mental health treatment; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the designated crisis responder may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide less restrictive alternative treatment is other than the facility providing involuntary treatment, the outpatient facility so designated to provide less restrictive alternative treatment has agreed to assume such responsibility.

**Sec. 34.** RCW 71.05.235 and 2016 sp.s. c 29 s 231 are each amended to read as follows:

(1) If an individual is referred to a designated crisis responder under RCW 10.77.088(1)(c)(i), the designated crisis responder shall examine the individual within forty-eight hours. If the designated crisis responder determines it is not appropriate to detain the individual or petition for a ninety-day less restrictive alternative under RCW 71.05.230(4), that decision shall be immediately presented to the superior court for hearing. The court shall hold a hearing to consider the decision of the designated crisis responder not later than the next judicial day. At the hearing the superior court shall review the determination of the designated crisis responder and determine whether an order should be entered requiring the person to be evaluated at an evaluation and treatment facility. No person referred to an evaluation and treatment facility may be held at the facility longer than seventy-two hours.

(2) If an individual is placed in an evaluation and treatment facility under RCW 10.77.088(1)(c)(ii), a professional person shall evaluate the individual for purposes of determining whether to file a ninety-day inpatient or outpatient petition under this chapter. Before expiration of the seventy-two hour evaluation period authorized under RCW 10.77.088(1)(c)(ii), the professional

person shall file a petition or, if the recommendation of the professional person is to release the individual, present his or her recommendation to the superior court of the county in which the criminal charge was dismissed. The superior court shall review the recommendation not later than forty-eight hours, excluding Saturdays, Sundays, and holidays, after the recommendation is presented. If the court rejects the recommendation to unconditionally release the individual, the court may order the individual detained at a designated evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period ~~((and direct the individual to appear at a surety hearing before that court within seventy-two hours, or the court may release the individual but direct the individual to appear at a surety hearing set before that court within eleven days, at which time the prosecutor may file a petition under this chapter for ninety day inpatient or outpatient treatment. If a petition is filed by the prosecutor, the court may order that the person named in the petition be detained at the evaluation and treatment facility that performed the evaluation under this subsection or order the respondent to be in outpatient treatment. If a petition is filed but the individual fails to appear in court for the surety hearing, the court shall order that a mental health professional or peace officer shall take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility to be brought before the court the next judicial day after detention)).~~ If the evaluation and treatment facility files a ninety-day petition within the seventy-two-hour period, the clerk shall set a hearing after the day of filing consistent with RCW 71.05.300. Upon the individual's first appearance in court after a petition has been filed, proceedings under RCW 71.05.310 and 71.05.320 shall commence. For an individual subject to this subsection, the ~~((prosecutor or))~~ professional person may directly file a petition for ninety-day inpatient or outpatient treatment and no petition for initial detention or fourteen-day detention is required before such a petition may be filed.

~~((The court shall conduct the hearing on the petition filed under this subsection within five judicial days of the date the petition is filed. The court may continue the hearing upon the written request of the person named in the petition or the person's attorney, for good cause shown, which continuance shall not exceed five additional judicial days. If the person named in the petition requests a jury trial, the trial shall commence within ten judicial days of the date of the filing of the petition. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW 71.05.360 (8) and (9).~~

~~During the proceeding the person named in the petition shall continue to be detained and treated until released by order of the court. If no order has been made within thirty days after the filing of the petition, not including any extensions of time requested by the detained person or his or her attorney, the detained person shall be released.)~~

(3) If a designated crisis responder or the professional person and prosecuting attorney for the county in which the criminal charge was dismissed or attorney

general, as appropriate, stipulate that the individual does not present a likelihood of serious harm or is not gravely disabled, the hearing under this section is not required and the individual, if in custody, shall be released.

~~((4) The individual shall have the rights specified in RCW 71.05.360 (8) and (9).))~~

**Sec. 35.** RCW 71.05.235 and 2016 sp.s. c 29 s 231 are each amended to read as follows:

(1) If an individual is referred to a designated crisis responder under RCW 10.77.088(1)(c)(i), the designated crisis responder shall examine the individual within forty-eight hours. If the designated crisis responder determines it is not appropriate to detain the individual or petition for a ninety-day less restrictive alternative under RCW 71.05.230(4), that decision shall be immediately presented to the superior court for hearing. The court shall hold a hearing to consider the decision of the designated crisis responder not later than the next judicial day. At the hearing the superior court shall review the determination of the designated crisis responder and determine whether an order should be entered requiring the person to be evaluated at an evaluation and treatment facility. No person referred to an evaluation and treatment facility may be held at the facility longer than ~~((seventy-two hours))~~ five days.

(2) If an individual is placed in an evaluation and treatment facility under RCW 10.77.088(1)(c)(ii), a professional person shall evaluate the individual for purposes of determining whether to file a ninety-day inpatient or outpatient petition under this chapter. Before expiration of the ~~((seventy-two hour))~~ five-day evaluation period authorized under RCW 10.77.088(1)(c)(ii), the professional person shall file a petition or, if the recommendation of the professional person is to release the individual, present his or her recommendation to the superior court of the county in which the criminal charge was dismissed. The superior court shall review the recommendation not later than forty-eight hours, excluding Saturdays, Sundays, and holidays, after the recommendation is presented. If the court rejects the recommendation to unconditionally release the individual, the court may order the individual detained at a designated evaluation and treatment facility for not more than a ~~((seventy-two hour))~~ five-day evaluation and treatment period ~~((and direct the individual to appear at a surety hearing before that court within seventy-two hours, or the court may release the individual but direct the individual to appear at a surety hearing set before that court within eleven days, at which time the prosecutor may file a petition under this chapter for ninety day inpatient or outpatient treatment. If a petition is filed by the prosecutor, the court may order that the person named in the petition be detained at the evaluation and treatment facility that performed the evaluation under this subsection or order the respondent to be in outpatient treatment. If a petition is filed but the individual fails to appear in court for the surety hearing, the court shall order that a mental health professional or peace officer shall take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility to be brought before the court the next judicial day after detention))~~. If the evaluation and treatment facility files a

ninety-day petition within the five-day period, the clerk shall set a hearing after the day of filing consistent with RCW 71.05.300. Upon the individual's first appearance in court after a petition has been filed, proceedings under RCW 71.05.310 and 71.05.320 shall commence. For an individual subject to this subsection, the ~~((prosecutor or))~~ professional person may directly file a petition for ninety-day inpatient or outpatient treatment and no petition for initial detention or fourteen-day detention is required before such a petition may be filed.

~~((The court shall conduct the hearing on the petition filed under this subsection within five judicial days of the date the petition is filed. The court may continue the hearing upon the written request of the person named in the petition or the person's attorney, for good cause shown, which continuance shall not exceed five additional judicial days. If the person named in the petition requests a jury trial, the trial shall commence within ten judicial days of the date of the filing of the petition. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW 71.05.360 (8) and (9).))~~

~~During the proceeding the person named in the petition shall continue to be detained and treated until released by order of the court. If no order has been made within thirty days after the filing of the petition, not including any extensions of time requested by the detained person or his or her attorney, the detained person shall be released.)~~

(3) If a designated crisis responder or the professional person and prosecuting attorney for the county in which the criminal charge was dismissed or attorney general, as appropriate, stipulate that the individual does not present a likelihood of serious harm or is not gravely disabled, the hearing under this section is not required and the individual, if in custody, shall be released.

~~((4) The individual shall have the rights specified in RCW 71.05.360 (8) and (9).))~~

**NEW SECTION. Sec. 36.** A new section is added to chapter 71.05 RCW to read as follows:

(1) In any proceeding for involuntary commitment under this chapter, the court may continue or postpone such proceeding for a reasonable time on motion of the respondent for good cause, or on motion of the prosecuting attorney or the attorney general if:

(a) The respondent expressly consents to a continuance or delay and there is a showing of good cause; or

(b) Such continuance is required in the proper administration of justice and the respondent will not be substantially prejudiced in the presentation of the respondent's case.

(2) The court may on its own motion continue the case when required in due administration of justice and when the respondent will not be substantially prejudiced in the presentation of the respondent's case.

(3) The court shall state in any order of continuance or postponement the grounds for the continuance or postponement and whether detention will be extended.

**Sec. 37.** RCW 71.05.240 and 2018 c 291 s 7 and 2018 c 201 s 3009 are each reenacted and amended to read as follows:

(1) If a petition is filed for fourteen-day involuntary treatment or ninety days of less restrictive alternative treatment, the court shall hold a probable cause hearing within seventy-two hours of the initial detention of such person as determined in RCW 71.05.180, or at a time determined under RCW 71.05.148. ~~((If requested by the person or his or her attorney, the hearing may be postponed for a period not to exceed forty eight hours. The hearing may also be continued subject to the conditions set forth in RCW 71.05.210 or subject to the petitioner's showing of good cause for a period not to exceed twenty four hours.))~~

(2) If the petition is for mental health treatment, the court or the prosecutor at the time of the probable cause hearing and before an order of commitment is entered shall inform the person both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.05.230 will result in the loss of his or her firearm rights if the person is subsequently detained for involuntary treatment under this section.

(3) If the person or his or her attorney alleges, prior to the commencement of the hearing, that the person has in good faith volunteered for treatment, the petitioner must show, by preponderance of the evidence, that the person has not in good faith volunteered for appropriate treatment. In order to qualify as a good faith volunteer, the person must abide by procedures and a treatment plan as prescribed by a treatment facility and professional staff.

(4)(a) Subject to (b) of this subsection, at the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a ~~((mental disorder or substance use))~~ behavioral health disorder, presents a likelihood of serious harm, or is gravely disabled, and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interests of such person or others, the court shall order that such person be detained for involuntary treatment not to exceed fourteen days in a facility licensed or certified to provide treatment by the department or under RCW 71.05.745.

(b) ~~((Commitment for up to fourteen days based on a substance use disorder must be to either a secure detoxification facility or an approved substance use disorder treatment program.))~~ A court may only ~~((enter a commitment))~~ order ~~((based on a substance use disorder if there is an available))~~ commitment to a secure detoxification facility or approved substance use disorder treatment program if there is an available facility with adequate space for the person.

(c) At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a ~~((mental disorder or substance use))~~ behavioral health disorder, presents a likelihood of serious harm, or is gravely disabled, but that treatment in a less restrictive setting than detention is in the best interest of

such person or others, the court shall order an appropriate less restrictive alternative course of treatment for ~~((not to exceed))~~ up to ninety days.

(d) If the court finds by a preponderance of the evidence that such person, as the result of a ~~((mental disorder or substance use))~~ behavioral health disorder, is in need of assisted outpatient behavioral health treatment, and that the person does not present a likelihood of serious harm ~~((or grave disability))~~ and is not gravely disabled, the court shall order an appropriate less restrictive alternative course of treatment ~~((not to exceed))~~ for up to ninety days.

~~((4))~~ (5) An order for less restrictive alternative treatment must name the ~~((mental))~~ behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the ~~((services planned by))~~ treatment recommendations of the ~~((mental))~~ behavioral health service provider.

~~((5))~~ (6) The court shall ~~((specifically state to such person and give such person notice))~~ notify the person orally and in writing that if involuntary treatment is sought beyond the fourteen-day ~~((period))~~ inpatient or ~~((beyond the))~~ ninety-day ~~((s of))~~ less restrictive treatment ~~((is to be sought))~~ period, ~~((such))~~ the person ~~((will have))~~ has the right to a full hearing or jury trial ~~((as required by))~~ under RCW 71.05.310. If the commitment is for mental health treatment, the court shall also ~~((state to))~~ notify the person ~~((and provide written notice))~~ orally and in writing that the person is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

**Sec. 38.** RCW 71.05.240 and 2018 c 291 s 7 and 2018 c 201 s 3009 are each reenacted and amended to read as follows:

(1) If a petition is filed for fourteen-day involuntary treatment or ninety days of less restrictive alternative treatment, the court shall hold a probable cause hearing within ~~((seventy two hours))~~ five days of the initial detention of such person as determined in RCW 71.05.180, or at a time determined under RCW 71.05.148. ~~((If requested by the person or his or her attorney, the hearing may be postponed for a period not to exceed forty eight hours. The hearing may also be continued subject to the conditions set forth in RCW 71.05.210 or subject to the petitioner's showing of good cause for a period not to exceed twenty four hours.))~~

(2) If the petition is for mental health treatment, the court or the prosecutor at the time of the probable cause hearing and before an order of commitment is entered shall inform the person both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.05.230 will result in the loss of his or her firearm rights if the person is subsequently detained for involuntary treatment under this section.

(3) If the person or his or her attorney alleges, prior to the commencement of the hearing, that the person has in good faith volunteered for treatment, the petitioner must show, by preponderance of the evidence, that the person has not in good faith volunteered for appropriate treatment. In order to qualify as a good faith volunteer, the person must

abide by procedures and a treatment plan as prescribed by a treatment facility and professional staff.

(4)(a) Subject to (b) of this subsection, at the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a ~~((mental disorder or substance use))~~ behavioral health disorder, presents a likelihood of serious harm, or is gravely disabled, and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interests of such person or others, the court shall order that such person be detained for involuntary treatment not to exceed fourteen days in a facility licensed or certified to provide treatment by the department or under RCW 71.05.745.

(b) ~~((Commitment for up to fourteen days based on a substance use disorder must be to either a secure detoxification facility or an approved substance use disorder treatment program.))~~ A court may only ~~((enter a commitment))~~ order ~~((based on a substance use disorder if there is an available))~~ commitment to a secure detoxification facility or approved substance use disorder treatment program if there is an available facility with adequate space for the person.

(c) At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a ~~((mental disorder or substance use))~~ behavioral health disorder, presents a likelihood of serious harm, or is gravely disabled, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive alternative course of treatment for ~~((not to exceed))~~ up to ninety days.

(d) If the court finds by a preponderance of the evidence that such person, as the result of a ~~((mental disorder or substance use))~~ behavioral health disorder, is in need of assisted outpatient behavioral health treatment, and that the person does not present a likelihood of serious harm ~~((or grave disability))~~ and is not gravely disabled, the court shall order an appropriate less restrictive alternative course of treatment ~~((not to exceed))~~ for up to ninety days.

~~((4))~~ (5) An order for less restrictive alternative treatment must name the ~~((mental))~~ behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the ~~((services planned by))~~ treatment recommendations of the ~~((mental))~~ behavioral health service provider.

~~((5))~~ (6) The court shall ~~((specifically state to such person and give such person notice))~~ notify the person orally and in writing that if involuntary treatment is sought beyond the fourteen-day ~~((period))~~ inpatient or ~~((beyond the))~~ ninety-day ~~((s of))~~ less restrictive treatment ~~((is to be sought))~~ period, ~~((such))~~ the person ~~((will have))~~ has the right to a full hearing or jury trial ~~((as required by))~~ under RCW 71.05.310. If the commitment is for mental health treatment, the court shall also ~~((state to))~~ notify the person ~~((and provide written notice))~~ orally and in writing that the person is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

**Sec. 39.** RCW 71.05.240 and 2018 c 291 s 8 and 2018 c 201 s 3010 are each reenacted and amended to read as follows:

(1) If a petition is filed for fourteen-day involuntary treatment or ninety days of less restrictive alternative treatment, the court shall hold a probable cause hearing within ~~((seventy-two hours))~~ five days of the initial detention of such person as determined in RCW 71.05.180, or at a time determined under RCW 71.05.148. ~~((If requested by the person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may also be continued subject to the conditions set forth in RCW 71.05.210 or subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours.))~~

(2) If the petition is for mental health treatment, the court or the prosecutor at the time of the probable cause hearing and before an order of commitment is entered shall inform the person both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.05.230 will result in the loss of his or her firearm rights if the person is subsequently detained for involuntary treatment under this section.

(3) If the person or his or her attorney alleges, prior to the commencement of the hearing, that the person has in good faith volunteered for treatment, the petitioner must show, by preponderance of the evidence, that the person has not in good faith volunteered for appropriate treatment. In order to qualify as a good faith volunteer, the person must abide by procedures and a treatment plan as prescribed by a treatment facility and professional staff.

~~((4))~~ (a) ~~((Subject to (b) of this subsection,))~~ At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a ~~((mental disorder or substance use))~~ behavioral health disorder, presents a likelihood of serious harm, or is gravely disabled, and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interests of such person or others, the court shall order that such person be detained for involuntary treatment not to exceed fourteen days in a facility licensed or certified to provide treatment by the department or under RCW 71.05.745.

(b) ~~((Commitment for up to fourteen days based on a substance use disorder must be to either a secure detoxification facility or an approved substance use disorder treatment program.))~~

~~((e))~~ At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a ~~((mental disorder or substance use))~~ behavioral health disorder, presents a likelihood of serious harm ~~((r))~~ or is gravely disabled, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive alternative course of treatment for ~~((not to exceed))~~ up to ninety days.

~~((d))~~ (c) If the court finds by a preponderance of the evidence that such person, as the result of a ~~((mental disorder or substance use))~~ behavioral health disorder, is in need of assisted outpatient behavioral health treatment, and that the person does not present a likelihood of serious harm ~~((or grave disability))~~ and is not gravely disabled, the court

shall order an appropriate less restrictive alternative course of treatment ~~((not to exceed))~~ for up to ninety days.

~~((4))~~ (5) An order for less restrictive alternative treatment must name the ~~((mental))~~ behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the ~~((services planned by))~~ treatment recommendations of the ~~((mental))~~ behavioral health service provider.

~~((5))~~ (6) The court shall ~~((specifically state to such person and give such person notice))~~ notify the person orally and in writing that if involuntary treatment is sought beyond the fourteen-day ~~((period))~~ inpatient or ~~((beyond the))~~ ninety-day ~~((s of))~~ less restrictive treatment ~~((is to be sought))~~ period, such person ~~((will have))~~ has the right to a full hearing or jury trial ~~((as required by))~~ under RCW 71.05.310. If the commitment is for mental health treatment, the court shall also ~~((state to))~~ notify the person ~~((and provide written notice))~~ orally and in writing that the person is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

**Sec. 40.** RCW 71.05.280 and 2018 c 291 s 15 are each amended to read as follows:

At the expiration of the fourteen-day period of intensive treatment, a person may be committed for further treatment pursuant to RCW 71.05.320 if:

(1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself or herself, or substantial damage upon the property of another, and (b) as a result of ~~((mental disorder or substance use))~~ a behavioral health disorder presents a likelihood of serious harm; or

(2) Such person was taken into custody as a result of conduct in which he or she attempted or inflicted physical harm upon the person of another or himself or herself, or substantial damage upon the property of others, and continues to present, as a result of ~~((mental disorder or substance use))~~ a behavioral health disorder, a likelihood of serious harm; or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed pursuant to RCW 10.77.086(4), and has committed acts constituting a felony, and as a result of a ~~((mental))~~ behavioral health disorder, presents a substantial likelihood of repeating similar acts.

(a) In any proceeding pursuant to this subsection it shall not be necessary to show intent, willfulness, or state of mind as an element of the crime;

(b) For any person subject to commitment under this subsection where the charge underlying the finding of incompetence is for a felony classified as violent under RCW 9.94A.030, the court shall determine whether the acts the person committed constitute a violent offense under RCW 9.94A.030; or

(4) Such person is gravely disabled; or

(5) Such person is in need of assisted outpatient behavioral health treatment.

**Sec. 41.** RCW 71.05.290 and 2017 3rd sp.s. c 14 s 18 are each amended to read as follows:

(1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated crisis responder may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2)(a)(i) The petition shall summarize the facts which support the need for further commitment and shall be supported by affidavits based on an examination of the patient and signed by:

(A) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(B) One physician, physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional.

(ii) If the petition is for substance use disorder treatment, the petition may be signed by a chemical dependency professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner.

(b) The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter. If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.086(4), then the professional person in charge of the treatment facility or his or her professional designee or the designated crisis responder may directly file a petition for one hundred eighty-day treatment under RCW 71.05.280(3), or for ninety-day treatment under RCW 71.05.280 (1), (2), (4), or (5). No petition for initial detention or fourteen day detention is required before such a petition may be filed.

**Sec. 42.** RCW 71.05.300 and 2017 3rd sp.s. c 14 s 19 are each amended to read as follows:

(1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. ~~((At the time of filing such petition,))~~ The clerk shall set a ~~((time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall))~~ trial setting date as provided in RCW 71.05.310 on the next judicial day after the date of filing the petition and notify the designated crisis responder. The designated crisis responder shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, the prosecuting attorney, and the behavioral health organization administrator, and provide a copy of the petition to such persons as soon as possible. The behavioral health organization administrator or designee may review

the petition and may appear and testify at the full hearing on the petition.

(2) ~~((At the time set for appearance))~~ The attorney for the detained person ~~((shall be brought before the court, unless such appearance has been waived and the court))~~ shall advise him or her of his or her right to be represented by an attorney, his or her right to a jury trial, and, if the petition is for commitment for mental health treatment, his or her loss of firearm rights if involuntarily committed. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, physician assistant, psychiatric advanced registered nurse practitioner, psychologist, psychiatrist, or other professional person~~(s)~~ designated by the detained person to examine and testify on behalf of the detained person.

(3) The court may, if requested, also appoint a professional person as defined in RCW 71.05.020 to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a person with a developmental disability who has been determined to be incompetent pursuant to RCW 10.77.086(4), ~~((then))~~ the appointed professional person under this section shall be a developmental disabilities professional.

~~((4) The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310.))~~

**Sec. 43.** RCW 71.05.310 and 2012 c 256 s 8 are each amended to read as follows:

The court shall ~~((conduct))~~ set a hearing on the petition for ninety-day or one hundred eighty-day treatment within five judicial days of the ~~((first court appearance after the probable cause hearing))~~ trial setting hearing, or within ten judicial days for a petition filed under RCW 71.05.280(3). The court may continue the hearing ~~((for good cause upon the written request of the person named in the petition or the person's attorney. The court may continue for good cause the hearing on a petition filed under RCW 71.05.280(3) upon written request by the person named in the petition, the person's attorney, or the petitioner))~~ in accordance with section 36 of this act. If the person named in the petition requests a jury trial, the trial ~~((shall commence))~~ must be set within ten judicial days of the ~~((first court appearance after the probable cause hearing))~~ next judicial day after the date of filing the petition. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person ~~((shall))~~ has the right to be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence ~~((pursuant to RCW 71.05.360(8) and (9)))~~ under RCW 71.05.217.

During the proceeding, the person named in the petition shall continue to be treated until released by order of the superior court or discharged by the medical provider. If ~~((no order has been made))~~ the hearing has not commenced within thirty days after the filing of the petition, not including extensions of time ~~((requested by the detained person or his or her attorney, or the petitioner in the case of~~

~~a petition filed under RCW 71.05.280(3)))~~ ordered under section 36 of this act, the detained person shall be released.

**Sec. 44.** RCW 71.05.320 and 2018 c 201 s 3012 are each amended to read as follows:

(1)(a) Subject to (b) of this subsection, if the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment.

(b) If the order for inpatient treatment is based on a substance use disorder, ~~((treatment must take place at an approved substance use disorder treatment program.))~~ the court may only enter an order for commitment ~~((based on a substance use disorder))~~ if there is an available ~~((approved substance use disorder))~~ treatment program with adequate space for the person.

(c) If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment to the custody of the department of social and health services or to a facility certified for one hundred eighty-day treatment by the department or under RCW 71.05.745.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. ~~((If the order for less restrictive treatment is based on a substance use disorder, treatment must be provided by an approved substance use disorder treatment program.))~~ If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment. If the court or jury finds that the grounds set forth in RCW 71.05.280(5) have been proven, and provide the only basis for commitment, the court must enter an order for less restrictive alternative treatment for up to ninety days from the date of judgment and may not order inpatient treatment.

(3) An order for less restrictive alternative treatment entered under subsection (2) of this section must name the ~~((mental))~~ behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the ~~((mental))~~ behavioral health service provider.

(4) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated crisis responder,

files a new petition for involuntary treatment on the grounds that the committed person:

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of a ~~((mental disorder, substance use))~~ behavioral health disorder~~(s)~~ or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of ~~((mental disorder, substance use))~~ a behavioral health disorder~~(s)~~ or developmental disability, a likelihood of serious harm; or

(c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result of ~~((mental))~~ a behavioral health disorder or developmental disability continues to present a substantial likelihood of repeating acts similar to the charged criminal behavior, when considering the person's life history, progress in treatment, and the public safety.

(ii) In cases under this subsection where the court has made an affirmative special finding under RCW 71.05.280(3)(b), the commitment shall continue for up to an additional one hundred eighty-day period whenever the petition presents prima facie evidence that the person continues to suffer from a ~~((mental))~~ behavioral health disorder or developmental disability that results in a substantial likelihood of committing acts similar to the charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the ~~((mental))~~ behavioral health disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior. The initial or additional commitment period may include transfer to a specialized program of intensive support and treatment, which may be initiated prior to or after discharge from the state hospital; or

(d) Continues to be gravely disabled; or

(e) Is in need of assisted outpatient ~~((mental))~~ behavioral health treatment.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to prove such conduct again.

If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(5) A new petition for involuntary treatment filed under subsection (4) of this section shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

(6)(a) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, subject to subsection (1)(b) of this section, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment, except as provided in subsection (7) of this

section. If the court's order is based solely on the grounds identified in subsection (4)(e) of this section, the court may enter an order for less restrictive alternative treatment not to exceed one hundred eighty days from the date of judgment, and may not enter an order for inpatient treatment. An order for less restrictive alternative treatment must name the ~~((mental))~~ behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the ~~((mental))~~ behavioral health service provider.

(b) At the end of the one hundred eighty-day period of commitment, or one-year period of commitment if subsection (7) of this section applies, the committed person shall be released unless a petition for an additional one hundred eighty-day period of continued treatment is filed and heard in the same manner as provided in this section. Successive one hundred eighty-day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty-day commitment.

(7) An order for less restrictive treatment entered under subsection (6) of this section may be for up to one year when the person's previous commitment term was for intensive inpatient treatment in a state hospital.

(8) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length except as provided in subsection (7) of this section.

**Sec. 45.** RCW 71.05.320 and 2018 c 201 s 3013 are each amended to read as follows:

(1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment.

If the ~~((order for inpatient treatment is based on a substance use disorder, treatment must take place at an approved substance use disorder treatment program. If the))~~ grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment to the custody of the department of social and health services or to a facility certified for one hundred eighty-day treatment by the department or under RCW 71.05.745.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. ~~((If the order for less restrictive~~

~~treatment is based on a substance use disorder, treatment must be provided by an approved substance use disorder treatment program.~~) If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment. If the court or jury finds that the grounds set forth in RCW 71.05.280(5) have been proven, and provide the only basis for commitment, the court must enter an order for less restrictive alternative treatment for up to ninety days from the date of judgment and may not order inpatient treatment.

(3) An order for less restrictive alternative treatment entered under subsection (2) of this section must name the ~~((mental))~~ behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the ~~((mental))~~ behavioral health service provider.

(4) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated crisis responder, files a new petition for involuntary treatment on the grounds that the committed person:

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of a ~~((mental disorder, substance use))~~ behavioral health disorder~~(s)~~ or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of ~~((mental disorder, substance use))~~ a behavioral health disorder~~(s)~~ or developmental disability, a likelihood of serious harm; or

(c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result of ~~((mental))~~ a behavioral health disorder or developmental disability continues to present a substantial likelihood of repeating acts similar to the charged criminal behavior, when considering the person's life history, progress in treatment, and the public safety.

(ii) In cases under this subsection where the court has made an affirmative special finding under RCW 71.05.280(3)(b), the commitment shall continue for up to an additional one hundred eighty-day period whenever the petition presents prima facie evidence that the person continues to suffer from a ~~((mental))~~ behavioral health disorder or developmental disability that results in a substantial likelihood of committing acts similar to the charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the ~~((mental))~~ behavioral health disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior. The initial or additional commitment period may include transfer to a specialized program of intensive support and treatment,

which may be initiated prior to or after discharge from the state hospital; or

(d) Continues to be gravely disabled; or

(e) Is in need of assisted outpatient ~~((mental))~~ behavioral health treatment.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to prove such conduct again.

If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(5) A new petition for involuntary treatment filed under subsection (4) of this section shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

(6)(a) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment, except as provided in subsection (7) of this section. If the court's order is based solely on the grounds identified in subsection (4)(e) of this section, the court may enter an order for less restrictive alternative treatment not to exceed one hundred eighty days from the date of judgment, and may not enter an order for inpatient treatment. An order for less restrictive alternative treatment must name the ~~((mental))~~ behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the ~~((mental))~~ behavioral health service provider.

(b) At the end of the one hundred eighty-day period of commitment, or one-year period of commitment if subsection (7) of this section applies, the committed person shall be released unless a petition for an additional one hundred eighty-day period of continued treatment is filed and heard in the same manner as provided in this section. Successive one hundred eighty-day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty-day commitment.

(7) An order for less restrictive treatment entered under subsection (6) of this section may be for up to one year when the person's previous commitment term was for intensive inpatient treatment in a state hospital.

(8) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length except as provided in subsection (7) of this section.

**Sec. 46.** RCW 71.05.380 and 2016 sp.s. c 29 s 245 are each amended to read as follows:

All persons voluntarily entering or remaining in any facility, institution, or hospital providing evaluation and treatment for ~~((mental disorders or substance use))~~

behavioral health disorders shall have no less than all rights secured to involuntarily detained persons by RCW ((71.05.360 and)) 71.05.217.

**Sec. 47.** RCW 71.05.445 and 2018 c 201 s 3021 are each amended to read as follows:

(1)(a) When a ((~~mental~~)) behavioral health service provider conducts its initial assessment for a person receiving court-ordered treatment, the service provider shall inquire and shall be told by the offender whether he or she is subject to supervision by the department of corrections.

(b) When a person receiving court-ordered treatment or treatment ordered by the department of corrections discloses to his or her ((~~mental~~)) behavioral health service provider that he or she is subject to supervision by the department of corrections, the ((~~mental~~)) behavioral health service provider shall notify the department of corrections that he or she is treating the offender and shall notify the offender that his or her community corrections officer will be notified of the treatment, provided that if the offender has received relief from disclosure pursuant to RCW 9.94A.562 or 71.05.132 and the offender has provided the ((~~mental~~)) behavioral health service provider with a copy of the order granting relief from disclosure pursuant to RCW 9.94A.562 or 71.05.132, the ((~~mental~~)) behavioral health service provider is not required to notify the department of corrections that the ((~~mental~~)) behavioral health service provider is treating the offender. The notification may be written or oral and shall not require the consent of the offender. If an oral notification is made, it must be confirmed by a written notification. For purposes of this section, a written notification includes notification by email or facsimile, so long as the notifying ((~~mental~~)) behavioral health service provider is clearly identified.

(2) The information to be released to the department of corrections shall include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties.

(3) The authority and the department of corrections, in consultation with behavioral health organizations, ((~~mental~~)) behavioral health service providers as defined in RCW 71.05.020, ((~~mental~~)) behavioral health consumers, and advocates for persons with ((~~mental illness~~)) behavioral health disorders, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules shall:

(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received ((~~mental~~)) behavioral health services as a minor; and

(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.

(4) The information received by the department of corrections under this section shall remain confidential and subject to the limitations on disclosure outlined in this chapter, except as provided in RCW 72.09.585.

(5) No ((~~mental~~)) behavioral health service provider or individual employed by a ((~~mental~~)) behavioral health service provider shall be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section.

(6) Whenever federal law or federal regulations restrict the release of information and records related to ((~~mental~~)) behavioral health services for any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(7) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under chapter 70.24 RCW.

(8) The authority shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific behavioral health organizations and ((~~mental~~)) behavioral health service providers that delivered ((~~mental~~)) behavioral health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the authority and the department of corrections.

**Sec. 48.** RCW 71.05.455 and 2016 c 158 s 2 are each amended to read as follows:

When funded, the Washington association of sheriffs and police chiefs, in consultation with the criminal justice training commission, must develop and adopt a model policy for use by law enforcement agencies relating to a law enforcement officer's referral of a person to a ((~~mental~~)) behavioral health agency after receiving a report of threatened or attempted suicide. The model policy must complement the criminal justice training commission's crisis intervention training curriculum.

**Sec. 49.** RCW 71.05.457 and 2016 c 158 s 3 are each amended to read as follows:

By July 1, 2017, all general authority Washington law enforcement agencies must adopt a policy establishing criteria and procedures for a law enforcement officer to refer a person to a ((~~mental~~)) behavioral health agency after receiving a report of threatened or attempted suicide.

**Sec. 50.** RCW 71.05.458 and 2016 c 158 s 5 are each amended to read as follows:

As soon as possible, but no later than twenty-four hours from receiving a referral from a law enforcement officer or law enforcement agency, excluding Saturdays, Sundays, and holidays, a mental health professional contacted by the designated ((~~mental health professional~~)) crisis responder agency must attempt to contact the referred person to determine whether additional mental health intervention is necessary including, if needed, an assessment by a designated ((~~mental health professional~~)) crisis responder for initial detention under RCW 71.05.150 or 71.05.153. Documentation of the mental health professional's attempt to contact and assess the person must

be maintained by the designated ~~((mental health professional))~~ crisis responder agency.

**Sec. 51.** RCW 71.05.525 and 2018 c 201 s 3024 are each amended to read as follows:

When, in the judgment of the department of social and health services, the welfare of any person committed to or confined in any state juvenile correctional institution or facility necessitates that such a person be transferred or moved for observation, diagnosis or treatment to any state institution or facility for the care of juveniles with ~~((mental illness))~~ behavioral health disorders the secretary of the department of social and health services, or his or her designee, is authorized to order and effect such move or transfer: PROVIDED, HOWEVER, That the secretary of the department of social and health services shall adopt and implement procedures to assure that persons so transferred shall, while detained or confined in such institution or facility for the care of juveniles with ~~((mental illness))~~ behavioral health disorders, be provided with substantially similar opportunities for parole or early release evaluation and determination as persons detained or confined in state juvenile correctional institutions or facilities: PROVIDED, FURTHER, That the secretary of the department of social and health services shall notify the original committing court of such transfer.

**Sec. 52.** RCW 71.05.530 and 2016 sp.s. c 29 s 247 are each amended to read as follows:

Evaluation and treatment facilities and secure detoxification facilities authorized pursuant to this chapter may be part of the comprehensive community ~~((mental))~~ behavioral health services program conducted in counties pursuant to chapter 71.24 RCW, and may receive funding pursuant to the provisions thereof.

**Sec. 53.** RCW 71.05.585 and 2018 c 291 s 2 are each amended to read as follows:

(1) Less restrictive alternative treatment, at a minimum, includes the following services:

- (a) Assignment of a care coordinator;
- (b) An intake evaluation with the provider of the less restrictive alternative treatment;
- (c) A psychiatric evaluation;
- (d) A schedule of regular contacts with the provider of the less restrictive alternative treatment services for the duration of the order;
- (e) A transition plan addressing access to continued services at the expiration of the order;
- (f) An individual crisis plan; and
- (g) Notification to the care coordinator assigned in (a) of this subsection if reasonable efforts to engage the client fail to produce substantial compliance with court-ordered treatment conditions.

(2) Less restrictive alternative treatment may additionally include requirements to participate in the following services:

- (a) Medication management;
- (b) Psychotherapy;

- (c) Nursing;
- (d) Substance abuse counseling;
- (e) Residential treatment; and
- (f) Support for housing, benefits, education, and employment.

(3) If the person was provided with involuntary medication under RCW 71.05.215 or pursuant to a judicial order during the involuntary commitment period, the less restrictive alternative treatment order may authorize the less restrictive alternative treatment provider or its designee to administer involuntary antipsychotic medication to the person if the provider has attempted and failed to obtain the informed consent of the person and there is a concurring medical opinion approving the medication by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with an independent mental health professional with prescribing authority.

(4) Less restrictive alternative treatment must be administered by a provider that is certified or licensed to provide or coordinate the full scope of services required under the less restrictive alternative order and that has agreed to assume this responsibility.

~~((4))~~ (5) The care coordinator assigned to a person ordered to less restrictive alternative treatment must submit an individualized plan for the person's treatment services to the court that entered the order. An initial plan must be submitted as soon as possible following the intake evaluation and a revised plan must be submitted upon any subsequent modification in which a type of service is removed from or added to the treatment plan.

~~((5))~~ (6) For the purpose of this section, "care coordinator" means a clinical practitioner who coordinates the activities of less restrictive alternative treatment. The care coordinator coordinates activities with the designated crisis responders that are necessary for enforcement and continuation of less restrictive alternative orders and is responsible for coordinating service activities with other agencies and establishing and maintaining a therapeutic relationship with the individual on a continuing basis.

**Sec. 54.** RCW 71.05.590 and 2018 c 291 s 9 and 2018 c 201 s 3026 are each reenacted and amended to read as follows:

(1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order or conditional release order, or a designated crisis responder, may take action to enforce, modify, or revoke a less restrictive alternative or conditional release order. The agency, facility, or designated crisis responder must determine that:

- (a) The person is failing to adhere to the terms and conditions of the court order;
- (b) Substantial deterioration in the person's functioning has occurred;
- (c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or
- (d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel or advise the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) To request a court hearing for review and modification of the court order. The request must be made to or by the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

(d) To cause the person to be transported by a peace officer, designated crisis responder, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, ~~((or to an))~~ evaluation and treatment facility ~~((if the person is committed for mental health treatment)), ((or to a))~~ secure detoxification facility with available space, or an approved substance use disorder treatment program with available space ~~((if the person is committed for substance use disorder treatment))~~. The person may be detained at the facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated crisis responder or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation procedures under subsection (4) of this section in appropriate circumstances; and

(e) To initiate revocation procedures under subsection (4) of this section or, if the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, initiate initial inpatient detention procedures under subsection (6) of this section.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary of the department of social and health services or designated crisis responder when a person fails to adhere to terms and

conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(4)(a) Except as provided in subsection (6) of this section, a designated crisis responder or the secretary of the department of social and health services may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this chapter to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility ~~((in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a)), an available secure detoxification facility with adequate space, or an available approved substance use disorder treatment program ((if either is available)) with adequate space, in or near the county in which he or she is receiving outpatient treatment ((and has adequate space)).~~ Proceedings under this subsection (4) may be initiated without ordering the apprehension and detention of the person.

(b) Except as provided in subsection (6) of this section, a person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary of the department of social and health services may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The designated crisis responder or secretary of the department of social and health services shall file a revocation petition and order of apprehension and detention with the court of the county where the person is currently located or being detained. The designated crisis responder shall serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings is the county where the petition is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation is filed, within two judicial days of the person's detention.

(d) Except as provided in subsection (6) of this section, the issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period ~~((may~~

be for no longer than the period)) must be for fourteen days from the revocation hearing if the outpatient order was based on a petition under RCW 71.05.160 or 71.05.230. If the court orders detention for inpatient treatment and the outpatient order was based on a petition under RCW 71.05.290 or 71.05.320, the number of days remaining on the outpatient order must be converted to days of inpatient treatment authorized in the original court order. A court may not issue an order to detain a person for inpatient treatment in a secure detoxification facility or approved substance use disorder treatment program under this subsection unless there is a secure detoxification facility or approved substance use disorder treatment program available and with adequate space for the person.

(5) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

(6)(a) If the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, a designated crisis responder may initiate inpatient detention procedures under RCW 71.05.150 or 71.05.153 when appropriate. A designated crisis responder or the secretary may, upon their own motion or notification by the facility or agency designated to provide outpatient care to a person subject to a less restrictive alternative treatment order under RCW 71.05.320 subsequent to an order for assisted outpatient behavioral health treatment entered under RCW 71.05.148, order the person to be apprehended and taken into custody and temporary detention for inpatient evaluation in an evaluation and treatment facility ~~((in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a))~~, secure detoxification facility, or in an approved substance use disorder treatment program ~~((if either is available))~~, in or near the county in which he or she is receiving outpatient treatment. Proceedings under this subsection may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection may be held for evaluation for up to seventy-two hours, excluding weekends and holidays, pending a court hearing. If the person is not detained, the hearing must be scheduled within seventy-two hours of service on the person. The designated crisis responder or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The issues for the court to determine are whether to continue the detention of the person for inpatient treatment or whether the court should reinstate or modify the person's less restrictive alternative order or order the person's detention for inpatient treatment. To continue detention after the seventy-two hour period, the court must find that the person, as a result of a ~~((mental disorder or substance use))~~ behavioral health disorder, presents a likelihood of serious harm or is gravely disabled and, after considering less restrictive alternatives to involuntary detention and

treatment, that no such alternatives are in the best interest of the person or others.

(d) A court may not issue an order to detain a person for inpatient treatment in a secure detoxification facility or approved substance use disorder program under this subsection unless there is a secure detoxification facility or approved substance use disorder treatment program available and with adequate space for the person.

**Sec. 55.** RCW 71.05.590 and 2018 c 291 s 9 and 2018 c 201 s 3026 are each reenacted and amended to read as follows:

(1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order or conditional release order, or a designated crisis responder, may take action to enforce, modify, or revoke a less restrictive alternative or conditional release order. The agency, facility, or designated crisis responder must determine that:

(a) The person is failing to adhere to the terms and conditions of the court order;

(b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel or advise the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) To request a court hearing for review and modification of the court order. The request must be made to or by the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

(d) To cause the person to be transported by a peace officer, designated crisis responder, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, ~~((or to an))~~ evaluation and treatment facility ~~((if the person is committed for mental health~~

~~treatment)), ((or to a)) secure detoxification facility with available space, or an approved substance use disorder treatment program with available space ((if the person is committed for substance use disorder treatment)). The person may be detained at the facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated crisis responder or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation procedures under subsection (4) of this section in appropriate circumstances; and~~

(e) To initiate revocation procedures under subsection (4) of this section or, if the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, initiate initial inpatient detention procedures under subsection (6) of this section.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary of the department of social and health services or designated crisis responder when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(4)(a) Except as provided in subsection (6) of this section, a designated crisis responder or the secretary of the department of social and health services may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this chapter to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility ~~((in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a)), an available secure detoxification facility with adequate space, or an available approved substance use disorder treatment program ((if either is available)) with adequate space, in or near the county in which he or she is receiving outpatient treatment ~~((and has adequate space)).~~ Proceedings under this subsection (4) may be initiated without ordering the apprehension and detention of the person.~~

(b) Except as provided in subsection (6) of this section, a person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary of the department of social and health services may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The designated crisis responder or secretary of the department of social and health services shall file a revocation petition and order of apprehension and detention with the court of the county where the person is currently located or being detained. The designated crisis responder shall serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings is the county where the petition is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation is filed, within two judicial days of the person's detention.

(d) Except as provided in subsection (6) of this section, the issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period ~~((may be for no longer than the period)) must be for fourteen days from the revocation hearing if the outpatient order was based on a petition under RCW 71.05.160 or 71.05.230. If the court orders detention for inpatient treatment and the outpatient order was based on a petition under RCW 71.05.290 or 71.05.320, the number of days remaining on the outpatient order must be converted to days of inpatient treatment~~ authorized in the original court order. A court may not issue an order to detain a person for inpatient treatment in a secure detoxification facility or approved substance use disorder treatment program under this subsection unless there is a secure detoxification facility or approved substance use disorder treatment program available and with adequate space for the person.

(5) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

(6)(a) If the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, a designated crisis responder may initiate inpatient detention procedures under RCW 71.05.150 or 71.05.153 when appropriate. A designated crisis responder or the secretary may, upon their own motion or notification by the facility or agency designated to provide outpatient care to a person subject to a less restrictive alternative treatment order under RCW 71.05.320 subsequent to an order for assisted outpatient behavioral health treatment entered under RCW 71.05.148,

order the person to be apprehended and taken into custody and temporary detention for inpatient evaluation in an evaluation and treatment facility ~~((in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a))~~, secure detoxification facility, or in an approved substance use disorder treatment program ~~((if either is available))~~, in or near the county in which he or she is receiving outpatient treatment. Proceedings under this subsection may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection may be held for evaluation for up to ~~((seventy-two hours))~~ five days, excluding weekends and holidays, pending a court hearing. If the person is not detained, the hearing must be scheduled within ~~((seventy-two hours))~~ five days of service on the person. The designated crisis responder or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The issues for the court to determine are whether to continue the detention of the person for inpatient treatment or whether the court should reinstate or modify the person's less restrictive alternative order or order the person's detention for inpatient treatment. To continue detention after the ~~((seventy-two hour))~~ five-day period, the court must find that the person, as a result of a ~~((mental disorder or substance use))~~ behavioral health disorder, presents a likelihood of serious harm or is gravely disabled and, after considering less restrictive alternatives to involuntary detention and treatment, that no such alternatives are in the best interest of the person or others.

(d) A court may not issue an order to detain a person for inpatient treatment in a secure detoxification facility or approved substance use disorder program under this subsection unless there is a secure detoxification facility or approved substance use disorder treatment program available and with adequate space for the person.

**Sec. 56.** RCW 71.05.590 and 2018 c 291 s 10 and 2018 c 201 s 3027 are each reenacted and amended to read as follows:

(1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order or conditional release order, or a designated crisis responder, may take action to enforce, modify, or revoke a less restrictive alternative or conditional release order. The agency, facility, or designated crisis responder must determine that:

(a) The person is failing to adhere to the terms and conditions of the court order;

(b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the

interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel or advise the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) To request a court hearing for review and modification of the court order. The request must be made to or by the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

(d) To cause the person to be transported by a peace officer, designated crisis responder, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, ~~((or to an))~~ evaluation and treatment facility ~~((if the person is committed for mental health treatment))~~, ~~((or to a))~~ secure detoxification facility, or an approved substance use disorder treatment program ~~((if the person is committed for substance use disorder treatment))~~. The person may be detained at the facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated crisis responder or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation procedures under subsection (4) of this section in appropriate circumstances; and

(e) To initiate revocation procedures under subsection (4) of this section or, if the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, initial inpatient detention procedures under subsection (6) of this section.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary of the department of social and health services or designated crisis responder when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(4)(a) Except as provided in subsection (6) of this section, a designated crisis responder or the secretary of the department of social and health services may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this chapter to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility (~~(in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment)~~), in a secure detoxification facility, or in an approved substance use disorder treatment program (~~(if either is available)~~), in or near the county in which he or she is receiving outpatient treatment. Proceedings under this subsection (4) may be initiated without ordering the apprehension and detention of the person.

(b) Except as provided in subsection (6) of this section, a person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary of the department of social and health services may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The designated crisis responder or secretary of the department of social and health services shall file a revocation petition and order of apprehension and detention with the court of the county where the person is currently located or being detained. The designated crisis responder shall serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings is the county where the petition is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation is filed, within two judicial days of the person's detention.

(d) Except as provided in subsection (6) of this section, the issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period (~~(may be for no longer than the period)~~) must be for fourteen days from the revocation hearing if the outpatient order was based on a petition under RCW 71.05.160 or 71.05.230. If the court orders detention for inpatient treatment and the outpatient

order was based on a petition under RCW 71.05.290 or 71.05.320, the number of days remaining on the outpatient order must be converted to days of inpatient treatment authorized in the original court order.

(5) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

(6)(a) If the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, a designated crisis responder may initiate inpatient detention procedures under RCW 71.05.150 or 71.05.153 when appropriate. A designated crisis responder or the secretary may, upon their own motion or notification by the facility or agency designated to provide outpatient care to a person subject to a less restrictive alternative treatment order under RCW 71.05.320 subsequent to an order for assisted outpatient behavioral health treatment entered under RCW 71.05.148, order the person to be apprehended and taken into custody and temporary detention for inpatient evaluation in an evaluation and treatment facility (~~(in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment)~~), in a secure detoxification facility, or in an approved substance use disorder treatment program (~~(if either is available)~~), in or near the county in which he or she is receiving outpatient treatment. Proceedings under this subsection may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection may be held for evaluation for up to (~~(seventy two hours)~~) five days, excluding weekends and holidays, pending a court hearing. The designated crisis responder or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The issues for the court to determine are whether to continue the detention of the person for inpatient treatment or whether the court should reinstate or modify the person's less restrictive alternative order or order the person's detention for inpatient treatment. To continue detention after the (~~(seventy two hour)~~) five-day period, the court must find that the person, as a result of a (~~(mental disorder or substance use)~~) behavioral health disorder, presents a likelihood of serious harm or is gravely disabled and, after considering less restrictive alternatives to involuntary detention and treatment, that no such alternatives are in the best interest of the person or others.

~~((d) A court may not issue an order to detain a person for inpatient treatment in a secure detoxification facility or approved substance use disorder program under this subsection unless there is a secure detoxification facility or approved substance use disorder treatment program available and with adequate space for the person.))~~

**Sec. 57.** RCW 71.05.720 and 2018 c 201 s 3029 are each amended to read as follows:

Annually, all community mental health employees who work directly with clients shall be provided with training on safety and violence prevention topics described in RCW 49.19.030. The curriculum for the training shall be developed collaboratively among the authority, the department, contracted ~~((mental))~~ behavioral health service providers, and employee organizations that represent community mental health workers.

**Sec. 58.** RCW 71.05.740 and 2018 c 201 s 3031 are each amended to read as follows:

All behavioral health organizations in the state of Washington must forward historical ~~((mental))~~ behavioral health involuntary commitment information retained by the organization including identifying information and dates of commitment to the authority. As soon as feasible, the behavioral health organizations must arrange to report new commitment data to the authority within twenty-four hours. Commitment information under this section does not need to be resent if it is already in the possession of the authority. Behavioral health organizations and the authority shall be immune from liability related to the sharing of commitment information under this section.

**Sec. 59.** RCW 71.05.745 and 2018 c 201 s 3032 are each amended to read as follows:

(1) The authority may use a single bed certification process as outlined in rule to provide additional treatment capacity for a person suffering from a ~~((mental))~~ behavioral health disorder for whom an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program bed is not available. The facility that is the proposed site of the single bed certification must be a facility that is willing and able to provide the person with timely and appropriate treatment either directly or by arrangement with other public or private agencies.

(2) A single bed certification must be specific to the patient receiving treatment.

(3) A designated crisis responder who submits an application for a single bed certification for treatment at a facility that is willing and able to provide timely and appropriate ~~((mental))~~ behavioral health treatment in good faith belief that the single bed certification is appropriate may presume that the single bed certification will be approved for the purpose of completing the detention process and responding to other emergency calls.

(4) The authority may adopt rules implementing this section and continue to enforce rules it has already adopted except where inconsistent with this section.

**Sec. 60.** RCW 71.05.750 and 2018 c 201 s 3033 are each amended to read as follows:

(1) A designated crisis responder shall make a report to the authority when he or she determines a person meets detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or 71.34.710 and there are not any beds available at an evaluation and treatment facility, the person has not been provisionally accepted for admission by a facility, and the person cannot be served on a single bed certification or

less restrictive alternative. Starting at the time when the designated crisis responder determines a person meets detention criteria and the investigation has been completed, the designated crisis responder has twenty-four hours to submit a completed report to the authority.

(2) The report required under subsection (1) of this section must contain at a minimum:

(a) The date and time that the investigation was completed;

(b) The identity of the responsible behavioral health administrative services organization and managed care organization, if applicable;

(c) The county in which the person met detention criteria;

(d) A list of facilities which refused to admit the person; and

(e) Identifying information for the person, including age or date of birth.

(3) The authority shall develop a standardized reporting form or modify the current form used for single bed certifications for the report required under subsection (2) of this section and may require additional reporting elements as it determines are necessary or supportive. The authority shall also determine the method for the transmission of the completed report from the designated crisis responder to the authority.

(4) The authority shall create quarterly reports displayed on its web site that summarize the information reported under subsection (2) of this section. At a minimum, the reports must display data by county and by month. The reports must also include the number of single bed certifications granted by category. The categories must include all of the reasons that the authority recognizes for issuing a single bed certification, as identified in rule.

(5) The reports provided according to this section may not display "protected health information" as that term is used in the federal health insurance portability and accountability act of 1996, nor information contained in "mental health treatment records" or "behavioral health treatment records" as ~~((that term is))~~ these terms are used in chapter 70.02 RCW or elsewhere in state law, and must otherwise be compliant with state and federal privacy laws.

(6) For purposes of this section, the term "single bed certification" means a situation in which an adult on a seventy-two hour detention, fourteen-day commitment, ninety-day commitment, or one hundred eighty-day commitment is detained to a facility that is:

(a) Not licensed or certified as an inpatient evaluation and treatment facility; or

(b) A licensed or certified inpatient evaluation and treatment facility that is already at capacity.

**Sec. 61.** RCW 71.05.750 and 2018 c 201 s 3033 are each amended to read as follows:

(1) A designated crisis responder shall make a report to the authority when he or she determines a person meets detention criteria under RCW 71.05.150, 71.05.153, 71.34.700, or 71.34.710 and there are not any beds available at an evaluation and treatment facility, the person has not been provisionally accepted for admission by a facility, and the person cannot be served on a single bed certification or

less restrictive alternative. Starting at the time when the designated crisis responder determines a person meets detention criteria and the investigation has been completed, the designated crisis responder has twenty-four hours to submit a completed report to the authority.

(2) The report required under subsection (1) of this section must contain at a minimum:

(a) The date and time that the investigation was completed;

(b) The identity of the responsible behavioral health administrative services organization and managed care organization, if applicable;

(c) The county in which the person met detention criteria;

(d) A list of facilities which refused to admit the person; and

(e) Identifying information for the person, including age or date of birth.

(3) The authority shall develop a standardized reporting form or modify the current form used for single bed certifications for the report required under subsection (2) of this section and may require additional reporting elements as it determines are necessary or supportive. The authority shall also determine the method for the transmission of the completed report from the designated crisis responder to the authority.

(4) The authority shall create quarterly reports displayed on its web site that summarize the information reported under subsection (2) of this section. At a minimum, the reports must display data by county and by month. The reports must also include the number of single bed certifications granted by category. The categories must include all of the reasons that the authority recognizes for issuing a single bed certification, as identified in rule.

(5) The reports provided according to this section may not display "protected health information" as that term is used in the federal health insurance portability and accountability act of 1996, nor information contained in "mental health treatment records" or "behavioral health treatment records" as ~~((that term is))~~ these terms are used in chapter 70.02 RCW or elsewhere in state law, and must otherwise be compliant with state and federal privacy laws.

(6) For purposes of this section, the term "single bed certification" means a situation in which an adult on a ~~((seventy-two-hour))~~ five-day detention, fourteen-day commitment, ninety-day commitment, or one hundred eighty-day commitment is detained to a facility that is:

(a) Not licensed or certified as an inpatient evaluation and treatment facility; or

(b) A licensed or certified inpatient evaluation and treatment facility that is already at capacity.

**Sec. 62.** RCW 71.05.760 and 2018 c 201 s 3035 are each amended to read as follows:

(1)(a) ~~((By April 1, 2018, the authority, by rule, must combine the functions of a designated mental health professional and designated chemical dependency specialist by establishing a designated crisis responder who is authorized to conduct investigations, detain persons up to seventy two hours to the proper facility, and carry out the other functions identified in this chapter and chapter 71.34~~

~~RCW.))~~ The behavioral health organizations shall provide training to the designated crisis responders as required by the authority.

(b)(i) To qualify as a designated crisis responder, a person must have received chemical dependency training as determined by the department and be a:

(A) Psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or social worker;

(B) Person who is licensed by the department as a mental health counselor or mental health counselor associate, or marriage and family therapist or marriage and family therapist associate;

(C) Person with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university and who have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the direction of a mental health professional;

(D) Person who meets the waiver criteria of RCW 71.24.260, which waiver was granted before 1986;

(E) Person who had an approved waiver to perform the duties of a mental health professional that was requested by the regional support network and granted by the department of social and health services before July 1, 2001; or

(F) Person who has been granted an exception of the minimum requirements of a mental health professional by the department consistent with rules adopted by the secretary.

(ii) Training must include chemical dependency training specific to the duties of a designated crisis responder, including diagnosis of substance abuse and dependence and assessment of risk associated with substance use.

(c) The authority must develop a transition process for any person who has been designated as a designated mental health professional or a designated chemical dependency specialist before April 1, 2018, to be converted to a designated crisis responder. The behavioral health organizations shall provide training, as required by the authority, to persons converting to designated crisis responders, which must include both mental health and chemical dependency training applicable to the designated crisis responder role.

(2)(a) The authority must ensure that at least one sixteen-bed secure detoxification facility is operational by April 1, 2018, and that at least two sixteen-bed secure detoxification facilities are operational by April 1, 2019.

(b) If, at any time during the implementation of secure detoxification facility capacity, federal funding becomes unavailable for federal match for services provided in secure detoxification facilities, then the authority must cease any expansion of secure detoxification facilities until further direction is provided by the legislature.

**Sec. 63.** RCW 71.34.010 and 2018 c 201 s 5001 are each amended to read as follows:

(1) It is the purpose of this chapter to assure that minors in need of ~~((mental))~~ behavioral health care and

treatment receive an appropriate continuum of culturally relevant care and treatment, including prevention and early intervention, self-directed care, parent-directed care, and involuntary treatment. To facilitate the continuum of care and treatment to minors in out-of-home placements, all divisions of the authority and the department that provide ~~((mental))~~ behavioral health services to minors shall jointly plan and deliver those services.

(2) It is also the purpose of this chapter to protect the rights of minors against needless hospitalization and deprivations of liberty and to enable treatment decisions to be made in response to clinical needs in accordance with sound professional judgment. The ~~((mental))~~ behavioral health care and treatment providers shall encourage the use of voluntary services and, whenever clinically appropriate, the providers shall offer less restrictive alternatives to inpatient treatment. Additionally, all ~~((mental))~~ behavioral health care and treatment providers shall assure that minors' parents are given an opportunity to participate in the treatment decisions for their minor children. The ~~((mental))~~ behavioral health care and treatment providers shall, to the extent possible, offer services that involve minors' parents or family.

(3)(a) It is the intent of the legislature to enhance continuity of care for minors with serious behavioral health disorders that can be controlled or stabilized in a less restrictive alternative commitment. Within the guidelines stated in *In re LaBelle*, 107 Wn.2d 196 (1986), the legislature intends to encourage appropriate interventions at a point when there is the best opportunity to restore the minor to or maintain satisfactory functioning.

(b) For minors with a prior history or pattern of repeated hospitalizations or law enforcement interventions due to decompensation, the consideration of prior behavioral health history is particularly relevant in determining whether the minor would receive, if released, such care as is essential for his or her health or safety.

(c) Therefore, the legislature finds that for minors who are currently under a commitment order, a prior history of decompensation leading to repeated hospitalizations or law enforcement interventions should be given great weight in determining whether a new less restrictive alternative commitment should be ordered.

(4) It is also the purpose of this chapter to protect the health and safety of minors suffering from behavioral health disorders and to protect public safety through use of the *parens patriae* and police powers of the state. Accordingly, when construing the requirements of this chapter the court must focus on the merits of the petition, except where requirements have been totally disregarded, as provided in *In re C.W.*, 147 Wn.2d 259, 281 (2002). A presumption in favor of deciding petitions on their merits furthers both public and private interests because the mental and physical well-being of minors as well as public safety may be implicated by the decision to release a minor and discontinue his or her treatment.

(5) It is also the purpose of this chapter to assure the ability of parents to exercise reasonable, compassionate care and control of their minor children when there is a medical necessity for treatment and without the requirement of filing a petition under this chapter.

**Sec. 64.** RCW 71.34.020 and 2018 c 201 s 5002 are each amended to read as follows:

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

(1) "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.

(2) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(3) "Authority" means the Washington state health care authority.

~~(4) ("Chemical dependency" means:~~  
~~(a) Alcoholism;~~  
~~(b) Drug addiction; or~~  
~~(c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.~~

~~(5))~~ "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

~~((6))~~ (5) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

~~((7))~~ (6) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

~~((8))~~ (7) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

~~((9))~~ (8) "Department" means the department of social and health services.

~~((10))~~ (9) "Designated crisis responder" means a person designated by a behavioral health organization to perform the duties specified in this chapter.

~~((11))~~ (10) "Director" means the director of the authority.

~~((12))~~ (11) "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.

~~((13))~~ (12) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or

certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

~~((14))~~ (13) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

~~((15))~~ (14) "Gravely disabled minor" means a minor who, as a result of a ~~((mental))~~ behavioral health disorder ~~(, or as a result of the use of alcohol or other psychoactive chemicals),~~ (a) is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or (b) manifests severe deterioration ~~((in routine functioning))~~ from safe behavior evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

~~((16))~~ (15) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure detoxification facility for minors, or approved substance use disorder treatment program for minors.

~~((17))~~ (16) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

~~((18))~~ (17) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

~~((19))~~ (18) "Likelihood of serious harm" means ~~((either))~~:

(a) A substantial risk that: (i) Physical harm will be inflicted by ~~((an individual))~~ a minor upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; ~~((b) a substantial risk that)~~ (ii) physical harm will be inflicted by ~~((an individual))~~ a minor upon another individual, as evidenced by behavior which has caused ~~((such))~~ harm, substantial pain, or which places another person or persons in reasonable fear of ~~((sustaining such))~~ harm to themselves or others; or ~~((c) a substantial risk that)~~ (iii) physical harm will be inflicted by ~~((an individual))~~ a minor upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The minor has threatened the physical safety of another and has a history of one or more violent acts.

~~((20))~~ (19) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a

substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a handicap, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

~~((21))~~ (20) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

~~((22))~~ (21) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary of the department of health under this chapter.

~~((23))~~ (22) "Minor" means any person under the age of eighteen years.

~~((24))~~ (23) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified service providers as identified by RCW 71.24.025.

~~((25))~~ (24) "Parent" means:

(a) A biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under a joint custody agreement; or

(b) A person or agency judicially appointed as legal guardian or custodian of the child.

~~((26))~~ (25) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

~~((27))~~ (26) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW.

~~((28))~~ (27) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

~~((29))~~ (28) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

~~((30))~~ (29) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

~~((31))~~ (30) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

~~((32))~~ (31) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

~~((33))~~ (32) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

~~((34))~~ (33) "Secretary" means the secretary of the department or secretary's designee.

~~((35))~~ (34) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that:

(a) Provides for intoxicated minors:

(i) Evaluation and assessment, provided by certified chemical dependency professionals;

(ii) Acute or subacute detoxification services; and

(iii) Discharge assistance provided by certified chemical dependency professionals, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the minor;

(b) Includes security measures sufficient to protect the patients, staff, and community; and

(c) Is licensed or certified as such by the department of health.

~~((36))~~ (35) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

~~((37))~~ (36) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

~~((38))~~ (37) "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.

(38) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a minor should be examined or treated as a patient in a hospital.

(39) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to, atypical antipsychotic medications.

(40) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a minor patient.

(41) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder.

(42) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms.

(43) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, such as a residential treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization.

(44) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

(45) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter.

(46) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department.

(47) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

(48) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(49) "Habilitative services" means those services provided by program personnel to assist minors in acquiring and maintaining life skills and in raising their levels of physical, behavioral, social, and vocational functioning. Habilitative services include education, training for employment, and therapy.

(50) "Hearing" means any proceeding conducted in open court that conforms to the requirements of section 99 of this act.

(51) "History of one or more violent acts" refers to the period of time five years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction.

(52) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which states:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

(53) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter.

(54) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130.

(55) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(56) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder.

(57) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

(58) "Release" means legal termination of the commitment under the provisions of this chapter.

(59) "Resource management services" has the meaning given in chapter 71.24 RCW.

(60) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior.

(61) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties.

(62) "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, the department of health, the authority, behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, the department of health, the authority, behavioral health organizations, or a treatment facility if the notes or records are not available to others.

(63) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility.

(64) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

(65) "Written order of apprehension" means an order of the court for a peace officer to deliver the named minor in the order to a facility or emergency room as determined by the designated crisis responder. Such orders must be entered into the Washington crime information center database.

**Sec. 65.** RCW 71.34.305 and 2016 sp.s. c 29 s 255 are each amended to read as follows:

School district personnel who contact a ~~((mental health or substance use))~~ behavioral health disorder inpatient treatment program or provider for the purpose of referring a student to inpatient treatment shall provide the parents with notice of the contact within forty-eight hours.

**Sec. 66.** RCW 71.34.310 and 1985 c 354 s 26 are each amended to read as follows:

(1) The superior court has jurisdiction over proceedings under this chapter.

(2) A record of all petitions and proceedings under this chapter shall be maintained by the clerk of the superior court in the county in which the petition or proceedings was initiated.

(3) Petitions for commitment shall be filed and venue for hearings under this chapter shall be in the county in which the minor is being detained. ~~((The court may, for good cause, transfer the proceeding to the county of the minor's residence, or to the county in which the alleged conduct evidencing need for commitment occurred. If the county of detention is changed, subsequent petitions may be filed in the county in which the minor is detained without the necessity of a change of venue.))~~

**NEW SECTION. Sec. 67.** A new section is added to chapter 71.34 RCW to read as follows:

A peace officer may take or authorize a minor to be taken into custody and immediately delivered to an appropriate triage facility, crisis stabilization unit, evaluation and treatment facility, secure detoxification facility, approved substance use disorder treatment program, or the emergency department of a local hospital when he or she has reasonable cause to believe that such minor is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is gravely disabled. Until July 1, 2026, a peace officer's delivery of a minor to a secure detoxification facility or approved substance use disorder treatment program is subject to the availability of a secure detoxification facility or approved substance use

disorder treatment program with adequate space for the minor.

**Sec. 68.** RCW 71.34.355 and 2016 c 155 s 18 are each amended to read as follows:

(1) Absent a risk to self or others, minors treated under this chapter have the following rights, which shall be prominently posted in the evaluation and treatment facility:

~~((1))~~ (a) To wear their own clothes and to keep and use personal possessions;

~~((2))~~ (b) To keep and be allowed to spend a reasonable sum of their own money for canteen expenses and small purchases;

~~((3))~~ (c) To have individual storage space for private use;

~~((4))~~ (d) To have visitors at reasonable times;

~~((5))~~ (e) To have reasonable access to a telephone, both to make and receive confidential calls;

~~((6))~~ (f) To have ready access to letter-writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

~~((7))~~ (g) To discuss treatment plans and decisions with mental health professionals;

~~((8))~~ (h) To have the right to adequate care and individualized treatment;

~~((9))~~ (i) To not be denied access to treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination in addition to the treatment otherwise proposed;

(j) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.34.750 or the performance of electroconvulsive treatment or surgery, except emergency lifesaving surgery, upon him or her, ~~(and not to have electroconvulsive treatment or nonemergency surgery in such circumstance)~~ unless ordered by a court ~~(pursuant to a judicial hearing in which the minor is present and represented by counsel, and the court shall appoint a psychiatrist, physician assistant, psychologist, psychiatric advanced registered nurse practitioner, or physician designated by the minor or the minor's counsel to testify on behalf of the minor)~~ under procedures described in RCW 71.05.217(1)(j). The minor's parent may exercise this right on the minor's behalf, and must be informed of any impending treatment;

~~((10))~~ (k) Not to have psychosurgery performed on him or her under any circumstances.

(2)(a) Privileges between minors and physicians, physician assistants, psychologists, or psychiatric advanced registered nurse practitioners are deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under this chapter, the privileges are waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained minor or the public.

(b) The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained minor for purposes of a proceeding under this chapter. Upon motion by the detained minor or on its own motion, the court shall examine a record or testimony sought

by a petitioner to determine whether it is within the scope of the waiver.

(c) The record maker may not be required to testify in order to introduce medical or psychological records of the detained minor so long as the requirements of RCW 5.45.020 are met except that portions of the record which contain opinions as to the detained minor's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.

(3) No minor may be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder or substance use disorder, under this chapter or any prior laws of this state dealing with mental illness or substance use disorders.

**NEW SECTION. Sec. 69.** A new section is added to chapter 71.34 RCW to read as follows:

At the time a minor is involuntarily admitted to an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, the professional person in charge or his or her designee shall take reasonable precautions to inventory and safeguard the personal property of the detained minor. A copy of the inventory, signed by the staff member making it, must be given to the detained minor and must, in addition, be open to inspection to any responsible relative, subject to limitations, if any, specifically imposed by the detained minor. For purposes of this section, "responsible relative" includes the guardian, conservator, attorney, parent, or adult brother or sister of the minor. The facility shall not disclose the contents of the inventory to any other person without the consent of the minor or order of the court.

**Sec. 70.** RCW 71.34.365 and 2018 c 201 s 5004 are each amended to read as follows:

(1) If a minor is not accepted for admission or is released by an inpatient evaluation and treatment facility, the facility shall release the minor to the custody of the minor's parent or other responsible person. If not otherwise available, the facility shall furnish transportation for the minor to the minor's residence or other appropriate place. If the minor has been arrested, the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program shall detain the minor for not more than eight hours at the request of the peace officer. The program or facility shall make reasonable attempts to contact the requesting peace officer during this time to inform the peace officer that the minor is not approved for admission or is being released in order to enable a peace officer to return to the facility and take the minor back into custody.

(2) If the minor is released to someone other than the minor's parent, the facility shall make every effort to notify the minor's parent of the release as soon as possible.

(3) No indigent minor may be released to less restrictive alternative treatment or setting or discharged from inpatient treatment without suitable clothing, and the authority shall furnish this clothing. As funds are available, the director may provide necessary funds for the immediate welfare of indigent minors upon discharge or release to less restrictive alternative treatment.

**Sec. 71.** RCW 71.34.410 and 2016 sp.s. c 29 s 259 are each amended to read as follows:

(1) No public or private agency or governmental entity, nor officer of a public or private agency, nor the superintendent, or professional person in charge, his or her professional designee or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a ~~((person))~~ minor under this chapter, nor any designated crisis responder, nor professional person, nor evaluation and treatment facility, nor secure detoxification facility, nor approved substance use disorder treatment program shall be civilly or criminally liable for performing actions authorized in this chapter with regard to the decision of whether to admit, release, administer antipsychotic medications, or detain a ~~((person))~~ minor for evaluation and treatment: PROVIDED, That such duties were performed in good faith and without gross negligence.

(2) This section does not relieve a person from giving the required duty to warn or to take reasonable precautions to provide protection from violent behavior where the minor has communicated an actual threat of physical violence against a reasonably identifiable victim or victims. The duty to warn or to take reasonable precautions to provide protection from violent behavior is discharged if reasonable efforts are made to communicate the threat to the victim or victims and to law enforcement personnel.

**Sec. 72.** RCW 71.34.420 and 2018 c 201 s 5012 are each amended to read as follows:

(1) The authority may use a single bed certification process as outlined in rule to provide additional treatment capacity for a minor suffering from a ~~((mental))~~ behavioral health disorder for whom an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program bed is not available. The facility that is the proposed site of the single bed certification must be a facility that is willing and able to provide the person with timely and appropriate treatment either directly or by arrangement with other public or private agencies.

(2) A single bed certification must be specific to the minor receiving treatment.

(3) A designated crisis responder who submits an application for a single bed certification for treatment at a facility that is willing and able to provide timely and appropriate ~~((mental))~~ behavioral health treatment in good faith belief that the single bed certification is appropriate may presume that the single bed certification will be approved for the purpose of completing the detention process and responding to other emergency calls.

(4) The authority may adopt rules implementing this section and continue to enforce rules it has already adopted except where inconsistent with this section.

**NEW SECTION. Sec. 73.** A new section is added to chapter 71.34 RCW to read as follows:

Nothing in this chapter shall prohibit the professional person in charge of a treatment facility, or his or her professional designee, from permitting a minor detained for intensive treatment to leave the facility for

prescribed periods during the term of the minor's detention, under such conditions as may be appropriate.

**Sec. 74.** RCW 71.34.500 and 2016 sp.s. c 29 s 261 are each amended to read as follows:

(1) A minor thirteen years or older may admit himself or herself to an evaluation and treatment facility for inpatient mental health treatment or an approved substance use disorder treatment program for inpatient substance use disorder treatment without parental consent. The admission shall occur only if the professional person in charge of the facility concurs with the need for inpatient treatment. Parental authorization, or authorization from a person who may consent on behalf of the minor pursuant to RCW 7.70.065, is required for inpatient treatment of a minor under the age of thirteen.

(2) When, in the judgment of the professional person in charge of an evaluation and treatment facility or approved substance use disorder treatment program, there is reason to believe that a minor is in need of inpatient treatment because of a ~~((mental disorder or substance use))~~ behavioral health disorder, and the facility provides the type of evaluation and treatment needed by the minor, and it is not feasible to treat the minor in any less restrictive setting or the minor's home, the minor may be admitted to the facility.

(3) Written renewal of voluntary consent must be obtained from the applicant no less than once every twelve months. The minor's need for continued inpatient treatments shall be reviewed and documented no less than every one hundred eighty days.

**Sec. 75.** RCW 71.34.600 and 2018 c 201 s 5013 are each amended to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to:

(a) An evaluation and treatment facility or an inpatient facility licensed under chapter 70.41, 71.12, or 72.23 RCW and request that the professional person examine the minor to determine whether the minor has a mental disorder and is in need of inpatient treatment; or

(b) A secure detoxification facility or approved substance use disorder treatment program and request that a substance use disorder assessment be conducted by a professional person to determine whether the minor has a substance use disorder and is in need of inpatient treatment.

(2) The consent of the minor is not required for admission, evaluation, and treatment if ~~((the))~~ a parent ~~((brings the minor to the facility))~~ provides consent.

(3) An appropriately trained professional person may evaluate whether the minor has a ~~((mental disorder or has a substance use))~~ behavioral health disorder. The evaluation shall be completed within twenty-four hours of the time the minor was brought to the facility, unless the professional person determines that the condition of the minor necessitates additional time for evaluation. In no event shall a minor be held longer than seventy-two hours for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the minor to receive inpatient treatment, the minor may be held for treatment. The facility shall limit treatment to that which the

professional person determines is medically necessary to stabilize the minor's condition until the evaluation has been completed. Within twenty-four hours of completion of the evaluation, the professional person shall notify the authority if the child is held for treatment and of the date of admission.

(4) No provider is obligated to provide treatment to a minor under the provisions of this section except that no provider may refuse to treat a minor under the provisions of this section solely on the basis that the minor has not consented to the treatment. No provider may admit a minor to treatment under this section unless it is medically necessary.

(5) No minor receiving inpatient treatment under this section may be discharged from the facility based solely on his or her request.

(6) Prior to the review conducted under RCW 71.34.610, the professional person shall notify the minor of his or her right to petition superior court for release from the facility.

~~((7) For the purposes of this section "professional person" means "professional person" as defined in RCW 71.05.020.))~~

**Sec. 76.** RCW 71.34.600 and 2018 c 201 s 5013 are each amended to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to:

(a) An evaluation and treatment facility or an inpatient facility licensed under chapter 70.41, 71.12, or 72.23 RCW and request that the professional person examine the minor to determine whether the minor has a mental disorder and is in need of inpatient treatment; or

(b) A secure detoxification facility or approved substance use disorder treatment program and request that a substance use disorder assessment be conducted by a professional person to determine whether the minor has a substance use disorder and is in need of inpatient treatment.

(2) The consent of the minor is not required for admission, evaluation, and treatment if ~~((the))~~ a parent ~~((brings the minor to the facility))~~ provides consent.

(3) An appropriately trained professional person may evaluate whether the minor has a ~~((mental disorder or has a substance use))~~ behavioral health disorder. The evaluation shall be completed within twenty-four hours of the time the minor was brought to the facility, unless the professional person determines that the condition of the minor necessitates additional time for evaluation. In no event shall a minor be held longer than ~~((seventy-two hours))~~ five days for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the minor to receive inpatient treatment, the minor may be held for treatment. The facility shall limit treatment to that which the professional person determines is medically necessary to stabilize the minor's condition until the evaluation has been completed. Within twenty-four hours of completion of the evaluation, the professional person shall notify the authority if the child is held for treatment and of the date of admission.

(4) No provider is obligated to provide treatment to a minor under the provisions of this section except that no provider may refuse to treat a minor under the provisions of this section solely on the basis that the minor has not

consented to the treatment. No provider may admit a minor to treatment under this section unless it is medically necessary.

(5) No minor receiving inpatient treatment under this section may be discharged from the facility based solely on his or her request.

(6) Prior to the review conducted under RCW 71.34.610, the professional person shall notify the minor of his or her right to petition superior court for release from the facility.

~~((7) For the purposes of this section "professional person" means "professional person" as defined in RCW 71.05.020.))~~

**Sec. 77.** RCW 71.34.650 and 2016 sp.s. c 29 s 265 are each amended to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to~~((~~

~~((a))~~ a provider of outpatient ~~((mental))~~ behavioral health treatment and request that an appropriately trained professional person examine the minor to determine whether the minor has a ~~((mental))~~ behavioral health disorder and is in need of outpatient treatment~~((; or~~

~~((b) A provider of outpatient substance use disorder treatment and request that an appropriately trained professional person examine the minor to determine whether the minor has a substance use disorder and is in need of outpatient treatment)).~~

(2) The consent of the minor is not required for evaluation if ~~((the))~~ a parent ~~((brings the minor to the provider))~~ provides consent.

(3) The professional person may evaluate whether the minor has a ~~((mental disorder or substance use))~~ behavioral health disorder and is in need of outpatient treatment.

(4) Any minor admitted to inpatient treatment under RCW 71.34.500 or 71.34.600 shall be discharged immediately from inpatient treatment upon written request of the parent.

**Sec. 78.** RCW 71.34.700 and 2016 sp.s. c 29 s 267 are each amended to read as follows:

(1) If a minor, thirteen years or older, is brought to an evaluation and treatment facility, secure detoxification facility with available space, approved substance use disorder treatment program with available space, or hospital emergency room for immediate ~~((mental))~~ behavioral health services, the professional person in charge of the facility shall evaluate the minor's ~~((mental))~~ condition, determine whether the minor suffers from a ~~((mental))~~ behavioral health disorder, and whether the minor is in need of immediate inpatient treatment.

~~((2) ((If a minor, thirteen years or older, is brought to a secure detoxification facility with available space, or a hospital emergency room for immediate substance use disorder treatment, the professional person in charge of the facility shall evaluate the minor's condition, determine whether the minor suffers from substance use disorder, and whether the minor is in need of immediate inpatient treatment.~~

~~(3))~~ If it is determined under subsection (1) ~~((or~~ ~~(2))~~ of this section that the minor suffers from a ~~((mental disorder or substance use))~~ behavioral health disorder, inpatient treatment is required, the minor is unwilling to consent to voluntary admission, and the professional person believes that the minor meets the criteria for initial detention ~~((set forth herein))~~, the facility may detain or arrange for the detention of the minor for up to twelve hours, not including time periods prior to medical clearance, in order to enable a designated crisis responder to evaluate the minor and commence initial detention proceedings under the provisions of this chapter.

(3) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section, based on the purpose of this chapter under RCW 71.34.010, except in the few cases where the facility staff or the designated crisis responder have totally disregarded the requirements of this section.

**Sec. 79.** RCW 71.34.700 and 2016 sp.s. c 29 s 268 are each amended to read as follows:

(1) If a minor, thirteen years or older, is brought to an evaluation and treatment facility, secure detoxification facility, approved substance use disorder treatment program, or hospital emergency room for immediate ~~((mental))~~ behavioral health services, the professional person in charge of the facility shall evaluate the minor's ~~((mental))~~ condition, determine whether the minor suffers from a ~~((mental))~~ behavioral health disorder, and whether the minor is in need of immediate inpatient treatment.

~~(2) ((If a minor, thirteen years or older, is brought to a secure detoxification facility or a hospital emergency room for immediate substance use disorder treatment, the professional person in charge of the facility shall evaluate the minor's condition, determine whether the minor suffers from substance use disorder, and whether the minor is in need of immediate inpatient treatment.~~

~~(3))~~ If it is determined under subsection (1) ~~((or~~ ~~(2))~~ of this section that the minor suffers from a ~~((mental disorder or substance use))~~ behavioral health disorder, inpatient treatment is required, the minor is unwilling to consent to voluntary admission, and the professional person believes that the minor meets the criteria for initial detention ~~((set forth herein))~~, the facility may detain or arrange for the detention of the minor for up to twelve hours, not including time periods prior to medical clearance, in order to enable a designated crisis responder to evaluate the minor and commence initial detention proceedings under the provisions of this chapter.

(3) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section, based on the purpose of this chapter under RCW 71.34.010, except in the few cases where the facility staff or the designated crisis responder have totally disregarded the requirements of this section.

**NEW SECTION. Sec. 80.** A new section is added to chapter 71.34 RCW to read as follows:

(1) Whenever a designated crisis responder or professional person is conducting an evaluation under this

chapter, the designated crisis responder or professional person must consider all reasonably available information from credible witnesses and records regarding:

(a) Historical behavior, including history of one or more violent acts; and

(b) Prior commitments under this chapter.

(2) Credible witnesses may include family members, landlords, neighbors, or others with significant contact and history of involvement with the minor. If the designated crisis responder relies upon information from a credible witness in reaching his or her decision to detain the minor, then he or she must provide contact information for any such witness to the prosecutor. The designated crisis responder or prosecutor shall provide notice of the date, time, and location of the probable cause hearing to such a witness.

(3) Symptoms and behavior of the minor which standing alone would not justify civil commitment may support a finding of grave disability or likelihood of serious harm, when:

(a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration from safe behavior, or one or more violent acts;

(b) These symptoms or behavior represent a marked and concerning change in the baseline behavior of the minor; and

(c) Without treatment, the continued deterioration of the minor is probable.

**Sec. 81.** RCW 71.34.710 and 2016 sp.s. c 29 s 269 are each amended to read as follows:

(1)(a)~~((i))~~ When a designated crisis responder receives information that a minor, thirteen years or older, as a result of a ~~((mental))~~ behavioral health disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the minor, or cause the minor to be taken, into custody and transported to an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program providing inpatient treatment.

~~((ii) When a designated crisis responder receives information that a minor, thirteen years or older, as a result of substance use disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the minor, or cause the minor to be taken, into custody and transported to a secure detoxification facility or approved substance use disorder treatment program, if) A secure detoxification facility or approved substance use disorder treatment program ~~((is))~~ must be available and ~~((has))~~ have adequate space for the minor.~~

(b) If ~~((the minor is not taken into custody for evaluation and treatment, the parent who has custody of the minor may seek review of that decision made by the designated crisis responder in court. The parent shall file~~

~~notice with the court and provide a copy of the designated crisis responder's report or notes)) a designated crisis responder decides not to detain a minor for evaluation and treatment under RCW 71.34.700(2), or forty-eight hours have elapsed since a designated crisis responder received a request for investigation and the designated crisis responder has not taken action to have the minor detained, an immediate family member or guardian or conservator of the minor may petition the superior court for the minor's detention using the procedures under RCW 71.05.201 and 71.05.203; however, when the court enters an order of initial detention, except as otherwise expressly stated in this chapter, all procedures must be followed as if the order has been entered under RCW 71.34.710(1)(a).~~

(2)(a) Within twelve hours of the minor's arrival at the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, the designated crisis responder shall serve on the minor a copy of the petition for initial detention, notice of initial detention, and statement of rights. The designated crisis responder shall file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service. The designated crisis responder shall commence service of the petition for initial detention and notice of the initial detention on the minor's parent and the minor's attorney as soon as possible following the initial detention.

~~(b) If the minor is involuntarily detained at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program in a different county from where the minor was initially detained, the facility or program may serve the minor, notify the minor's parents and the minor's attorney, and file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service when filing with the court at the request of the designated crisis responder.~~

(3)(a) At the time of initial detention, the designated crisis responder shall advise the minor both orally and in writing that if admitted to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program for inpatient treatment, a commitment hearing shall be held within seventy-two hours of the minor's provisional acceptance to determine whether probable cause exists to commit the minor for further treatment.

(b) The minor shall be advised that he or she has a right to communicate immediately with an attorney and that he or she has a right to have an attorney appointed to represent him or her before and at the hearing if the minor is indigent.

(4) Subject to subsection (5) of this section, whenever the designated crisis responder petitions for detention of a minor under this chapter, an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program providing seventy-two hour evaluation and treatment must immediately accept on a provisional basis the petition and the person. Within twenty-four hours of the minor's arrival,

the facility must evaluate the minor's condition and either admit or release the minor in accordance with this chapter.

(5) A designated crisis responder may not petition for detention of a minor to a secure detoxification facility or approved substance use disorder treatment program unless there is a secure detoxification facility or approved substance use disorder treatment program available and that has adequate space for the minor.

(6) If a minor is not approved for admission by the inpatient evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, the facility shall make such recommendations and referrals for further care and treatment of the minor as necessary.

~~(7) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section, based on the purpose of this chapter under RCW 71.34.010, except in the few cases where the facility staff or the designated crisis responder have totally disregarded the requirements of this section.~~

**Sec. 82.** RCW 71.34.710 and 2016 sp.s. c 29 s 269 are each amended to read as follows:

(1)(a)((+)) When a designated crisis responder receives information that a minor, thirteen years or older, as a result of a ~~(mental)~~ behavioral health disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the minor, or cause the minor to be taken, into custody and transported to an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program providing inpatient treatment.

~~((ii) When a designated crisis responder receives information that a minor, thirteen years or older, as a result of substance use disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the minor, or cause the minor to be taken, into custody and transported to a secure detoxification facility or approved substance use disorder treatment program, if) A~~ secure detoxification facility or approved substance use disorder treatment program ~~((is))~~ must be available and ~~((has))~~ have adequate space for the minor.

(b) If ~~((the minor is not taken into custody for evaluation and treatment, the parent who has custody of the minor may seek review of that decision made by the designated crisis responder in court. The parent shall file notice with the court and provide a copy of the designated crisis responder's report or notes))~~ a designated crisis responder decides not to detain a minor for evaluation and treatment under RCW 71.34.700(2), or forty-eight hours have elapsed since a designated crisis responder received a request for investigation and the designated crisis responder has not taken action to have the minor detained, an immediate family member or guardian or conservator of the

minor may petition the superior court for the minor's detention using the procedures under RCW 71.05.201 and 71.05.203; however, when the court enters an order of initial detention, except as otherwise expressly stated in this chapter, all procedures must be followed as if the order has been entered under RCW 71.34.710(1)(a).

(2)(a) Within twelve hours of the minor's arrival at the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, the designated crisis responder shall serve on the minor a copy of the petition for initial detention, notice of initial detention, and statement of rights. The designated crisis responder shall file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service. The designated crisis responder shall commence service of the petition for initial detention and notice of the initial detention on the minor's parent and the minor's attorney as soon as possible following the initial detention.

(b) If the minor is involuntarily detained at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program in a different county from where the minor was initially detained, the facility or program may serve the minor, notify the minor's parents and the minor's attorney, and file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service when filing with the court at the request of the designated crisis responder.

(3)(a) At the time of initial detention, the designated crisis responder shall advise the minor both orally and in writing that if admitted to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program for inpatient treatment, a commitment hearing shall be held within ~~((seventy two hours))~~ five days of the minor's provisional acceptance to determine whether probable cause exists to commit the minor for further treatment.

(b) The minor shall be advised that he or she has a right to communicate immediately with an attorney and that he or she has a right to have an attorney appointed to represent him or her before and at the hearing if the minor is indigent.

(4) Subject to subsection (5) of this section, whenever the designated crisis responder petitions for detention of a minor under this chapter, an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program providing ~~((seventy two hour))~~ five-day evaluation and treatment must immediately accept on a provisional basis the petition and the person. Within twenty-four hours of the minor's arrival, the facility must evaluate the minor's condition and either admit or release the minor in accordance with this chapter.

(5) A designated crisis responder may not petition for detention of a minor to a secure detoxification facility or approved substance use disorder treatment program unless there is a secure detoxification facility or approved substance use disorder treatment program available and that has adequate space for the minor.

(6) If a minor is not approved for admission by the inpatient evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, the facility shall make such recommendations and referrals for further care and treatment of the minor as necessary.

(7) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section, based on the purpose of this chapter under RCW 71.34.010, except in the few cases where the facility staff or the designated crisis responder have totally disregarded the requirements of this section.

**Sec. 83.** RCW 71.34.710 and 2016 sp.s. c 29 s 270 are each amended to read as follows:

(1)(a)((+)) When a designated crisis responder receives information that a minor, thirteen years or older, as a result of a ~~((mental))~~ behavioral health disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the minor, or cause the minor to be taken, into custody and transported to an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program providing inpatient treatment.

~~((ii) When a designated crisis responder receives information that a minor, thirteen years or older, as a result of substance use disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the minor, or cause the minor to be taken, into custody and transported to a secure detoxification facility or approved substance use disorder treatment program.))~~

(b) If ~~((the minor is not taken into custody for evaluation and treatment, the parent who has custody of the minor may seek review of that decision made by the designated crisis responder in court. The parent shall file notice with the court and provide a copy of the designated crisis responder's report or notes))~~ a designated crisis responder decides not to detain a minor for evaluation and treatment under RCW 71.34.700(2), or forty-eight hours have elapsed since a designated crisis responder received a request for investigation and the designated crisis responder has not taken action to have the minor detained, an immediate family member or guardian or conservator of the minor may petition the superior court for the minor's detention using the procedures under RCW 71.05.201 and 71.05.203; however, when the court enters an order of initial detention, except as otherwise expressly stated in this chapter, all procedures must be followed as if the order has been entered under RCW 71.34.710(1)(a).

(2)(a) Within twelve hours of the minor's arrival at the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, the designated crisis responder shall serve on the minor a copy of the petition for initial detention, notice of

initial detention, and statement of rights. The designated crisis responder shall file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service. The designated crisis responder shall commence service of the petition for initial detention and notice of the initial detention on the minor's parent and the minor's attorney as soon as possible following the initial detention.

(b) If the minor is involuntarily detained at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program in a different county from where the minor was initially detained, the facility or program may serve the minor, notify the minor's parents and the minor's attorney, and file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service when filing with the court at the request of the designated crisis responder.

(3)(a) At the time of initial detention, the designated crisis responder shall advise the minor both orally and in writing that if admitted to the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program for inpatient treatment, a commitment hearing shall be held within ~~((seventy-two hours))~~ five days of the minor's provisional acceptance to determine whether probable cause exists to commit the minor for further treatment.

(b) The minor shall be advised that he or she has a right to communicate immediately with an attorney and that he or she has a right to have an attorney appointed to represent him or her before and at the hearing if the minor is indigent.

(4) Whenever the designated crisis responder petitions for detention of a minor under this chapter, an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program providing ~~((seventy-two hour))~~ five-day evaluation and treatment must immediately accept on a provisional basis the petition and the person. Within twenty-four hours of the minor's arrival, the facility must evaluate the minor's condition and either admit or release the minor in accordance with this chapter.

(5) If a minor is not approved for admission by the inpatient evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program, the facility shall make such recommendations and referrals for further care and treatment of the minor as necessary.

(6) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section, based on the purpose of this chapter under RCW 71.34.010, except in the few cases where the facility staff or the designated crisis responder have totally disregarded the requirements of this section.

**Sec. 84.** RCW 71.34.720 and 2018 c 201 s 5017 are each amended to read as follows:

(1) Each minor approved by the facility for inpatient admission shall be examined and evaluated by a children's

mental health specialist, for minors admitted as a result of a mental disorder, or by a chemical dependency professional, for minors admitted as a result of a substance use disorder, as to the child's mental condition and by a physician, physician assistant, or psychiatric advanced registered nurse practitioner as to the child's physical condition within twenty-four hours of admission. Reasonable measures shall be taken to ensure medical treatment is provided for any condition requiring immediate medical attention.

(2) If, after examination and evaluation, the children's mental health specialist or substance use disorder specialist and the physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the minor, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment program or, if detained to a secure detoxification facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility, then the minor shall be referred to the more appropriate placement; however a minor may only be referred to a secure detoxification facility or approved substance use disorder treatment program if there is a secure detoxification facility or approved substance use disorder treatment program available and that has adequate space for the minor.

(3) The admitting facility shall take reasonable steps to notify immediately the minor's parent of the admission.

(4) During the initial seventy-two hour treatment period, the minor has a right to associate or receive communications from parents or others unless the professional person in charge determines that such communication would be seriously detrimental to the minor's condition or treatment and so indicates in the minor's clinical record, and notifies the minor's parents of this determination. ~~((In no event may the minor))~~ A minor must not be denied the opportunity to consult an attorney unless there is an immediate risk of harm to the minor or others.

(5) If the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program admits the minor, it may detain the minor for evaluation and treatment for a period not to exceed seventy-two hours from the time of provisional acceptance. The computation of such seventy-two hour period shall exclude Saturdays, Sundays, and holidays. This initial treatment period shall not exceed seventy-two hours except when an application for voluntary inpatient treatment is received or a petition for fourteen-day commitment is filed.

(6) Within twelve hours of the admission, the facility shall advise the minor of his or her rights as set forth in this chapter.

**Sec. 85.** RCW 71.34.720 and 2018 c 201 s 5017 are each amended to read as follows:

(1) Each minor approved by the facility for inpatient admission shall be examined and evaluated by a children's mental health specialist, for minors admitted as a result of a mental disorder, or by a chemical dependency professional, for minors admitted as a result of a substance use disorder, as to the child's mental condition and by a physician, physician assistant, or psychiatric advanced registered nurse practitioner as to the child's physical condition within

twenty-four hours of admission. Reasonable measures shall be taken to ensure medical treatment is provided for any condition requiring immediate medical attention.

(2) If, after examination and evaluation, the children's mental health specialist or substance use disorder specialist and the physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the minor, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment program or, if detained to a secure detoxification facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility, then the minor shall be referred to the more appropriate placement; however a minor may only be referred to a secure detoxification facility or approved substance use disorder treatment program if there is a secure detoxification facility or approved substance use disorder treatment program available and that has adequate space for the minor.

(3) The admitting facility shall take reasonable steps to notify immediately the minor's parent of the admission.

(4) During the initial ~~((seventy-two hour))~~ five-day treatment period, the minor has a right to associate or receive communications from parents or others unless the professional person in charge determines that such communication would be seriously detrimental to the minor's condition or treatment and so indicates in the minor's clinical record, and notifies the minor's parents of this determination. ~~((In no event may the minor))~~ A minor must not be denied the opportunity to consult an attorney unless there is an immediate risk of harm to the minor or others.

(5) If the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program admits the minor, it may detain the minor for evaluation and treatment for a period not to exceed ~~((seventy-two hours))~~ five days from the time of provisional acceptance. The computation of such ~~((seventy-two hour))~~ five-day period shall exclude Saturdays, Sundays, and holidays. This initial treatment period shall not exceed ~~((seventy-two hours))~~ five days except when an application for voluntary inpatient treatment is received or a petition for fourteen-day commitment is filed.

(6) Within twelve hours of the admission, the facility shall advise the minor of his or her rights as set forth in this chapter.

**Sec. 86.** RCW 71.34.720 and 2018 c 201 s 5018 are each amended to read as follows:

(1) Each minor approved by the facility for inpatient admission shall be examined and evaluated by a children's mental health specialist, for minors admitted as a result of a mental disorder, or by a chemical dependency professional, for minors admitted as a result of a substance use disorder, as to the child's mental condition and by a physician, physician assistant, or psychiatric advanced registered nurse practitioner as to the child's physical condition within twenty-four hours of admission. Reasonable measures shall be taken to ensure medical treatment is provided for any condition requiring immediate medical attention.

(2) If, after examination and evaluation, the children's mental health specialist or substance use disorder

specialist and the physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the minor, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment program or, if detained to a secure detoxification facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility, then the minor shall be referred to the more appropriate placement.

(3) The admitting facility shall take reasonable steps to notify immediately the minor's parent of the admission.

(4) During the initial ~~((seventy-two hour))~~ five-day treatment period, the minor has a right to associate or receive communications from parents or others unless the professional person in charge determines that such communication would be seriously detrimental to the minor's condition or treatment and so indicates in the minor's clinical record, and notifies the minor's parents of this determination. ~~((In no event may the minor))~~ A minor must not be denied the opportunity to consult an attorney unless there is an immediate risk of harm to the minor or others.

(5) If the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program admits the minor, it may detain the minor for evaluation and treatment for a period not to exceed ~~((seventy-two hours))~~ five days from the time of provisional acceptance. The computation of such ~~((seventy-two hour))~~ five-day period shall exclude Saturdays, Sundays, and holidays. This initial treatment period shall not exceed ~~((seventy-two hours))~~ five days except when an application for voluntary inpatient treatment is received or a petition for fourteen-day commitment is filed.

(6) Within twelve hours of the admission, the facility shall advise the minor of his or her rights as set forth in this chapter.

**Sec. 87.** RCW 71.34.730 and 2016 sp.s. c 29 s 273 and 2016 c 155 s 20 are each reenacted and amended to read as follows:

(1) The professional person in charge of an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program where a minor has been admitted involuntarily for the initial seventy-two hour treatment period under this chapter may petition to have a minor committed to an evaluation and treatment facility ~~((or, in the case of a minor with a substance use disorder, to))~~, a secure detoxification facility, or an approved substance use disorder treatment program for fourteen-day diagnosis, evaluation, and treatment.

If the professional person in charge of the facility does not petition to have the minor committed, the parent who has custody of the minor may seek review of that decision in court. The parent shall file notice with the court and provide a copy of the treatment and evaluation facility's report.

(2) A petition for commitment of a minor under this section shall be filed with the superior court in the county where the minor is ~~((residing or))~~ being detained.

(a) A petition for a fourteen-day commitment shall be signed by: (i) Two physicians; (ii) one physician and a

mental health professional; (iii) one physician assistant and a mental health professional; or (iv) one psychiatric advanced registered nurse practitioner and a mental health professional. The person signing the petition must have examined the minor, and the petition must contain the following:

- (A) The name and address of the petitioner;
  - (B) The name of the minor alleged to meet the criteria for fourteen-day commitment;
  - (C) The name, telephone number, and address if known of every person believed by the petitioner to be legally responsible for the minor;
  - (D) A statement that the petitioner has examined the minor and finds that the minor's condition meets required criteria for fourteen-day commitment and the supporting facts therefor;
  - (E) A statement that the minor has been advised of the need for voluntary treatment but has been unwilling or unable to consent to necessary treatment;
  - (F) If the petition is for mental health treatment, a statement that the minor has been advised of the loss of firearm rights if involuntarily committed;
  - (G) A statement recommending the appropriate facility or facilities to provide the necessary treatment; and
  - (H) A statement concerning whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.
- (b) A copy of the petition shall be personally ~~((delivered to))~~ served on the minor by the petitioner or petitioner's designee. A copy of the petition shall be ~~((sent))~~ provided to the minor's attorney and the minor's parent.

**Sec. 88.** RCW 71.34.730 and 2016 sp.s. c 29 s 273 and 2016 c 155 s 20 are each reenacted and amended to read as follows:

(1) The professional person in charge of an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program where a minor has been admitted involuntarily for the initial ~~((seventy-two hour))~~ five-day treatment period under this chapter may petition to have a minor committed to an evaluation and treatment facility ~~((or, in the case of a minor with a substance use disorder, to))~~, a secure detoxification facility, or an approved substance use disorder treatment program for fourteen-day diagnosis, evaluation, and treatment.

If the professional person in charge of the facility does not petition to have the minor committed, the parent who has custody of the minor may seek review of that decision in court. The parent shall file notice with the court and provide a copy of the treatment and evaluation facility's report.

(2) A petition for commitment of a minor under this section shall be filed with the superior court in the county where the minor is ~~((residing or))~~ being detained.

(a) A petition for a fourteen-day commitment shall be signed by: (i) Two physicians; (ii) one physician and a mental health professional; (iii) one physician assistant and a mental health professional; or (iv) one psychiatric advanced registered nurse practitioner and a mental health professional. The person signing the petition must have

examined the minor, and the petition must contain the following:

- (A) The name and address of the petitioner;
  - (B) The name of the minor alleged to meet the criteria for fourteen-day commitment;
  - (C) The name, telephone number, and address if known of every person believed by the petitioner to be legally responsible for the minor;
  - (D) A statement that the petitioner has examined the minor and finds that the minor's condition meets required criteria for fourteen-day commitment and the supporting facts therefor;
  - (E) A statement that the minor has been advised of the need for voluntary treatment but has been unwilling or unable to consent to necessary treatment;
  - (F) If the petition is for mental health treatment, a statement that the minor has been advised of the loss of firearm rights if involuntarily committed;
  - (G) A statement recommending the appropriate facility or facilities to provide the necessary treatment; and
  - (H) A statement concerning whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.
- (b) A copy of the petition shall be personally ~~((delivered to))~~ served on the minor by the petitioner or petitioner's designee. A copy of the petition shall be ~~((sent))~~ provided to the minor's attorney and the minor's parent.

**NEW SECTION. Sec. 89.** A new section is added to chapter 71.34 RCW to read as follows:

(1) In any proceeding for involuntary commitment under this chapter, the court may continue or postpone such proceeding for a reasonable time on motion of the respondent for good cause, or on motion of the prosecuting attorney or the attorney general if:

(a) The respondent expressly consents to a continuance or delay and there is a showing of good cause; or

(b) Such continuance is required in the proper administration of justice and the respondent will not be substantially prejudiced in the presentation of the respondent's case.

(2) The court may on its own motion continue the case when required in due administration of justice and when the respondent will not be substantially prejudiced in the presentation of the respondent's case.

(3) The court shall state in any order of continuance or postponement the grounds for the continuance or postponement and whether detention will be extended.

**Sec. 90.** RCW 71.34.740 and 2016 sp.s. c 29 s 274 are each amended to read as follows:

(1) A commitment hearing shall be held within seventy-two hours of the minor's admission, excluding Saturday, Sunday, and holidays, unless a continuance is ~~((requested by the minor or the minor's attorney))~~ ordered under section 89 of this act.

(2) The commitment hearing shall be conducted at the superior court or an appropriate place at the facility in which the minor is being detained.

(3) At the commitment hearing, the evidence in support of the petition shall be presented by the county prosecutor.

(4) The minor shall be present at the commitment hearing unless the minor, with the assistance of the minor's attorney, waives the right to be present at the hearing.

(5) If the parents are opposed to the petition, they may be represented at the hearing and shall be entitled to court-appointed counsel if they are indigent.

(6) At the commitment hearing, the minor shall have the following rights:

- (a) To be represented by an attorney;
- (b) To present evidence on his or her own behalf;
- (c) To question persons testifying in support of the petition.

(7) If the hearing is for commitment for mental health treatment, the court at the time of the commitment hearing and before an order of commitment is entered shall inform the minor both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.34.730 will result in the loss of his or her firearm rights if the minor is subsequently detained for involuntary treatment under this section.

(8) If the minor has received medication within twenty-four hours of the hearing, the court shall be informed of that fact and of the probable effects of the medication.

~~(9) ((Rules of evidence shall not apply in fourteen-day commitment hearings.~~

~~(10))~~ For a fourteen-day commitment, the court must find by a preponderance of the evidence that:

(a) The minor has a ~~((mental disorder or substance use))~~ behavioral health disorder and presents a likelihood of serious harm or is gravely disabled;

(b) The minor is in need of evaluation and treatment of the type provided by the inpatient evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program to which continued inpatient care is sought or is in need of less restrictive alternative treatment found to be in the best interests of the minor or others;

(c) The minor is unwilling or unable in good faith to consent to voluntary treatment; and

(d) If commitment is for a substance use disorder, there is an available secure detoxification facility or approved substance use disorder treatment program with adequate space for the minor.

~~((11))~~ (10) If the court finds that the minor meets the criteria for a fourteen-day commitment, the court shall either authorize commitment of the minor for inpatient treatment or for less restrictive alternative treatment upon such conditions as are necessary. If the court determines that the minor does not meet the criteria for a fourteen-day commitment, the minor shall be released.

~~((12))~~ (11)(a) Nothing in this section prohibits the professional person in charge of the facility from releasing the minor at any time, when, in the opinion of the professional person in charge of the facility, further inpatient treatment is no longer necessary. The release may be subject to reasonable conditions if appropriate.

(b) Whenever a minor is released under this section, the professional person in charge shall within three days, notify the court in writing of the release.

~~((13))~~ (12) A minor who has been committed for fourteen days shall be released at the end of that period unless a petition for one hundred eighty-day commitment is pending before the court.

**Sec. 91.** RCW 71.34.740 and 2016 sp.s. c 29 s 274 are each amended to read as follows:

(1) A commitment hearing shall be held within ~~((seventy-two hours))~~ five days of the minor's admission, excluding Saturday, Sunday, and holidays, unless a continuance is ~~((requested by the minor or the minor's attorney))~~ ordered under section 89 of this act.

(2) The commitment hearing shall be conducted at the superior court or an appropriate place at the facility in which the minor is being detained.

(3) At the commitment hearing, the evidence in support of the petition shall be presented by the county prosecutor.

(4) The minor shall be present at the commitment hearing unless the minor, with the assistance of the minor's attorney, waives the right to be present at the hearing.

(5) If the parents are opposed to the petition, they may be represented at the hearing and shall be entitled to court-appointed counsel if they are indigent.

(6) At the commitment hearing, the minor shall have the following rights:

- (a) To be represented by an attorney;
- (b) To present evidence on his or her own behalf;
- (c) To question persons testifying in support of the petition.

(7) If the hearing is for commitment for mental health treatment, the court at the time of the commitment hearing and before an order of commitment is entered shall inform the minor both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.34.730 will result in the loss of his or her firearm rights if the minor is subsequently detained for involuntary treatment under this section.

(8) If the minor has received medication within twenty-four hours of the hearing, the court shall be informed of that fact and of the probable effects of the medication.

~~(9) ((Rules of evidence shall not apply in fourteen-day commitment hearings.~~

~~(10))~~ For a fourteen-day commitment, the court must find by a preponderance of the evidence that:

(a) The minor has a ~~((mental disorder or substance use))~~ behavioral health disorder and presents a likelihood of serious harm or is gravely disabled;

(b) The minor is in need of evaluation and treatment of the type provided by the inpatient evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program to which continued inpatient care is sought or is in need of less restrictive alternative treatment found to be in the best interests of the minor or others;

(c) The minor is unwilling or unable in good faith to consent to voluntary treatment; and

(d) If commitment is for a substance use disorder, there is an available secure detoxification facility or approved substance use disorder treatment program with adequate space for the minor.

~~((11))~~ (10) If the court finds that the minor meets the criteria for a fourteen-day commitment, the court shall either authorize commitment of the minor for inpatient treatment or for less restrictive alternative treatment upon such conditions as are necessary. If the court determines that the minor does not meet the criteria for a fourteen-day commitment, the minor shall be released.

~~((12))~~ (11)(a) Nothing in this section prohibits the professional person in charge of the facility from releasing the minor at any time, when, in the opinion of the professional person in charge of the facility, further inpatient treatment is no longer necessary. The release may be subject to reasonable conditions if appropriate.

(b) Whenever a minor is released under this section, the professional person in charge shall within three days, notify the court in writing of the release.

~~((13))~~ (12) A minor who has been committed for fourteen days shall be released at the end of that period unless a petition for one hundred eighty-day commitment is pending before the court.

**Sec. 92.** RCW 71.34.740 and 2016 sp.s. c 29 s 275 are each amended to read as follows:

(1) A commitment hearing shall be held within ~~((seventy-two hours))~~ five days of the minor's admission, excluding Saturday, Sunday, and holidays, unless a continuance is ~~((requested by the minor or the minor's attorney))~~ ordered under section 89 of this act.

(2) The commitment hearing shall be conducted at the superior court or an appropriate place at the facility in which the minor is being detained.

(3) At the commitment hearing, the evidence in support of the petition shall be presented by the county prosecutor.

(4) The minor shall be present at the commitment hearing unless the minor, with the assistance of the minor's attorney, waives the right to be present at the hearing.

(5) If the parents are opposed to the petition, they may be represented at the hearing and shall be entitled to court-appointed counsel if they are indigent.

(6) At the commitment hearing, the minor shall have the following rights:

(a) To be represented by an attorney;

(b) To present evidence on his or her own behalf;

(c) To question persons testifying in support of the petition.

(7) If the hearing is for commitment for mental health treatment, the court at the time of the commitment hearing and before an order of commitment is entered shall inform the minor both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.34.730 will result in the loss of his or her firearm rights if the minor is subsequently detained for involuntary treatment under this section.

(8) If the minor has received medication within twenty-four hours of the hearing, the court shall be informed of that fact and of the probable effects of the medication.

(9) ~~((Rules of evidence shall not apply in fourteen-day commitment hearings.~~

~~(10))~~ For a fourteen-day commitment, the court must find by a preponderance of the evidence that:

(a) The minor has a ~~((mental disorder or substance use))~~ behavioral health disorder and presents a likelihood of serious harm or is gravely disabled;

(b) The minor is in need of evaluation and treatment of the type provided by the inpatient evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program to which continued inpatient care is sought or is in need of less restrictive alternative treatment found to be in the best interests of the minor or others; and

(c) The minor is unwilling or unable in good faith to consent to voluntary treatment.

~~((11))~~ (10) If the court finds that the minor meets the criteria for a fourteen-day commitment, the court shall either authorize commitment of the minor for inpatient treatment or for less restrictive alternative treatment upon such conditions as are necessary. If the court determines that the minor does not meet the criteria for a fourteen-day commitment, the minor shall be released.

~~((12))~~ (11)(a) Nothing in this section prohibits the professional person in charge of the facility from releasing the minor at any time, when, in the opinion of the professional person in charge of the facility, further inpatient treatment is no longer necessary. The release may be subject to reasonable conditions if appropriate.

(b) Whenever a minor is released under this section, the professional person in charge shall within three days, notify the court in writing of the release.

~~((13))~~ (12) A minor who has been committed for fourteen days shall be released at the end of that period unless a petition for one hundred eighty-day commitment is pending before the court.

**Sec. 93.** RCW 71.34.750 and 2016 sp.s. c 29 s 276 and 2016 c 155 s 21 are each reenacted and amended to read as follows:

(1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

(a) The name and address of the petitioner or petitioners;

(b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;

(c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program responsible for the treatment of the minor;

(d) The date of the fourteen-day commitment order; and

(e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by: (a) Two examining physicians, one of

whom shall be a child psychiatrist, or two psychiatric advanced registered nurse practitioners, one of whom shall be a child and adolescent or family psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by a child psychiatrist; (b) one children's mental health specialist and either an examining physician, physician assistant, or a psychiatric advanced registered nurse practitioner; or (c) two among an examining physician, physician assistant, and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist~~((7))~~, a physician assistant supervised by a child psychiatrist, or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the minor's attorney and the minor's parent. A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. ~~((The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days.))~~ If the hearing is not commenced within thirty days after the filing of the petition, including extensions of time requested by the detained person or his or her attorney or the court in the administration of justice under section 89 of this act, the minor must be released. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment:

(a) The court must find by clear, cogent, and convincing evidence that the minor:

(i) Is suffering from a mental disorder or substance use disorder;

(ii) Presents a likelihood of serious harm or is gravely disabled; and

(iii) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(b) If commitment is for a substance use disorder, the court must find that there is an available approved substance use disorder treatment program that has adequate space for the minor.

(7) In determining whether an inpatient or less restrictive alternative commitment is appropriate, great weight must be given to evidence of a prior history or pattern of decompensation and discontinuation of treatment resulting in: (a) Repeated hospitalizations; or (b) repeated peace officer interventions resulting in juvenile charges. Such evidence may be used to provide a factual basis for concluding that the minor would not receive, if released, such care as is essential for his or her health or safety.

(8)(a) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court

shall order the minor committed to the custody of the secretary for further inpatient mental health treatment, to an approved substance use disorder treatment program for further substance use disorder treatment, or to a private treatment and evaluation facility for inpatient mental health or substance use disorder treatment if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

(b) If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

~~((8))~~ (9) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least ~~((five))~~ three days prior to the expiration of the previous one hundred eighty-day commitment order.

**Sec. 94.** RCW 71.34.750 and 2016 sp.s. c 29 s 277 are each amended to read as follows:

(1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

(a) The name and address of the petitioner or petitioners;

(b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;

(c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program responsible for the treatment of the minor;

(d) The date of the fourteen-day commitment order; and

(e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by: (a) Two examining physicians, one of whom shall be a child psychiatrist, or two psychiatric advanced registered nurse practitioners, one of whom shall be a child and adolescent or family psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by a child psychiatrist; (b) one children's mental health specialist and either an examining physician, physician assistant, or a psychiatric advanced registered nurse practitioner; or (c) two among an examining physician, physician assistant, and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist~~((7))~~, a physician assistant supervised by a child psychiatrist, or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition

and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the minor's attorney and the minor's parent. A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. ~~((The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days.))~~ If the hearing is not commenced within thirty days after the filing of the petition, including extensions of time requested by the detained person or his or her attorney or the court in the administration of justice under section 89 of this act, the minor must be released. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment, the court must find by clear, cogent, and convincing evidence that the minor:

(a) Is suffering from a mental disorder or substance use disorder;

(b) Presents a likelihood of serious harm or is gravely disabled; and

(c) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(7) In determining whether an inpatient or less restrictive alternative commitment is appropriate, great weight must be given to evidence of a prior history or pattern of decompensation and discontinuation of treatment resulting in: (a) Repeated hospitalizations; or (b) repeated peace officer interventions resulting in juvenile charges. Such evidence may be used to provide a factual basis for concluding that the minor would not receive, if released, such care as is essential for his or her health or safety.

(8)(a) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court shall order the minor committed to the custody of the secretary for further inpatient mental health treatment, to an approved substance use disorder treatment program for further substance use disorder treatment, or to a private treatment and evaluation facility for inpatient mental health or substance use disorder treatment if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

(b) If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

~~((8))~~ (9) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least ~~((five))~~

three days prior to the expiration of the previous one hundred eighty-day commitment order.

NEW SECTION. Sec. 95. A new section is added to chapter 71.34 RCW to read as follows:

(1) Less restrictive alternative treatment, at a minimum, must include the following services:

(a) Assignment of a care coordinator;

(b) An intake evaluation with the provider of the less restrictive alternative treatment;

(c) A psychiatric evaluation;

(d) A schedule of regular contacts with the provider of the less restrictive alternative treatment services for the duration of the order;

(e) A transition plan addressing access to continued services at the expiration of the order;

(f) An individual crisis plan; and

(g) Notification to the care coordinator assigned in (a) of this subsection if reasonable efforts to engage the client fail to produce substantial compliance with court-ordered treatment conditions.

(2) Less restrictive alternative treatment may include the following additional services:

(a) Medication management;

(b) Psychotherapy;

(c) Nursing;

(d) Substance abuse counseling;

(e) Residential treatment; and

(f) Support for housing, benefits, education, and employment.

(3) If the minor was provided with involuntary medication during the involuntary commitment period, the less restrictive alternative treatment order may authorize the less restrictive alternative treatment provider or its designee to administer involuntary antipsychotic medication to the person if the provider has attempted and failed to obtain the informed consent of the person and there is a concurring medical opinion approving the medication by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with an independent mental health professional with prescribing authority.

(4) Less restrictive alternative treatment must be administered by a provider that is certified or licensed to provide or coordinate the full scope of services required under the less restrictive alternative order and that has agreed to assume this responsibility.

(5) The care coordinator assigned to a minor ordered to less restrictive alternative treatment must submit an individualized plan for the minor's treatment services to the court that entered the order. An initial plan must be submitted as soon as possible following the intake evaluation and a revised plan must be submitted upon any subsequent modification in which a type of service is removed from or added to the treatment plan.

(6) For the purpose of this section, "care coordinator" means a clinical practitioner who coordinates the activities of less restrictive alternative treatment. The care coordinator coordinates activities with the designated crisis responders that are necessary for enforcement and

continuation of less restrictive alternative treatment orders and is responsible for coordinating service activities with other agencies and establishing and maintaining a therapeutic relationship with the individual on a continuing basis.

**Sec. 96.** RCW 71.34.780 and 2018 c 201 s 5020 are each amended to read as follows:

(1) If the professional person in charge of an outpatient treatment program, a designated crisis responder, or the director or secretary, as appropriate, determines that a minor is failing to adhere to the conditions of the court order for less restrictive alternative treatment or the conditions for the conditional release, or that substantial deterioration in the minor's functioning has occurred, the designated crisis responder, or the director or secretary, as appropriate, may order that the minor ~~((, if committed for mental health treatment,))~~ be taken into custody and transported to an inpatient evaluation and treatment facility ~~((or, if committed for substance use disorder treatment, be taken into custody and transported to))~~, a secure detoxification facility, or an approved substance use disorder treatment program ~~((if there is an available))~~. A secure detoxification facility or approved substance use disorder treatment program that has adequate space for the minor must be available.

(2)(a) The designated crisis responder ~~((or the))~~, director, or secretary, as appropriate, shall file the order of apprehension and detention and serve it upon the minor and notify the minor's parent and the minor's attorney, if any, of the detention within two days of return. At the time of service the minor shall be informed of the right to a hearing and to representation by an attorney. The designated crisis responder or the director or secretary, as appropriate, may modify or rescind the order of apprehension and detention at any time prior to the hearing.

(b) If the minor is involuntarily detained for revocation at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program in a different county from where the minor was initially detained, the facility or program may file the order of apprehension, serve it on the minor and notify the minor's parents and the minor's attorney at the request of the designated crisis responder.

(3) A petition for revocation of less restrictive alternative treatment shall be filed by the designated crisis responder or the director ~~((or))~~, secretary, or facility, as appropriate, with the court in the county ~~((ordering the less restrictive alternative treatment))~~ where the minor is detained. The court shall conduct the hearing in that county. A petition for revocation of conditional release ~~((may be filed with the court in the county ordering inpatient treatment or the county where the minor on conditional release is residing))~~ must be filed in the county where the minor is detained. A petition shall describe the behavior of the minor indicating violation of the conditions or deterioration of routine functioning and a dispositional recommendation. ~~((Upon motion for good cause, the hearing may be transferred to the county of the minor's residence or to the county in which the alleged violations occurred.))~~ The hearing shall be held within seven days of the minor's return. The issues to be determined are whether the minor did or did

not adhere to the conditions of the less restrictive alternative treatment or conditional release, or whether the minor's routine functioning has substantially deteriorated, and, if so, whether the conditions of less restrictive alternative treatment or conditional release should be modified or, subject to subsection (4) of this section, whether the minor should be returned to inpatient treatment. Pursuant to the determination of the court, the minor shall be returned to less restrictive alternative treatment or conditional release on the same or modified conditions or shall be returned to inpatient treatment. If the minor is returned to inpatient treatment, RCW 71.34.760 regarding the director's placement responsibility shall apply. The hearing may be waived by the minor and the minor returned to inpatient treatment or to less restrictive alternative treatment or conditional release on the same or modified conditions.

(4) A court may not order the return of a minor to inpatient treatment in a secure detoxification facility or approved substance use disorder treatment program unless there is a secure detoxification facility or approved substance use disorder treatment program available with adequate space for the minor.

**Sec. 97.** RCW 71.34.780 and 2018 c 201 s 5021 are each amended to read as follows:

(1) If the professional person in charge of an outpatient treatment program, a designated crisis responder, or the director or secretary, as appropriate, determines that a minor is failing to adhere to the conditions of the court order for less restrictive alternative treatment or the conditions for the conditional release, or that substantial deterioration in the minor's functioning has occurred, the designated crisis responder, or the director or secretary, as appropriate, may order that the minor ~~((, if committed for mental health treatment,))~~ be taken into custody and transported to an inpatient evaluation and treatment facility ~~((or, if committed for substance use disorder treatment, be taken into custody and transported to))~~, a secure detoxification facility, or an approved substance use disorder treatment program.

(2)(a) The designated crisis responder ~~((or the))~~, director, or secretary, as appropriate, shall file the order of apprehension and detention and serve it upon the minor and notify the minor's parent and the minor's attorney, if any, of the detention within two days of return. At the time of service the minor shall be informed of the right to a hearing and to representation by an attorney. The designated crisis responder or the director or secretary, as appropriate, may modify or rescind the order of apprehension and detention at any time prior to the hearing.

(b) If the minor is involuntarily detained for revocation at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program in a different county from where the minor was initially detained, the facility or program may file the order of apprehension, serve it on the minor and notify the minor's parents and the minor's attorney at the request of the designated crisis responder.

(3) A petition for revocation of less restrictive alternative treatment shall be filed by the designated crisis responder or the director ~~((or))~~, secretary, or facility, as appropriate, with the court in the county ~~((ordering the less~~

~~restrictive alternative treatment)) where the minor is detained.~~ The court shall conduct the hearing in that county. A petition for revocation of conditional release ~~((may be filed with the court in the county ordering inpatient treatment or the county where the minor on conditional release is residing))~~ must be filed in the county where the minor is detained. A petition shall describe the behavior of the minor indicating violation of the conditions or deterioration of routine functioning and a dispositional recommendation. ~~((Upon motion for good cause, the hearing may be transferred to the county of the minor's residence or to the county in which the alleged violations occurred.))~~ The hearing shall be held within seven days of the minor's return. The issues to be determined are whether the minor did or did not adhere to the conditions of the less restrictive alternative treatment or conditional release, or whether the minor's routine functioning has substantially deteriorated, and, if so, whether the conditions of less restrictive alternative treatment or conditional release should be modified or whether the minor should be returned to inpatient treatment. Pursuant to the determination of the court, the minor shall be returned to less restrictive alternative treatment or conditional release on the same or modified conditions or shall be returned to inpatient treatment. If the minor is returned to inpatient treatment, RCW 71.34.760 regarding the director's placement responsibility shall apply. The hearing may be waived by the minor and the minor returned to inpatient treatment or to less restrictive alternative treatment or conditional release on the same or modified conditions.

**NEW SECTION. Sec. 98.** A new section is added to chapter 71.34 RCW to read as follows:

The legislature recognizes the inherent authority of the judiciary under Article IV, section 1 of the state Constitution to establish rules regarding access to court records, and respectfully requests the Washington state supreme court to adopt rules regarding potential access for the following entities to the files and records of court proceedings under this chapter and chapter 71.05 RCW:

- (1) The department;
- (2) The department of health;
- (3) The authority;
- (4) The state hospitals as defined in RCW 72.23.010;
- (5) Any person who is the subject of a petition;
- (6) The attorney or guardian of the person;
- (7) Resource management services for that person;

and

(8) Service providers authorized to receive such information by resource management services.

**NEW SECTION. Sec. 99.** A new section is added to chapter 71.34 RCW to read as follows:

For purposes of this chapter, at any hearing the petitioner, the respondent, the witnesses, the interpreters, and the presiding judicial officer may be present and participate either in person or by video, as determined by the court. The term "video" as used in this section includes any functional equivalent. At any hearing conducted by video, the technology used must permit the judicial officer, counsel,

all parties, and the witnesses to be able to see, hear, and speak, when authorized, during the hearing; to allow attorneys to use exhibits or other materials during the hearing; and to allow the respondent's counsel to be in the same location as the respondent unless otherwise requested by the respondent or the respondent's counsel. Witnesses in a proceeding may also appear in court through other means, including telephonically, pursuant to the requirements of superior court civil rule 43. Notwithstanding the foregoing, the court, upon its own motion or upon a motion for good cause by any party, may require all parties and witnesses to participate in the hearing in person rather than by video. In ruling on any such motion, the court may allow in-person or video testimony; and the court may consider, among other things, whether the respondent's alleged behavioral health disorder affects the respondent's ability to perceive or participate in the proceeding by video.

**NEW SECTION. Sec. 100.** A new section is added to chapter 71.05 RCW to read as follows:

For purposes of this chapter, at any hearing the petitioner, the respondent, the witnesses, the interpreters, and the presiding judicial officer may be present and participate either in person or by video, as determined by the court. The term "video" as used in this section includes any functional equivalent. At any hearing conducted by video, the technology used must permit the judicial officer, counsel, all parties, and the witnesses to be able to see, hear, and speak, when authorized, during the hearing; to allow attorneys to use exhibits or other materials during the hearing; and to allow the respondent's counsel to be in the same location as the respondent unless otherwise requested by the respondent or the respondent's counsel. Witnesses in a proceeding may also appear in court through other means, including telephonically, pursuant to the requirements of superior court civil rule 43. Notwithstanding the foregoing, the court, upon its own motion or upon a motion for good cause by any party, may require all parties and witnesses to participate in the hearing in person rather than by video. In ruling on any such motion, the court may allow in-person or video testimony; and the court may consider, among other things, whether the respondent's alleged behavioral health disorder affects the respondent's ability to perceive or participate in the proceeding by video.

**NEW SECTION. Sec. 101.** A new section is added to chapter 71.34 RCW to read as follows:

In addition to the responsibility provided for by RCW 43.20B.330, the parents of a minor person who is involuntarily detained pursuant to this chapter for the purpose of treatment and evaluation outside of a facility maintained and operated by the department shall be responsible for the cost of such care and treatment. In the event that an individual is unable to pay for such treatment or in the event payment would result in a substantial hardship upon the individual or his or her family, then the county of residence of such person shall be responsible for such costs. If it is not possible to determine the county of residence of the person, the cost shall be borne by the county where the person was originally detained. The department, or the

authority, as appropriate, shall, pursuant to chapter 34.05 RCW, adopt standards as to (1) inability to pay in whole or in part, (2) a definition of substantial hardship, and (3) appropriate payment schedules. Financial responsibility with respect to services and facilities of the department shall continue to be as provided in RCW 43.20B.320 through 43.20B.360 and 43.20B.370.

**NEW SECTION. Sec. 102.** A new section is added to chapter 71.05 RCW to read as follows:

(1) An involuntary treatment act work group is established to evaluate the effect of changes to chapters 71.05 and 71.34 RCW and to evaluate vulnerabilities in the crisis system.

(2) The work group shall:

(a) Commencing September 1, 2019, meet at least three times to: (i) Identify and evaluate systems and procedures that may be required to implement five-day initial detention; (ii) develop recommendations to implement five-day initial detention statewide; and (iii) disseminate the recommendations to stakeholders and report them to the appropriate committees of the legislature by January 1, 2020.

(b) Commencing January 1, 2020, meet at least six times to evaluate: (i) The implementation of five-day initial detention, and the effects, if any, on involuntary behavioral health treatment capacity statewide, including the frequency of detentions, commitments, revocations of less restrictive alternative treatment, conditional release orders, single bed certifications, and no-bed reports under RCW 71.05.750; (ii) other issues related to implementation of this act; and (iii) other vulnerabilities in the involuntary treatment system.

(c)(i) Develop recommendations for operating the crisis system based on the evaluations in (b) of this subsection; and (ii) disseminate those recommendations to stakeholders and report them to the appropriate committees of the legislature no later than June 30, 2021.

(3) The work group shall be convened by the authority and shall receive technical and data gathering support from the authority, the department, and the department of social and health services as needed. The membership must consist of not more than eighteen members appointed by the governor, reflecting statewide representation, diverse viewpoints, and experience with involuntary treatment cases. Appointed members must include but not be limited to:

(a) Representatives of the authority, the department, and the department of social and health services;

(b) Certified short-term civil commitment providers and providers who accept single bed certification under RCW 71.05.745;

(c) Certified long-term inpatient care providers for involuntary patients or providers with experience providing community long-term inpatient care for involuntary patients;

(d) Prosecuting attorneys;

(e) Defense attorneys;

(f) Family members and persons with lived experience of behavioral health disorders;

(g) Advocates for persons with behavioral health disorders;

(h) Designated crisis responders;

(i) Behavioral health administrative services organizations;

(j) Managed care organizations;

(k) Law enforcement; and

(l) Judicial officers in involuntary treatment cases.

(4) Interested legislators and legislative staff may participate in the work group. The governor must request participation in the work group by a representative of tribal governments.

(5) The work group shall choose cochairs from among its members and receive staff support from the authority.

(6) This section expires June 30, 2021.

**NEW SECTION. Sec. 103.** The following acts or parts of acts are each repealed:

(1) RCW 71.05.360 (Rights of involuntarily detained persons) and 2017 3rd sp.s. c 14 s 20; and

(2) RCW 71.34.370 (Antipsychotic medication and shock treatment) and 1989 c 120 s 9.

**NEW SECTION. Sec. 104.** RCW 71.05.525 is recodified as a section in chapter 71.34 RCW.

**NEW SECTION. Sec. 105.** Sections 15, 18, 26, 39, 45, 56, 59, 72, 79, 83, 86, 92, 94, and 97 of this act take effect July 1, 2026.

**NEW SECTION. Sec. 106.** Sections 14, 17, 25, 38, 44, 55, 78, 82, 85, 91, 93, and 96 of this act expire July 1, 2026.

**NEW SECTION. Sec. 107.** Sections 14, 17, 20, 21, 22, 23, 25, 31, 33, 35, 38, 55, 61, 62, 76, 82, 85, 88, and 91 of this act take effect January 1, 2020.

**NEW SECTION. Sec. 108.** Sections 13, 16, 30, 32, 34, 37, 54, 60, 75, 81, 84, 87, and 90 of this act expire January 1, 2020."

Correct the title.

Signed by Representatives Walen; Valdez; Orwall; Klippert; Kirby; Kilduff; Hansen; Goodman; Irwin, Ranking Minority Member; Thai, Vice Chair Jinkins, Chair.

MINORITY recommendation: Do not pass. Signed by Representative Shea.

Referred to Committee on Appropriations.

March 28, 2019

**2SSB 5774**

Prime Sponsor, Committee on Ways & Means: Relieving student debt. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature finds that a postsecondary credential is essential to Washingtonians' ability to attain jobs with good salaries and advancement opportunities, and that meeting the increasing demand for credentialed workers to fill jobs in Washington is essential to the future health of the state's economy. The legislature finds that the amount of debt that individual Washingtonians incur in pursuit of postsecondary credentials represents a growing burden on individuals and on the state's economy at large that negatively impacts individuals' ability to obtain a postsecondary credential, as well as their ability to save for retirement, purchase a home, and start a family. The legislature finds that giving Washingtonians new tools to address this burden is necessary to help make higher education more accessible and affordable.

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

(1) "Council" means the Washington student achievement council.

(2) "Income" has the same meaning as in section 9 of this act.

(3) "Income share agreement" has the same meaning as in section 9 of this act.

(4) "Income share agreement originator" has the same meaning as in section 9 of this act.

(5) "Program administrator" means a private organization with experience designing and administering income share agreements.

**NEW SECTION. Sec. 3.** (1) Subject to receipt of grants, contributions, or amounts appropriated specifically for this purpose, the Washington income share agreement pilot program is created.

(2) The council shall provide administrative support to execute the duties and responsibilities provided in this chapter including, but not limited to:

(a) Imposing reasonable limits on the terms of income share agreements under the pilot program;

(b) Publicizing the pilot program;

(c) Originating income share agreements or contracting with institutions of higher education or a private entity to originate income share agreements;

(d) Partnering with the institutions of higher education in selecting participants for the pilot program;

(e) Distributing income share agreement pilot program funds;

(f) Contracting with a program administrator for execution of income share agreements;

(g) Establishing minimum reporting requirements for income share agreement originators participating in the pilot program;

(h) Ensuring transparency in investment decisions and processes;

(i) Formulating and adopting all other policies and rules necessary for the efficient administration of the pilot program;

(j) Making, executing, and delivering contracts, conveyances, and other instruments necessary to the exercise and discharge of its powers and duties under this chapter; and

(k) Performing all acts necessary and proper to carry out the duties and responsibilities of the pilot program under this chapter.

(3) The program administrator may be paid an administrative fee as determined by the council.

(4) The council shall establish and manage the income share agreement account into which grants and contributions from private sources may be received as well as state funds, and from which income share agreement funds may be disbursed to participants and payments may be remitted.

(5) The council may solicit and accept grants and contributions from private sources for deposit into the income share agreement account.

(6) On a biennial basis beginning July 1, 2020, the council must report to the appropriate committees of the legislature the:

(a) Number of income share agreements under contract with the income share agreement originator;

(b) Number of income share agreements by institutions of higher education;

(c) Average income share agreement amount, percentage of future income obligated, and duration of obligation by institution of higher education;

(d) Demographic information regarding income share agreement participants that includes gender, race or ethnicity, income level, and geography; and

(e) Total expected lifetime payments from income share agreements to the income share agreement account.

**NEW SECTION. Sec. 4.** A state match may be earned for private contributions made on or after August 1, 2019. The state may provide matching funds equal to the amount of private contributions received by the council for the purposes of the income share agreement pilot program on the January 1st following the end of the fiscal year in which the private contributions are received. The state match may not exceed amounts appropriated specifically for the pilot program.

**NEW SECTION. Sec. 5.** (1) The income share agreement pilot program account is created in the custody of the state treasurer. Moneys received from private contributions, state moneys, and funds collected under income share agreements may be deposited in the account. All receipts from the income share agreement pilot program must be deposited in the account.

(2) Expenditures from the account may be used only for the income share agreement pilot program. Only the executive director of the council or the executive 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.

**NEW SECTION. Sec. 6.** A new section is added to chapter 43.131 RCW to read as follows:

The Washington income share agreement pilot program is terminated July 1, 2027, as provided in section 7 of this act.

**NEW SECTION. Sec. 7.** A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2028:

- (1) RCW 28B.--.-- and 2019 c . . . s 1 (section 1 of this act);
- (2) RCW 28B.--.-- and 2019 c . . . s 2 (section 2 of this act);
- (3) RCW 28B.--.-- and 2019 c . . . s 3 (section 3 of this act);
- (4) RCW 28B.--.-- and 2019 c . . . s 4 (section 4 of this act); and
- (5) RCW 28B.--.-- and 2019 c . . . s 5 (section 5 of this act).

**NEW SECTION. Sec. 8.** Sections 1 through 5 of this act constitute a new chapter in Title 28B RCW.

**NEW SECTION. Sec. 9.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Income" means salary, wages, interest, dividends, and other earnings that are reportable for federal income tax purposes.

(2) "Income share agreement" means a written contract between a student and an income share agreement originator in which the student agrees to pay a specified percentage of their future income for a specified period of time in exchange for payment for vocational or postsecondary education.

(3) "Income share agreement originator" means an individual or entity who for the promise of compensation or gain enters into an income share agreement contract and agrees to pay for a student's vocational or postsecondary education in return for a percentage of the student's future income for a specified period of time. "Income share agreement originator" also includes an individual or entity who purchases an existing income share agreement.

**NEW SECTION. Sec. 10.** Any income share agreement entered into by a resident of this state is subject to the authority and restrictions of this chapter. An income

share agreement must clearly specify the following disclosures:

(1)(a) The percentage of future income that the student is obligated to pay to the income share agreement originator and the number of payments required per year; and

(b) The definition of income used to calculate the student's obligation;

(2) The maximum duration of the student's obligation under the income share agreement, including any circumstances under which the duration of the agreement may be extended;

(3) That the income share agreement is not a debt instrument;

(4) That the amount the student is required to pay under the income share agreement may be more or less than the amount paid on behalf of the student for vocational or postsecondary education;

(5) That the income share agreement represents the obligation by the student to pay a specific percentage of future income and does not provide the income share agreement originator any rights regarding the student's educational or employment pursuits;

(6) Whether a student's obligations under an income share agreement may be extinguished by accelerating payments and any terms under which payment may be accelerated;

(7) That a student's obligation under an income share agreement may be forgiven if the student becomes totally and permanently disabled, meaning the student:

(a) Is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that:

(i) Can be expected to result in death;

(ii) Has lasted for a continuous period of not less than sixty months; or

(iii) Can be expected to last for a continuous period of not less than sixty months; or

(b) Has been determined by the United States secretary of veterans affairs to be unemployable due to a service-connected disability; and

(8) That a student's obligation under an income share agreement must be discharged if the student dies, based on the following:

(a) An original or certified copy of the student's death certificate;

(b) An accurate and complete photocopy of the original or certified copy of the student's death certificate;

(c) An accurate and complete original or certified copy of the student's death certificate that is scanned and submitted electronically or sent by facsimile transmission; or

(d) Verification of the student's death through an authoritative federal or state electronic database approved for use by the student achievement council.

**NEW SECTION. Sec. 11.** An income share agreement must adhere to the following regulations:

(1) The maximum future income a student is obligated to repay may not exceed two and one-half times

the original contracted amount paid on behalf of the student for vocational or postsecondary education.

(2)(a) A student with a household income at or below one hundred percent of the federal poverty level is exempt from income determination for a period of one year; and

(b) The duration of the student's obligation under the income share agreement may be extended for a duration equal to the exemption period.

(3) A student may not have more than fifteen percent of his or her future income obligated under income share agreements. Any income share agreement entered into in which the total percentage of the student's future income obligated exceeds fifteen percent, including any other income share agreements entered into by the student, is void.

**NEW SECTION. Sec. 12.** In the event of the sale of an income share agreement, the buyer of the income share agreement is subject to the requirements of this chapter.

**NEW SECTION. Sec. 13.** Sections 9 through 12 of this act constitute a new chapter in Title 28B RCW.

**NEW SECTION. Sec. 14.** A new section is added to chapter 19.52 RCW to read as follows:

This chapter does not apply to income share agreements under chapter 28B.--- RCW (the new chapter created in section 13 of this act).

**NEW SECTION. Sec. 15.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Council" means the Washington student achievement council.

(2) "Financial institution" has the same meaning as in RCW 7.88.010.

(3) "Interest rate buy down incentive" means the use of state funds to enable qualified borrowers to receive below market rate interest rates for the purposes of this chapter.

(4) "Loan loss reserve coverage" means partial risk coverage to financial institutions to cover losses on qualified loans according to the terms set forth in the contract between the council and the financial institution for the purposes of this chapter.

(5) "Program" means the Washington student loan refinancing program.

(6) "Qualified borrower" means an individual meeting all of the following requirements:

(a) Resident of the state of Washington;

(b) Is enrolled in, or has completed, a certificate, associate's, bachelor's, graduate, or professional degree program; and

(c) Other criteria as deemed appropriate by the council.

(7) "Qualified loan" means a loan or a portion of a loan made by a financial institution to a qualified borrower to refinance an existing student loan under the program. Only a federal direct PLUS loan or a private student loan

determined by the financial institution to be an educational loan that is nondischargeable in bankruptcy as set forth in 11 U.S.C. Sec. 523 as it existed on January 14, 2019, shall be a qualified loan eligible for refinancing. A qualified loan made under the program shall:

(a) Carry a contractual interest rate at least one-quarter of one percentage point lower than the loan being refinanced, and may be made with the interest rates, fees, and other terms and conditions agreed upon by the financial institution and the qualified borrower; and

(b) Specify that a qualified borrower's obligation under a qualified loan must be discharged if the qualified borrower dies, based on the following:

(i) An original or certified copy of the qualified borrower's death certificate;

(ii) An accurate and complete photocopy of the original or certified copy of the qualified borrower's death certificate;

(iii) An accurate and complete original or certified copy of the qualified borrower's death certificate that is scanned and submitted electronically or sent by facsimile transmission; or

(iv) Verification of the qualified borrower's death through an authoritative federal or state electronic database approved for use by the council.

(8) This section expires July 1, 2029.

**NEW SECTION. Sec. 16.** (1) Subject to the availability of amounts appropriated for this specific purpose, the Washington student loan refinancing program is created.

(2) The program shall be administered by the council. To execute the program the council shall contract with up to five financial institutions. The financial institutions, in consultation with the council, may leverage the interest rate buy down incentive or the loan loss reserve coverage, or some combination thereof, to refinance existing student loans. In administering the program, the council may:

(a) Impose reasonable limits on the terms of qualified loans;

(b) Impose reasonable limits on the terms of qualified borrowers;

(c) Impose reasonable limits on the use of state funds for the marketing of qualified loan products by financial institutions;

(d) Establish minimum reporting requirements for financial institutions participating in the program;

(e) Establish minimum required disclosures by financial institutions for qualified loans. At a minimum, the disclosures must notify qualified borrowers of the:

(i) Loss of borrower protections including income contingent repayment and public service loan forgiveness options if the qualified borrower is refinancing a federal direct PLUS loan under this chapter; and

(ii) Estimated total cost of the qualified loan, including accrued interest under this chapter;

(f) Appoint and use advisory committees and the department of financial institutions as needed to provide program guidance and direction;

(g) Formulate and adopt all other policies and rules necessary for the efficient administration of the program;

(h) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of its powers and duties under this chapter; and

(i) Perform all acts necessary and proper to carry out the duties and responsibilities of the program under this chapter.

(3) On a biennial basis beginning July 1, 2020, the council must report to the appropriate committees of the legislature on the:

(a) Number of financial institutions currently under contract through the program;

(b) Number of qualified loans refinanced under the program;

(c) Qualified borrower requirements established by the council and the financial institutions;

(d) Demographic information for qualified borrowers that includes gender, race or ethnicity, income level, and geography; and

(e) Estimated total savings for qualified borrowers with qualified loans as defined by the difference between what the qualified borrower would have paid under the original loan and what the qualified borrower is paying under the qualified loan.

(4) This section expires July 1, 2029.

NEW SECTION. **Sec. 17.** Sections 15 and 16 of this act constitute a new chapter in Title 28B RCW.

NEW SECTION. **Sec. 18.** This act may be known and cited as the student loan relief and reform act."

Correct the title.

Signed by Representatives Hansen, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Bergquist; Mead; Paul; Pollet; Ramos; Sells and Slatter.

MINORITY recommendation: Do not pass. Signed by Representatives Van Werven, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Kraft; Sutherland and Young.

MINORITY recommendation: Without recommendation. Signed by Representative Rude.

Referred to Committee on Appropriations.

March 27, 2019

SB 5786 Prime Sponsor, Senator Brown: Concerning research in public institutions of higher education. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass. Signed by Representatives Young; Leavitt, Vice Chair; Van Werven, Ranking Minority Member; Gildon, Assistant

Ranking Minority Member; Graham, Assistant Ranking Minority Member; Bergquist; Kraft; Entenman, Vice Chair; Mead; Pollet; Ramos; Rude; Sells; Slatter; Sutherland; Paul Hansen, Chair.

Referred to Committee on Rules for second reading.

March 27, 2019

2SSB 5820 Prime Sponsor, Committee on Ways & Means: Increasing eligibility for child care and early learning programs for homeless and other vulnerable children. Reported by Committee on Human Services & Early Learning

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.216.135 and 2018 c 52 s 6 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 Public Law 113-186, authorizations for the working connections child care subsidy shall be effective for twelve months beginning July 1, 2016, unless an earlier date is provided in the omnibus appropriations act.

(3) Existing child care providers serving nonschool-age children and receiving state subsidy payments must complete the following requirements to be eligible for a state subsidy under this section:

(a) Enroll in the early achievers program by August 1, 2016;

(b) Complete level 2 activities in the early achievers program by August 1, 2017; and

(c) Rate at a level 3 or higher in the early achievers program by December 31, 2019. If a child care provider rates below a level 3 by December 31, 2019, the provider must complete remedial activities with the department, and rate at a level 3 or higher no later than June 30, 2020.

(4) Effective July 1, 2016, a new child care provider serving nonschool-age children and receiving state subsidy payments must complete the following activities to be eligible to receive a state subsidy under this section:

(a) Enroll in the early achievers program within thirty days of receiving the initial state subsidy payment;

(b) Complete level 2 activities in the early achievers program within twelve months of enrollment; and

(c) Rate at a level 3 or higher in the early achievers program within thirty months of enrollment. If a child care provider rates below a level 3 within thirty months from enrollment into the early achievers program, the provider must complete remedial activities with the department, and rate at a level 3 or higher within six months of beginning remedial activities.

(5) If a child care provider does not rate at a level 3 or higher following the remedial period, the provider is no longer eligible to receive state subsidy under this section.

(6) If a child care provider serving nonschool-age children and receiving state subsidy payments has successfully completed all level 2 activities and is waiting to be rated by the deadline provided in this section, the provider may continue to receive a state subsidy pending the successful completion of the level 3 rating activity.

(7) The department shall implement tiered reimbursement for early achievers program participants in the working connections child care program rating at level 3, 4, or 5.

(8) The department shall account for a child care copayment collected by the provider from the family for each contracted slot and establish the copayment fee by rule.

(9)(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 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. The department of social and health services' involvement with the family referred for working connections child care ends when the family's child protective services, child welfare services, or family assessment response case is closed.

(10)(a) The department shall establish and implement policies in the working connections child care program to allow eligibility for homeless families with household incomes at or below eighty-five percent of the state median income. Families who are eligible for working connections child care under this subsection must be allowed a twelve-month grace period in which to provide verification of:

(i) Employment or participation in approved program activities; and

(ii) Payment or payment plan arrangements for any outstanding copayment.

(b) In order to qualify for the twelve-month grace period under this subsection, an eligible family may not have received a grace-period authorization under this subsection

in the twelve calendar months prior to the month of application or reapplication.

(c) For the purposes of this subsection, "homeless" means without a fixed, regular, and adequate nighttime residence as set forth in the federal McKinney-Vento homeless assistance act, P.L. 100-77, July 22, 1987, 101 Stat. 482, and runaway and homeless youth act, P.L. 93-415, Title III, September 7, 1974, 88 Stat. 1129.

NEW SECTION. Sec. 2. A new section is added to chapter 43.216 RCW to read as follows:

(1) The department shall establish and implement policies in the working connections child care program to allow eligibility for a parent who is under eighteen years of age and is attending high school or is working toward completing a general educational development certificate when the minor parent:

(a) Has an income at or below eighty-five percent of the state median income at the time of application. For the purpose of determining household income, the department must treat the minor parent as his or her own household; and

(b) Meets all other program eligibility requirements.

(2) When authorizing twelve months of care under this section, the department may not:

(a) Consider the availability of the other biological parent; or

(b) Require a copayment that is greater than the minimum copayment established by the department in rule.

(3) If necessary to implement this section, the department may designate children of minor parents as a vulnerable population in need of protective services under 45 C.F.R. Sec. 98.20 as it existed on March 1, 2019.

NEW SECTION. Sec. 3. Section 2 of this act takes effect October 1, 2019."

Correct the title.

Signed by Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Goodman; Kilduff; Lovick and Ortiz-Self.

MINORITY recommendation: Do not pass. Signed by Representatives Dent, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Griffey; Klippert and Corry.

Referred to Committee on Appropriations.

March 28, 2019

2SSB 5903

Prime Sponsor, Committee on Ways & Means: Concerning children's mental health. Reported by Committee on Human Services & Early Learning

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that the children's mental health work group established in chapter 96, Laws of 2016 reported recommendations related to increasing access to mental health services for children and youth and that many of those recommendations were adopted by the 2017 and 2018 legislatures. The legislature further finds that additional work is needed to improve mental health support for children and families and that the children's mental health work group was reestablished for this purpose in chapter 175, Laws of 2018.

(2) The legislature finds that there is a workforce shortage of behavioral health professionals and that increasing medicaid rates to a level that is equal to medicare rates will increase the number of providers who will serve children and families on medicaid. Further, the legislature finds that there is a need to increase the cultural and linguistic diversity among children's behavioral health professionals and that hiring practices, professional training, and high-quality translations of accreditation and licensing exams should be implemented to incentivize this diversity in the workforce.

(3) Therefore, the legislature intends to implement the recommendations adopted by the children's mental health work group in January 2019, in order to improve mental health care access for children and their families.

**NEW SECTION. Sec. 2.** (1) The office of financial management must enter into a contractual agreement with a facilitator to organize a work group for the development of a funding model for:

(a) The partnership access line activities described in RCW 71.24.061, including the partnership access line for moms and kids and community referral facilitation;

(b) Delivering partnership access line services to educational service districts for the training and support of school staff managing children with challenging behaviors; and

(c) Expanding partnership access line consultation services to include consultation for health care professionals serving adults.

(2) The work group shall consist of: One member of the house of representatives, appointed by the speaker of the house of representatives; one member of the senate, appointed by the president of the senate; and one representative from each of the following interests, appointed by the director of the health care authority or his or her designee:

(a) Private insurance carriers;

(b) Medicaid managed care plans;

(c) Self-insured organizations;

(d) Seattle children's hospital;

(e) The partnership access line;

(f) The office of the insurance commissioner;

(g) The University of Washington school of medicine; and

(h) Other organizations and individuals, as determined by the director of the health care authority.

(3) The funding model must build upon previous funding model efforts by the health care authority, including work completed pursuant to chapter 288, Laws of 2018. The funding model must:

(a) Determine the annual cost of operating the partnership access line and its various components and collect a proportional share of program cost from each health insurance carrier; and

(b) Differentiate between partnership access line activities eligible for medicaid funding and activities that are nonmedicaid eligible.

(4) The office of financial management shall submit a report to the governor and the appropriate committees of the legislature by December 1, 2019.

(5) This section expires June 30, 2020.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28A.415 RCW to read as follows:

Beginning in the 2020-21 school year, and every other school year thereafter, school districts must use one of the professional learning days funded under RCW 28A.150.415 to train school district staff in social-emotional learning, trauma-informed practices, using the model plan developed under RCW 28A.320.1271 related to recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices.

**Sec. 4.** RCW 28B.30.357 and 2017 c 202 s 9 are each amended to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, Washington State University shall offer ~~((one))~~ two twenty-four month residency positions that ~~((is))~~ are approved by the accreditation council for graduate medical education to ~~((one))~~ two residents specializing in child and adolescent psychiatry. The ~~((residency))~~ positions must each include a minimum of ~~((twelve))~~ eighteen months of training in settings where children's mental health services are provided under the supervision of experienced psychiatric consultants and must be located east of the crest of the Cascade mountains.

**NEW SECTION. Sec. 5.** A new section is added to chapter 74.09 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the authority shall collaborate with the University of Washington and a professional association of licensed community behavioral health agencies to develop a statewide plan to implement evidence-based coordinated specialty care programs that provide early identification and intervention for psychosis in licensed and certified community behavioral health agencies. The authority must submit the statewide plan to the governor and the legislature by March 1, 2020. The statewide plan must include:

(a) Analysis of existing benefit packages, payment rates, and resource gaps, including needs for nonmedicaid resources;

(b) Development of a discrete benefit package and case rate for coordinated specialty care;

(c) Identification of costs for statewide start-up, training, and community outreach;

(d) Determination of the number of coordinated specialty care teams needed in each regional service area; and

(e) A timeline for statewide implementation.

(2) The authority shall ensure that:

(a) At least one coordinated specialty care team is starting up or in operation in each regional service area by October 1, 2020; and

(b) Each regional service area has an adequate number of coordinated specialty care teams based on incidence and population across the state by December 31, 2023.

(3) This section expires June 30, 2024.

NEW SECTION. Sec. 6. (1) The department of children, youth, and families must enter into a contractual agreement with an organization providing coaching services to early achievers program participants to hire one qualified mental health consultant for each of the six department-designated regions. The 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.

(2) This section expires June 30, 2022."  
Correct the title.

Signed by Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Eslick, Assistant Ranking Minority Member; Goodman; Griffey; Kilduff; Lovick and Ortiz-Self.

MINORITY recommendation: Do not pass. Signed by Representatives McCaslin, Assistant Ranking Minority Member; Corry and Klippert.

Referred to Committee on Appropriations.

March 28, 2019

ESB 5958 Prime Sponsor, Senator Lovelett:  
Concerning public works contracts and interlocal agreements by second-class cities and towns. (REVISED FOR ENGROSSED: Concerning public works contracts and interlocal agreements. )  
Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Pollet, Chair; Peterson, Vice Chair;

Griffey, Assistant Ranking Minority Member; Appleton; Goehner and Senn.

MINORITY recommendation: Do not pass. Signed by Representative Kraft, Ranking Minority Member.

Referred to Committee on Rules for second reading.

There being no objection, the bills listed on the day's committee reports under the fifth order of business were referred to the committees so designated with the exception of HOUSE BILL NO. 1101 and HOUSE BILL NO. 1102 which were placed on the second reading calendar.

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

### MOTION

There being no objection, the Committee on Finance was relieved of HOUSE BILL NO. 1228, and the bill was referred to the Committee on Transportation.

There being no objection, the House adjourned until 10:00 a.m., April 3, 2019, the 80th Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## EIGHTIETH DAY

House Chamber, Olympia, Wednesday, April 3, 2019

The House was called to order at 10:00 a.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by the Naval Base Kitsap Color Guard, comprised of Mass Communications Specialist Third Class Oscar Quezada, Culinary Specialist Third Class Derionta Tolen, Hull Technician Third Class Jerikhoal Alvarez, Aviation Ordnanceman Airman Alexandra Alcantar and Master at Arms Seaman Ronni Bent. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. The National Anthem was performed by the Navy Band Northwest Brass Quintet, comprised of Chief Musician Evan Vis, Musician First Class Garrett Stephan, Musician Second Class Catherine Chau vot, Musician Third Class Matt Smith and Musician Seaman Marc Placencia. The prayer was offered by Lieutenant Jisuip Choi, Chaplain, Navy Region Northwest, accompanied by the Navy Band Northwest to perform the Navy hymn "Eternal Father".

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

## RESOLUTION

**HOUSE RESOLUTION NO. 2019-4622**, by Representatives Chopp, Wilcox, Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jenkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatler, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wylie, Ybarra, and Young

WHEREAS, The citizens of Washington State have set aside this day to honor, appreciate, and remember our Navy personnel; and

WHEREAS, The Washington State House of Representatives has always acted to honor those who have served and are serving our country as members of the United States military; and

WHEREAS, The Navy is the military service that secures sea lanes, allowing free flow of commerce to and from our state, and the service whose power projection promotes stability for our friends and deters aggression from our foes; and

WHEREAS, Washington State naval bases consistently receive awards for the quality of life they provide to sailors and family members; and

WHEREAS, Washington State is uniquely positioned, politically, economically, and geographically, to deal with the opportunities and challenges presented by Asia and the Pacific Rim countries; and

WHEREAS, Washington State Navy bases support two aircraft carriers, more than five surface ships, thirteen submarines, and 144 aircraft; and

WHEREAS, Washington State Navy installations provide careers and economic stability to tens of thousands of Washington State citizens; and

WHEREAS, Washington State Navy installations have also received environmental stewardship awards from local, state, and federal agencies, and are recognized as models for other military facilities; and

WHEREAS, Washington State-based Navy personnel and assets regularly deploy around the world to deter aggression, relieve the distressed, and aid America's friends and allies;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives celebrate the Navy and bring warm greetings and many thanks to each and every person related to the Navy's work and mission in our state.

Representative Appleton moved adoption of HOUSE RESOLUTION NO. 4622

Representatives Appleton and MacEwen spoke in favor of the adoption of the resolution.

HOUSE RESOLUTION NO. 4622 was adopted.

## SPEAKER'S PRIVILEGE

The Speaker recognized Captain Kevin Lenox, Commanding Officer USS Nimitz seated at the Rostrum and asked the members to acknowledge him.

The Speaker (Representative Lovick presiding) also recognized the delegation of Navy leadership who were seated in the Gallery and asked the members to join him in

welcoming the commanding officers of all the Puget Sound Naval Bases and Facilities, as well as a number of Command Master Chiefs and Assistants participating in Navy Day.

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

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

## SECOND READING

### HOUSE BILL NO. 1101, by Representative Tharinger

**Concerning state general obligation bonds and related accounts.**

The bill was read the second time.

There being no objection, Substitute House Bill No. 1101 was substituted for House Bill No. 1101 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1101 was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Tharinger and Steele spoke in favor of the passage of the bill.

## MOTIONS

On motion of Representative Griffey, Representatives DeBolt, Maycumber and Dent were excused.

On motion of Representative Riccelli, Representative Goodman was excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1101.

## ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1101, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves,

Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representatives DeBolt, Dent, Goodman and Maycumber.

SUBSTITUTE HOUSE BILL NO. 1101, having received the necessary constitutional majority, was declared passed.

### HOUSE BILL NO. 1102, by Representative Tharinger

**Concerning the capital budget.**

The bill was read the second time.

There being no objection, Substitute House Bill No. 1102 was substituted for House Bill No. 1102 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1102 was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Tharinger and Smith spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1102.

## ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1102, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representatives DeBolt, Dent, Goodman and Maycumber.

SUBSTITUTE HOUSE BILL NO. 1102, having received the necessary constitutional majority, was declared passed.

#### POINT OF PERSONAL PRIVILEGE

Representative Riccelli recognized Representative Orwall and wished her a Happy Birthday.

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

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

#### REPORTS OF STANDING COMMITTEES

April 1, 2019

ESSB 5077 Prime Sponsor, Committee on Environment, Energy & Technology: Restricting single-use plastic straws at food service establishments. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food facility, and does not offer the food for resale.

(2) "Food service establishment" means establishments that serve food, beverages, or prepared food for consumption including establishments:

(a) With the primary business purpose of serving food to be consumed on the premises or providing prepared meals or other food or beverage items that a consumer purchases and intends to eat elsewhere; or

(b) That serve food, beverages, and prepackaged food and beverages: (i) Via a drive through; (ii) in a packaged form for take out or take away; or (iii) from stands or kiosks that provide no shelter or seating for consumers.

(3) "Local health jurisdiction" or "jurisdictional health department" means an administrative agency organized under chapter 70.05 RCW, a health district organized under chapter 70.46 RCW, or a combined city-county health department organized under chapter 70.08 RCW, that administers public health and safety regulations and codes, including food safety and restaurant inspections.

(4) "Plastic straw" means a tube made predominantly of plastic derived from either petroleum or a

biologically based polymer, such as corn or other plant sources, and including compostable and biodegradable petroleum or biologically based polymer straws, for transferring a beverage from its container to the mouth of the drinker.

**NEW SECTION. Sec. 2.** (1) Beginning January 1, 2020, a food service establishment may not provide a single-use straw to a consumer unless a straw is requested by the consumer. In lieu of a straw, a food service establishment may also offer a tippy cup lid to a customer that requests a straw.

(2) In recognition that a straw is an adaptive utensil that may provide a basic accommodation for an individual with a disability to eat and drink, a food service establishment that provides straws of any type to customers must provide a single-use plastic straw to an individual with a disability upon request by the individual for a plastic straw.

(3)(a) Nothing in this section is intended to create any requirement, power, or duty that is in conflict with any federal law, including the Americans with disabilities act, 42 U.S.C. Sec. 12101, et. seq.

(b) Nothing in this section creates a private right of action against a food service establishment.

(4) Nothing in this section authorizes a food service establishment to make single-use plastic straws available to customers using cylinders, bins, dispensers, containers, or other self-service means of allowing a customer to obtain a single-use plastic straw or to offer to provide a single-use plastic straw that a customer has not requested.

(5) Nothing in this section limits the ability of a hospital or other medical facility to provide a plastic straw to a person that needs the straw for medical purposes.

**NEW SECTION. Sec. 3.** (1) The local health jurisdiction or a jurisdictional health department must enforce this chapter. The local board of health may establish regulations to enforce this chapter. The local board of health may establish and collect fees of up to twenty-five dollars per food service establishment per year, as necessary to cover costs incurred in carrying out its duties under this chapter, consistent with RCW 70.05.060(7).

(a) The local health jurisdiction or a jurisdictional health department must provide notice of violation to any person permitted to operate the food service establishment for the first and second violation of section 2 of this act.

(b) For the third and subsequent violations of section 2 of this act, a person permitted to operate the food service establishment is subject to a civil penalty of up to two hundred fifty dollars for each day, not to exceed three thousand dollars per year.

(2) Penalties collected under this section may be retained by the local health jurisdiction or jurisdictional health department for enforcement activities.

NEW SECTION. Sec. 4. (1) Beginning January 1, 2020, a city, county, town, or municipal corporation may not enact an ordinance restricting the provision of plastic straws applicable to food service establishments.

(2) Any local ordinance that restricts the provision of single-use straws that is in effect as of January 1, 2020, is not preempted, limited, or repealed, except that the requirements of section 2 of this act also apply in such a local jurisdiction.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act constitute a new chapter in Title 70 RCW."

Correct the title.

Signed by Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; Doglio; Fey; Mead; Peterson and Shewmake.

MINORITY recommendation: Do not pass. Signed by Representatives Boehnke; Dye, Assistant Ranking Minority Member Shea, Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 1, 2019

SSB 5211 Prime Sponsor, Committee on Ways & Means: Prohibiting the use of live animals to practice invasive medical procedures in paramedic training programs. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds one or more paramedic training courses in Washington simulate the stress experienced by paramedics performing invasive medical procedures on patients in the field by using live pigs to practice creating emergency airways. Alternatively, human-based medical training methods, such as simulators, replicate human anatomy and allow for repetitive practice and data collection. The legislature also finds that medical simulators may be an equally effective training method to using live tissue models given advances in simulator technology. One Canadian armed forces study of medical technicians found no difference in performance between medics trained on simulators versus live tissue models. The legislature intends to encourage the use of inanimate human-based training methods and prohibit the use of live animals to practice invasive medical procedures in paramedic training programs.

NEW SECTION. Sec. 2. A new section is added to chapter 18.71 RCW to read as follows:

(1) By July 1, 2022, all paramedic training programs in the state of Washington training individuals in the medical treatment of persons may:

(a) Only use human-based training methods; and

(b) Not use live animals.

(2) For the purposes of this section:

(a) "Human-based training methods" means the use of systems and devices, including simulators, partial task trainers, or human cadavers.

(b) "Partial task trainers" means training aids that allow individuals to learn or practice specific medical procedures."

Correct the title.

Signed by Representatives Goodman, Chair; Davis, Vice Chair; Appleton; Lovick; Orwall; Pellicciotti and Pettigrew.

MINORITY recommendation: Do not pass. Signed by Representatives Klippert, Ranking Minority Member Sutherland, Assistant Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representatives Graham and Griffey.

Referred to Committee on Appropriations.

April 2, 2019

ESSB 5272 Prime Sponsor, Committee on Local Government: Increasing the maximum tax rate for the voter-approved local sales and use tax for emergency communication systems and facilities. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Tarleton, Chair; Walen, Vice Chair; Chapman; Frame; Macri; Orwall; Springer; Stokesbary and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member and Vick.

Referred to Committee on Rules for second reading.

April 1, 2019

ESSB 5288 Prime Sponsor, Committee on Law & Justice: Sentencing for persistent offenders. (REVISED FOR ENGROSSED: Removing robbery in the second degree from the list of offenses that qualify an individual as a persistent offender. ) Reported by Committee on Public Safety

MAJORITY recommendation: Do pass. Signed by Representatives Pettigrew; Pellicciotti; Orwall; Lovick; Appleton; Davis, Vice Chair Goodman, Chair.

MINORITY recommendation: Without recommendation. Signed by Representative Graham.

MINORITY recommendation: Do not pass. Signed by Representatives Griffey; Sutherland, Assistant Ranking Minority Member Klippert, Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 1, 2019

SB 5339 Prime Sponsor, Senator Carlyle: Reducing criminal justice expenses by eliminating the death penalty and instead requiring life imprisonment without possibility of release or parole as the sentence for aggravated first degree murder. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass. Signed by Representatives Pettigrew; Pellicciotti; Orwall; Lovick; Appleton; Davis, Vice Chair Goodman, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Griffey; Graham; Sutherland, Assistant Ranking Minority Member Klippert, Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 1, 2019

SB 5367 Prime Sponsor, Senator Wagoner: Creating the purple star award for military friendly schools. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 28A.625 RCW to read as follows:

(1)(a) The purple star award is created to recognize military friendly schools that show a commitment to students and families connected to the nation's military. Schools that earn the award will receive a special purple star recognition to display on site. The state council must consider a school for the purple star award if it applies and completes all the required activities and at least one optional activity listed in this section.

(b) A school must complete the following required activities to be considered to receive the purple star award:

(i) The school must have a staff point of contact for military students and families. The school staff point of contact must:

(A) Work jointly with the state military family education liaison under RCW 28A.705.010, article VIII to serve military families;

(B) Serve as the primary liaison between military families and the school;

(C) Complete professional development on special considerations for military students and families under relevant state and federal law; and

(D) Identify and inform teachers of military-connected students in their classrooms and the special considerations military families and students should receive under the interstate compact on educational opportunity for military children under RCW 28A.705.010; and

(ii) The school maintains a dedicated page on its web site featuring resources for military families. The web site may provide a link to a military student mentoring program.

(c) A school must complete at least one of the following optional activities to be considered to receive the purple star award:

(i) The school provides professional development for additional staff on special considerations for military students and families;

(ii) The local school district board of directors passes a resolution publicizing the school's support for military children and families; or

(iii) The school hosts a military recognition event that demonstrates a military friendly culture.

(2) To be considered for a purple star award, a school or a school district on behalf of the school, must submit an application to the state council.

(3) The state council must:

(a) Create a simple application for a school or school district to submit for consideration to receive a purple star award. The application must require evidence of meeting each of the required activities under subsection (1)(b) of this section and at least one optional activity under subsection (1)(c) of this section necessary to receive the purple star award;

(b) Establish a timeline for submittal of an application for consideration and for announcement of the award recipients;

(c) Create criteria to use when reviewing the applications received and determining which school or schools receive the award; and

(d) Determine whether there is a limited or unlimited number of awards given every two years and whether a school that receives the award is eligible to apply again in subsequent years.

(4) The purple star award shall be awarded every two years, beginning in 2020.

(5) For the purposes of this section, "the state council" means the state council created under RCW 28A.705.010, article VIII of the interstate compact on educational opportunity for military children."

Correct the title.

Signed by Representatives Santos, Chair; Ybarra; Valdez; Rude; Kraft; Kilduff; Harris; Corry; Caldier; Bergquist; Volz, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Steele, Ranking Minority Member; Paul, Vice Chair; Dolan, Vice Chair and Callan.

MINORITY recommendation: Do not pass. Signed by Representatives Stonier and Thai.

MINORITY recommendation: Without recommendation. Signed by Representative Ortiz-Self.

Referred to Committee on Rules for second reading.

March 28, 2019

ESSB 5418 Prime Sponsor, Committee on Local Government: Concerning local government procurement modernization and efficiency. Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 35.23.352 and 2018 c 74 s 2 are each amended to read as follows:

(1) Any second-class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of ~~((sixty-five thousand))~~ one hundred sixteen thousand one hundred fifty-five dollars if more than one craft or trade is involved with the public works, or ~~((forty thousand))~~ seventy-five thousand five hundred dollars if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring

responsive bids, at least thirteen days prior to the last date upon which bids will be received. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in accordance with RCW 39.08.030. If the bidder fails to enter into the contract in accordance with his or her bid and furnish a bond within ten days from the date at which he or she is notified that he or she is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) For the purposes of this section:

(a) "Lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has the lowest bid or is the next (second) lowest bid within five percent of the lowest bid, and has not been disqualified as a lowest responsible bidder, based upon a written finding, that the bidder has delivered a project to the city within the last three years that was late, over budget, or did not meet specifications.

(b) If a bid does not meet the specifications pursuant to (a) of this subsection, then "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and that is the third lowest bid that is within five percent of the lowest bid and:

(i) Has delivered at least one project of similar size and scope within the last three years for the city on time, within budget, and according to required specifications; and

(ii) Has not delivered a project to the city within the last three years that was late, over budget, or did not meet specifications.

(3) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

~~((3))~~ (4) In lieu of the procedures of subsection (1) of this section, a second-class city or a town may let contracts using the small works roster process provided in RCW 39.04.155.

Whenever possible, the city or town shall invite at least one proposal from a certified minority or woman contractor who shall otherwise qualify under this section.

~~((4))~~ (5) The form required by RCW 43.09.205 shall be to account and record costs of public works in excess of five thousand dollars that are not let by contract.

~~((5))~~ (6) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

~~((6))~~ (7) Any purchase of supplies, material, or equipment, except for public work or improvement, where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids.

~~((7))~~ (8) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

~~((8))~~ (9) For advertisement and formal sealed bidding to be dispensed with as to purchases with an estimated value of fifteen thousand dollars or less, the council or commission must authorize by resolution, use of the uniform procedure provided in RCW 39.04.190.

~~((9))~~ (10) The city or town legislative authority may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

~~((10))~~ (11) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A RCW.

~~((11))~~ (12) Nothing in this section shall prohibit any second-class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

~~((12))~~ (13)(a) Any second-class city or any town may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the city or town, under which the contractor agrees to a fixed period indefinite

quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the city or town having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the city or town will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the city or town must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

(14) Any second-class city or town that awards a project to a bidder under the criteria described in subsection (2) of this section must make an annual report to the department of commerce that includes the total number of bids awarded to certified minority or women contractors and describing how notice was provided to potential certified minority or women contractors.

**Sec. 2.** RCW 39.19.020 and 1996 c 69 s 4 are each amended to read as follows:

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

(1) "Advisory committee" means the advisory committee on minority and women's business enterprises.

(2) "Broker" means a person that provides a bona fide service, such as professional, technical, consultant, brokerage, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of a contract.

(3) "Contractor" means an individual or entity granted state certification and awarded either a direct contract with an agency or an indirect contract as a subcontractor to perform a service or provide goods.

(4) "Director" means the director of the office of minority and women's business enterprises.

~~((4))~~ (5) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

~~((5))~~ (6) "Goals" means annual overall agency goals, expressed as a percentage of dollar volume, for participation by minority and women-owned and controlled businesses and shall not be construed as a minimum goal for any particular contract or for any particular geographical area. It is the intent of this chapter that such overall agency goals shall be achievable and shall be met on a contract-by-contract or class-of-contract basis.

~~((6))~~ (7) "Goods and/or services" includes professional services and all other goods and services.

~~((7))~~ (8) "Office" means the office of minority and women's business enterprises.

~~((8))~~ (9) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons.

~~((9))~~ (10) "Procurement" means the purchase, lease, or rental of any goods or services.

~~((10))~~ (11) "Public works" means all work, construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.

~~((11))~~ (12) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions.

**Sec. 3.** RCW 39.19.060 and 1996 c 288 s 28 are each amended to read as follows:

(1) Each state agency and educational institution shall comply with the annual goals established for that agency or institution under this chapter for public works and procuring goods or services. This chapter applies to all public works and procurement by state agencies and educational institutions, including all contracts and other procurement under chapters 28B.10, 39.04, ~~((39.29))~~ 39.26, 43.19, and 47.28 RCW.

(2) Each state agency shall adopt a plan, developed in consultation with the director and the advisory committee, to ~~((insure))~~ ensure that minority and women-owned businesses are afforded the maximum practicable opportunity to directly and meaningfully participate in the execution of public contracts for public works and goods and services. The plan shall include specific measures the agency will undertake to increase the participation of certified minority and women-owned businesses.

(3) The office shall annually notify the governor, the state auditor, and the joint legislative audit and review committee of all agencies and educational institutions not in compliance with this chapter.

**Sec. 4.** RCW 39.19.250 and 2009 c 348 s 2 are each amended to read as follows:

(1) For the purpose of annual reporting on progress required by section 1 of this act, each state agency and educational institution shall submit data to the office and the office of minority and women's business enterprises on the participation by qualified minority and women-owned and controlled businesses in the agency's or institution's contracts and other related information requested by the director. The director of the office of minority and women's business enterprises shall determine the content and format of the data and the reporting schedule, which must be at least annually.

(2) The office must develop and maintain a list of contact people at each state agency and educational institution ~~((that is))~~ who are able to present to hearings of the appropriate committees of the legislature its progress in carrying out the purposes of chapter 39.19 RCW.

(3) The office must submit a report aggregating the data received from each state agency and educational institution to the legislature and the governor.

**Sec. 5.** RCW 39.04.155 and 2015 c 225 s 33 are each amended to read as follows:

(1) This section provides uniform small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property that may be used by state agencies and by any local government that is expressly authorized to use these provisions. These provisions may be used in lieu of other procedures to award contracts for such work with an estimated cost of three hundred fifty thousand dollars or less. The small works roster process includes the limited public works process authorized under subsection (3) of this section and any local government authorized to award contracts using the small works roster process under this section may award contracts using the limited public works process under subsection (3) of this section.

(2)(a) A state agency or authorized local government may create a single general small works roster, or may create a small works roster for different specialties or categories of anticipated work. Where applicable, small works rosters may make distinctions between contractors based upon different geographic areas served by the contractor. The small works roster or rosters shall consist of all responsible contractors who have requested to be on the list, and where required by law are properly licensed or registered to perform such work in this state. A state agency or local government establishing a small works roster or rosters may require eligible contractors desiring to be placed on a roster or rosters to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the state agency or local government as a condition of being placed on a roster or rosters. At least once a year, the state agency or local government shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for

such roster or rosters. In addition, responsible contractors shall be added to an appropriate roster or rosters at any time they submit a written request and necessary records. Master contracts may be required to be signed that become effective when a specific award is made using a small works roster.

(b) A state agency establishing a small works roster or rosters shall adopt rules implementing this subsection. A local government establishing a small works roster or rosters shall adopt an ordinance or resolution implementing this subsection. Procedures included in rules adopted by the department of enterprise services in implementing this subsection must be included in any rules providing for a small works roster or rosters that is adopted by another state agency, if the authority for that state agency to engage in these activities has been delegated to it by the department of enterprise services under chapter 43.19 RCW. An interlocal contract or agreement between two or more state agencies or local governments establishing a small works roster or rosters to be used by the parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the provisions of this subsection.

(c) Procedures shall be established for securing telephone, written, or electronic quotations from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW 39.04.010. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes. Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations ~~((may))~~ must be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. However, if the estimated cost of the work is from ~~((one))~~ two hundred fifty thousand dollars to three hundred fifty thousand dollars, a state agency or local government that chooses to solicit bids from less than all the appropriate contractors on the appropriate small works roster must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The government has the sole option of determining whether this notice to the remaining contractors is made by: (i) Publishing notice in a legal newspaper in general circulation in the area where the work is to be done; (ii) mailing a notice to these contractors; or (iii) sending a notice to these contractors by facsimile or other electronic means. For purposes of this subsection (2)(c), "equitably distribute" means that a state agency or local government soliciting bids may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

(d) A contract awarded from a small works roster under this section need not be advertised.

(e) Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by ~~((telephone inquiry))~~ electronic request.

(f) For projects awarded under the small works roster process established under this subsection, a state agency or authorized local government may waive the retainage requirements of RCW 60.28.011(1)(a), thereby assuming the liability for contractor's nonpayment of: (i) Laborers, mechanics, subcontractors, materialpersons, and suppliers; and (ii) taxes, increases, and penalties under Titles 50, 51, and 82 RCW that may be due from the contractor for the project. However, the state agency or local government has the right of recovery against the contractor for any payments made on the contractor's behalf. Recovery of unpaid wages and benefits are the first priority for actions filed against the retainage.

(3)(a) In lieu of awarding contracts under subsection (2) of this section, a state agency or authorized local government may award a contract for work, construction, alteration, repair, or improvement projects estimated to cost less than ~~((thirty-five))~~ fifty thousand dollars using the limited public works process provided under this subsection. Public works projects awarded under this subsection are exempt from the other requirements of the small works roster process provided under subsection (2) of this section and are exempt from the requirement that contracts be awarded after advertisement as provided under RCW 39.04.010.

(b) For limited public works projects, a state agency or authorized local government shall solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 39.04.010. After an award is made, the quotations shall be open to public inspection and available by electronic request. A state agency or authorized local government ~~((shall attempt to))~~ must equitably distribute opportunities for limited public works projects ~~((equitably))~~ among contractors willing to perform in the geographic area of the work. A state agency or authorized local government shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded. For limited public works projects, a state agency or authorized local government may waive the payment and performance bond requirements of chapter 39.08 RCW and may waive the retainage requirements of ~~((chapter 60.28))~~ RCW 60.28.011(1)(a), thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, materialpersons, suppliers, and taxes ~~((imposed under Title)), increases, and penalties imposed under Titles 50, 51, and 82 RCW that may be due from the contractor for the limited public works project, however the state agency or authorized local government shall have the right of recovery against the contractor for any payments made on the contractor's behalf.~~

(4) The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process or limited public works process.

~~(5)((a) A state agency or authorized local government may use the limited public works process of subsection (3) of this section to solicit and award small works roster contracts to small businesses that are registered contractors with gross revenues under one million dollars annually as reported on their federal tax return.~~

~~(b) A state agency or authorized local government may adopt additional procedures to encourage small businesses that are registered contractors with gross revenues under two hundred fifty thousand dollars annually as reported on their federal tax returns to submit quotations or bids on small works roster contracts.~~

~~(6) As used in this section,) A state agency or authorized local government may use the limited public works process in this section to solicit and award small works roster contracts to minibusinesses and microbusinesses as defined under RCW 39.26.010 that are registered contractors.~~

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

(a) "Equitably distributes" means that a state agency or authorized local government may not favor certain contractors on the appropriate small works roster over other contractors on the same roster who perform similar services.

(b) "State agency" means the department of enterprise services, the state parks and recreation commission, the department of natural resources, the department of fish and wildlife, the department of transportation, any institution of higher education as defined under RCW 28B.10.016, and any other state agency delegated authority by the department of enterprise services to engage in construction, building, renovation, remodeling, alteration, improvement, or repair activities.

**Sec. 6.** RCW 39.12.040 and 2013 c 113 s 5 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, before payment is made by or on behalf of the state, or any county, municipality, or political subdivision created by its laws, of any sum or sums due on account of a public works contract, it is the duty of the officer or person charged with the custody and disbursement of public funds to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer a "Statement of Intent to Pay Prevailing Wages". For a contract in excess of ten thousand dollars, the statement of intent to pay prevailing wages must include:

(i) The contractor's registration certificate number; and

(ii) The prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020 and the estimated number of workers in each classification.

(b) Each statement of intent to pay prevailing wages must be approved by the industrial statistician of the department of labor and industries before it is submitted to the disbursing officer. Unless otherwise authorized by the department of labor and industries, each voucher claim submitted by a contractor for payment on a project estimate must state that the prevailing wages have been paid in accordance with the prefiled statement or statements of intent to pay prevailing wages on file with the public agency. Following the final acceptance of a public works project, it is the duty of the officer charged with the disbursement of public funds, to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer an affidavit of wages paid before the funds retained according to the provisions of RCW 60.28.011 are released to the contractor. On a public works project where no retainage is withheld (~~pursuant to RCW 60.28.011(1)(b))~~), the affidavit of wages paid must be submitted to the state, county, municipality, or other public body charged with the duty of disbursing or authorizing disbursement of public funds prior to final acceptance of the public works project. If a subcontractor performing work on a public works project fails to submit an affidavit of wages paid form, the contractor or subcontractor with whom the subcontractor had a contractual relationship for the project may file the forms on behalf of the nonresponsive subcontractor. Affidavit forms may only be filed on behalf of a nonresponsive subcontractor who has ceased operations or failed to file as required by this section. The contractor filing the affidavit must accept responsibility for payment of prevailing wages unpaid by the subcontractor on the project pursuant to RCW 39.12.020 and 39.12.065. Intentionally filing a false affidavit on behalf of a subcontractor subjects the filer to the same penalties as are provided in RCW 39.12.050. Each affidavit of wages paid must be certified by the industrial statistician of the department of labor and industries before it is submitted to the disbursing officer.

(2) As an alternate to the procedures provided for in subsection (1) of this section, for public works projects of two thousand five hundred dollars or less and for projects where the limited public works process under RCW 39.04.155(3) is followed:

(a) An awarding agency may authorize the contractor or subcontractor to submit the statement of intent to pay prevailing wages directly to the officer or person charged with the custody or disbursement of public funds in the awarding agency without approval by the industrial statistician of the department of labor and industries. The awarding agency must retain such statement of intent to pay prevailing wages for a period of not less than three years.

(b) Upon final acceptance of the public works project, the awarding agency must require the contractor or subcontractor to submit an affidavit of wages paid. Upon receipt of the affidavit of wages paid, the awarding agency may pay the contractor or subcontractor in full, including funds that would otherwise be retained according to the

provisions of RCW 60.28.011. Within thirty days of receipt of the affidavit of wages paid, the awarding agency must submit the affidavit of wages paid to the industrial statistician of the department of labor and industries for approval.

(c) A statement of intent to pay prevailing wages and an affidavit of wages paid must be on forms approved by the department of labor and industries.

(d) In the event of a wage claim and a finding for the claimant by the department of labor and industries where the awarding agency has used the alternative process provided for in this subsection (2), the awarding agency must pay the wages due directly to the claimant. If the contractor or subcontractor did not pay the wages stated in the affidavit of wages paid, the awarding agency may take action at law to seek reimbursement from the contractor or subcontractor of wages paid to the claimant, and may prohibit the contractor or subcontractor from bidding on any public works contract of the awarding agency for up to one year.

(e) Nothing in this section may be interpreted to allow an awarding agency to subdivide any public works project of more than two thousand five hundred dollars for the purpose of circumventing the procedures required by subsection (1) of this section.

**Sec. 7.** RCW 54.04.070 and 2017 c 85 s 1 are each amended to read as follows:

(1) Any item, or items of the same kind of materials, equipment, or supplies purchased, the estimated cost of which is in excess of ~~((fifteen))~~ thirty thousand dollars, exclusive of sales tax, shall be by contract. However, a district may make purchases of the same kind of items of materials, equipment, and supplies not exceeding ~~((seven))~~ twelve thousand ~~((five hundred))~~ dollars in any calendar month without a contract, purchasing any excess thereof over ~~((seven))~~ twelve thousand ~~((five hundred))~~ dollars by contract.

(2) Any work ordered by a district commission, the estimated cost of which is in excess of ~~((twenty-five))~~ fifty thousand dollars, exclusive of sales tax, shall be by contract. However, a district commission may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding ~~((one))~~ three hundred ~~((fifty))~~ thousand dollars in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment ~~((purchased or acquired and used as one unit of a project))~~. For the purposes of this section, the term "equipment" includes but is not limited to conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

(3) Before awarding a contract required under subsection (1) or (2) of this section, the commission shall publish a notice once or more in a newspaper of general

circulation in the district at least thirteen days before the last date upon which bids will be received, inviting sealed proposals for the work or materials. Plans and specifications for the work or materials shall at the time of publication be on file at the office of the district and subject to public inspection. Any published notice ordering work to be performed for the district shall be mailed at the time of publication to any established trade association which files a written request with the district to receive such notices. The commission may, at the same time and as part of the same notice, invite tenders for the work or materials upon plans and specifications to be submitted by the bidders.

(4) As an alternative to the competitive bidding requirements of this section and RCW 54.04.080, a district may let contracts using the small works roster process under RCW 39.04.155.

(5) Whenever equipment or materials required by a district are held by a governmental agency and are available for sale but such agency is unwilling to submit a proposal, the commission may ascertain the price of such items and file a statement of such price supported by the sworn affidavit of one member of the commission, and may consider such price as a bid without a deposit or bond.

(6) Pursuant to RCW 39.04.280, the commission may waive the competitive bidding requirements of this section and RCW 54.04.080 if an exemption contained within RCW 39.04.280 applies to the purchase or public work.

(7)(a) A district may procure public works with a unit priced contract under this section, RCW 54.04.080, or 54.04.085 for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, unit priced contract means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of a district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price, for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the district having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the district will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Where electrical facility construction or improvement work is anticipated, contractors on a unit priced contract shall comply with the requirements under RCW 54.04.085 (1) through (5). Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. ~~((Prevailing wages for all work performed pursuant to each work order must be the rates in effect at the time the individual work order is issued))~~ Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intent and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

**Sec. 8.** RCW 36.32.235 and 2016 c 95 s 8 and 2016 c 19 s 8 are each reenacted and amended to read as follows:

(1) In each county ~~((with a population of four hundred thousand or more))~~ which by resolution establishes a county purchasing department, the purchasing department shall enter into leases of personal property on a competitive basis and purchase all supplies, materials, and equipment on a competitive basis, for all departments of the county, as provided in this chapter and chapter 39.04 RCW, except that the county purchasing department is not required to make purchases that are paid from the county road fund or equipment rental and revolving fund.

(2) As used in this section:

(a) "Public works" has the same definition as in RCW 39.04.010.

(b) "Riverine project" means a project of construction, alteration, repair, replacement, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property, carried out on a river or stream and its tributaries and associated floodplains, beds, banks, and waters for the purpose of improving aquatic habitat, improving water quality, restoring floodplain function, or providing flood protection.

(c) "Stormwater project" means a project of construction, alteration, repair, replacement, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property, carried out on a municipal separate storm sewer system, and any connections to the system, that is regulated under a state-issued national pollutant discharge elimination system general municipal stormwater permit for the purpose of improving control of stormwater runoff quantity and quality from developed land, safely conveying stormwater runoff, or reducing erosion or other water quality impacts caused by municipal separate storm sewer system discharges.

(3) Except as otherwise specified in this chapter or in chapter 36.77 RCW, all counties subject to these provisions shall contract on a competitive basis for all public works after bids have been submitted to the county upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection.

(4) An advertisement shall be published in the county official newspaper stating the time and place where bids will be opened, the time after which bids will not be received, the character of the work to be done, the materials and equipment to be furnished, and that specifications therefor may be seen at the office of the clerk of the county legislative authority. An advertisement shall also be published in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done. If the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such public works are to be done, then the publication of an advertisement of the applicable specifications in the county official newspaper is sufficient. Such advertisements shall be published at least once at least thirteen days prior to the last date upon which bids will be received.

(5) The bids shall be in writing, may be in either hard copy or electronic form as specified by the county, shall be filed with the clerk, shall be opened and read in public at the time and place named therefor in the advertisements, and, after being opened, shall be filed for public inspection. No bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed.

(6) The contract for the public work shall be awarded to the lowest responsible bidder. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law.

(7) If the bidder to whom the contract is awarded fails to enter into the contract and furnish the contractor's bond as required within ten days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry.

(8) As limited by subsection ~~((40))~~ (11) of this section, a county subject to these provisions may have public works performed by county employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period.

Whenever a county subject to these provisions has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works except emergency work under subsection ~~((42))~~ (13) of this section within that budget period shall be done by contract pursuant to public notice and call for competitive bids as specified in subsection (3) of

this section. The state auditor shall report to the state treasurer any county subject to these provisions that exceeds this amount and the extent to which the county has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(9) A county may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(a) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the county, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(b) Unit priced contracts must be executed for an initial contract term not to exceed one year, with the county having the option of extending or renewing the unit priced contract for one additional year.

(c) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the county will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. The contract must be awarded to the lowest responsible bidder as defined under RCW 39.04.010. Whenever possible, the county must invite at least one bid from a certified minority or woman contractor who otherwise qualifies under this section.

(d) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

(10) If a county subject to these provisions has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that county in its next budget period. Ten percent of the motor vehicle fuel tax distributions to that county shall be withheld if two years after the year in which the excess amount of work occurred, the county has failed to so reduce the amount of public works that it has performed by public employees. The amount withheld shall be distributed to the county when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been reduced as required.

~~((40))~~ (11) In addition to the percentage limitation provided in subsection (8) of this section, counties subject to

these provisions containing a population of four hundred thousand or more shall not have public employees perform: A public works project in excess of ninety thousand dollars if more than a single craft or trade is involved with the public works project, a riverine project or stormwater project in excess of two hundred fifty thousand dollars if more than a single craft or trade is involved with the riverine project or stormwater project, a public works project in excess of forty-five thousand dollars if only a single craft or trade is involved with the public works project, or a riverine project or stormwater project in excess of one hundred twenty-five thousand dollars if only a single craft or trade is involved with the riverine project or stormwater project. A public works project, a riverine project, and a stormwater project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by public employees on a single project.

The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

~~((11))~~ (12) In addition to the accounting and recordkeeping requirements contained in chapter 39.04 RCW, any county which uses public employees to perform public works projects under RCW 36.32.240(1) shall prepare a year-end report to be submitted to the state auditor indicating the total dollar amount of the county's public works construction budget and the total dollar amount for public works projects performed by public employees for that year.

The year-end report submitted pursuant to this subsection to the state auditor shall be in accordance with the standard form required by RCW 43.09.205.

~~((12))~~ (13) Notwithstanding any other provision in this section, counties may use public employees without any limitation for emergency work performed under an emergency declared pursuant to RCW 36.32.270, and any such emergency work shall not be subject to the limitations of this section. Publication of the description and estimate of costs relating to correcting the emergency may be made within seven days after the commencement of the work. Within two weeks of the finding that such an emergency existed, the county legislative authority shall adopt a resolution certifying the damage to public facilities and costs incurred or anticipated relating to correcting the emergency. Additionally this section shall not apply to architectural and engineering or other technical or professional services performed by public employees in connection with a public works project.

~~((13))~~ (14) In lieu of the procedures of subsections (3) through ~~((11))~~ (12) of this section, a county may let contracts using the small works roster process provided in RCW 39.04.155.

Whenever possible, the county shall invite at least one proposal from a certified minority or woman contractor who shall otherwise qualify under this section.

~~((14))~~ (15) The allocation of public works projects to be performed by county employees shall not be subject to a collective bargaining agreement.

~~((15))~~ (16) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A RCW.

~~((16))~~ (17) Nothing in this section prohibits any county from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

~~((17))~~ (18) This section does not apply to contracts between the public stadium authority and a team affiliate under RCW 36.102.060(4), or development agreements between the public stadium authority and a team affiliate under RCW 36.102.060(7) or leases entered into under RCW 36.102.060(8).

NEW SECTION. **Sec. 9.** A new section is added to chapter 39.04 RCW to read as follows:

(1) The following public bodies of the state of Washington are authorized to procure public works contracts under this chapter for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades:

(a) Every county public transportation authority as defined under RCW 36.57.010;

(b) Every public transportation benefit area as defined under RCW 36.57A.010; and

(c) Every regional transit authority as defined under RCW 81.112.020.

(2) A public body may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(3) Unit priced contracts must be executed for an initial contract term not to exceed one year, with the public body having the option of extending or renewing the unit priced contract for one additional year.

(4) Invitations for unit price bids must include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the public body will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as provided in RCW 39.04.010. Whenever possible, the public body must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(5) Unit priced contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the

prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

(6) All public works procured with a unit priced contract under this section must comply with all other applicable bid requirements.

(7) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the public body, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

**Sec. 10.** RCW 57.08.050 and 2015 c 136 s 1 are each amended to read as follows:

(1) All work ordered, the estimated cost of which is in excess of fifty thousand dollars, shall be let by contract and competitive bidding. Before awarding any such contract the board of commissioners shall publish a notice in a newspaper of general circulation where the district is located at least once thirteen days before the last date upon which bids will be received, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of commissioners subject to the public inspection. The notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of commissioners on or before the day and hour named therein.

Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the district as liquidated damages the amount specified in the bond, unless the bidder enters into a contract in accordance with the bidder's bid, and no bid shall be considered unless accompanied by such check, cash or bid bond. At the time and place named such bids shall be publicly opened and read and the board of commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best bidder submitting the bidder's own plans and specifications. The board of commissioners may reject all bids for good cause and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If the contract is let, then all checks, cash, or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for doing the work, and a bond to perform such work furnished with sureties satisfactory to the board of commissioners in the full amount of the contract price between the bidder and the commission in accordance with the bid. If the bidder fails to enter into the

contract in accordance with the bid and furnish the bond within ten days from the date at which the bidder is notified that the bidder is the successful bidder, the check, cash, or bid bonds and the amount thereof shall be forfeited to the district. If the bidder fails to enter into a contract in accordance with the bidder's bid, and the board of commissioners deems it necessary to take legal action to collect on any bid bond required by this section, then the district shall be entitled to collect from the bidder any legal expenses, including reasonable attorneys' fees occasioned thereby. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) As an alternative to requirements under subsection (1) of this section, a water-sewer district may let contracts using the small works roster process under RCW 39.04.155.

(3) Any purchase of materials, supplies, or equipment, with an estimated cost in excess of forty thousand dollars, shall be by contract. Any purchase of materials, supplies, or equipment, with an estimated cost of less than fifty thousand dollars shall be made using the process provided in RCW 39.04.190. Any purchase of materials, supplies, or equipment with an estimated cost of fifty thousand dollars or more shall be made by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section.

(4) As an alternative to requirements under subsection (3) of this section, a water-sewer district may let contracts for purchase of materials, supplies, or equipment with the suppliers designated on current state agency, county, city, or town purchasing rosters for the materials, supplies, or equipment, when the roster has been established in accordance with the competitive bidding law for purchases applicable to the state agency, county, city, or town. The price and terms for purchases shall be as described on the applicable roster.

(5) The board may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(6)(a) A district may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed one year, with the district having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids must include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the district will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the district must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

**Sec. 11.** RCW 35.22.620 and 2018 c 74 s 1 are each amended to read as follows:

(1) As used in this section, the term "public works" means as defined in RCW 39.04.010.

(2) A first-class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first-class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period. The amount of public works that a first-class city has a county perform for it under RCW 35.77.020 shall be included within this ten percent limitation.

If a first-class city has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

Whenever a first-class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.

The state auditor shall report to the state treasurer any first-class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(3) In addition to the percentage limitation provided in subsection (2) of this section, a first-class city shall not have public employees perform a public works project in excess of ~~((ninety))~~ one hundred fifty thousand dollars if more than a single craft or trade is involved with the public works project, or a public works project in excess of ~~((forty-five thousand))~~ seventy-five thousand five hundred dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

(4) In addition to the accounting and recordkeeping requirements contained in RCW 39.04.070, every first-class city annually may prepare a report for the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below ten percent of the total construction budget. However, if a city budgets on a biennial basis, this annual report may indicate the amount of public works that is performed by public employees within the current biennial period that is above or below ten percent of the total biennial construction budget.

Each first-class city with a population of one hundred fifty thousand or less shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(6) The competitive bidding requirements of this section may be waived by the city legislative authority pursuant to RCW 39.04.280 if an exemption contained within that section applies to the work or contract.

(7) In lieu of the procedures of subsections (2) and (6) of this section, a first-class city may let contracts using the small works roster process in RCW 39.04.155.

Whenever possible, the city shall invite at least one proposal from a certified minority or woman contractor who shall otherwise qualify under this section.

(8) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

(9) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A RCW.

(10) Nothing in this section shall prohibit any first-class city from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(11)(a) Any first-class city may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the city, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the city having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the city will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the city must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

**Sec. 12.** RCW 52.14.110 and 2009 c 229 s 9 are each amended to read as follows:

Insofar as practicable, purchases and any public works by the district shall be based on competitive bids. A formal sealed bid procedure shall be used as standard procedure for purchases and contracts for purchases executed by the board of commissioners. Formal sealed bidding shall not be required for:

(1) The purchase of any materials, supplies, or equipment if the cost will not exceed the sum of ~~((ten))~~ forty thousand dollars. However, whenever the estimated cost does not exceed ~~((fifty))~~ seventy-five thousand dollars, the

commissioners may by resolution use the process provided in RCW 39.04.190 to award contracts;

(2) Contracting for work to be done involving the construction or improvement of a fire station or other buildings where the estimated cost will not exceed the sum of ~~((twenty))~~ thirty thousand dollars, which includes the costs of labor, material, and equipment;

(3) Contracts using the small works roster process under RCW 39.04.155; and

(4) Any contract for purchases or public work pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

**Sec. 13.** RCW 39.04.105 and 2003 c 300 s 1 are each amended to read as follows:

(1) Within two business days of the bid opening on a public works project that is the subject of competitive bids, the municipality must provide, if requested by a bidder, copies of the bids the municipality received for the project. The municipality shall then allow at least two full business days after providing bidders with copies of all bids before executing a contract for the project. Intermediate Saturdays, Sundays, and legal holidays are not counted.

(2) When a municipality receives a written protest from a bidder for a public works project (~~(which)~~) that is the subject of competitive bids, the municipality (~~(shall)~~) must not execute a contract for the project with anyone other than the protesting bidder without first providing at least two full business days' written notice of the municipality's intent to execute a contract for the project; provided that the protesting bidder submits notice in writing of its protest no later than:

(a) Two full business days following bid opening, if no bidder requested copies of the bids received for the project under subsection (1) of this section; or

(b) Two full business days following when the municipality provided copies of the bids to those bidders requesting bids under subsection (1) of this section. Intermediate Saturdays, Sundays, and legal holidays are not counted.

**Sec. 14.** RCW 54.04.082 and 2008 c 216 s 3 are each amended to read as follows:

For the awarding of a contract to purchase any item, or items of the same kind of materials, equipment, or supplies in an amount exceeding ~~((fifteen))~~ thirty thousand dollars per calendar month, but less than ~~((sixty))~~ one hundred twenty thousand dollars per calendar month, exclusive of sales tax, the commission may, in lieu of the procedure described in RCW 54.04.070 and 54.04.080 requiring public notice to invite sealed proposals for such materials, equipment, or supplies, pursuant to commission resolution use the process provided in RCW 39.04.190. Waiver of the deposit or bid bond required under RCW 54.04.080 may be authorized by the commission in securing such bid quotations.

**Sec. 15.** RCW 87.03.435 and 1997 c 354 s 3 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section and RCW 87.03.436, whenever in the construction of the district canal or canals, or other works, or the furnishing of materials therefor, the board of directors shall determine to let a contract or contracts for the doing of the work or the furnishing of the materials, a notice calling for sealed proposals shall be published. The notice shall be published in a newspaper in the county in which the office of the board is situated, ~~((and))~~ in any other newspaper which may be designated by the board, and on the irrigation district's web site or on the county's web site where the district is located if the district does not have a web site, and for such length of time, not less than once each week for two weeks, as may be fixed by the board. At the time and place appointed in the notice for the opening of bids, the sealed proposals shall be opened in public, and as soon as convenient thereafter, the board shall let the work or the contract for the purchase of materials, either in portions or as a whole, to the lowest responsible bidder, or the board may reject any or all bids and readvertise, or may contract using the small works roster process in RCW 39.04.155 or may proceed to construct the work under its own superintendence. All work shall be done under the direction and to the satisfaction of the engineer of the district, and be approved by the board. The board of directors may require bidders submitting bids for the construction or maintenance for any of the works of the district, or for the furnishing of labor or material, to accompany their bids by a deposit in cash, certified check, cashier's check, or surety bond in an amount equal to five percent of the amount of the bid and a bid shall not be considered unless the deposit is enclosed with it. If the contract is let, then all the bid deposits shall be returned to the unsuccessful bidders. The bid deposit of the successful bidder shall be retained until a contract is entered into for the purchase of the materials or doing of such work, and a bond given to the district in accordance with chapter 39.08 RCW for the performance of the contract. The performance bond shall be conditioned as may be required by law and as may be required by resolution of the board, with good and sufficient sureties satisfactory to the board, payable to the district for its use, for at least twenty-five percent of the contract price. If the successful bidder fails to enter into a contract and furnish the necessary bond within twenty days from the award, exclusive of the day of the award, the bid deposit shall be forfeited to the district and the contract may then be awarded to the second lowest bidder.

(2) The provisions of this section in regard to public bidding shall not apply in cases where the board is authorized to exchange bonds of the district in payment for labor and material.

(3) The provisions of this section do not apply:

(a) In the case of any contract between the district and the United States;

(b) In the case of an emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board of

directors or proclamation of an official designated by the board to act for the board during such emergencies. The resolution or proclamation shall declare the existence of the emergency and recite the facts constituting the emergency; or

(c) To purchases which are clearly and legitimately limited to a single source of supply or to purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation.

**NEW SECTION. Sec. 16.** (1) The bid limit dollar thresholds for each public works contracting process and purchase must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2020, based upon changes in the consumer price index during that time period.

(2) "Consumer price index" means the consumer price index compiled by the bureau of labor and statistics, United States department of labor for the state of Washington. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section.

(3) The office of financial management must calculate the new dollar thresholds and transmit them to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar thresholds are to take effect.

(4) The public works contracting processes and purchases under subsection (1) of this section must include the local government entities subject to the following statutes: RCW 28A.335.190, 28B.10.029, 28B.10.350, 28B.50.330, 35.21.225, 35.21.730, 35.22.620, 35.23.352, 35.57.020, 35.61.135, 35A.40.210, 36.100.030, 36.32.235, 36.32.240, 36.32.245, 36.32.250, 52.14.110, 53.08.120, 53.08.135, 54.04.070, 54.04.082, 57.08.050, 70.44.140, 71.24.300, 74.38.050, 87.03.435, 87.03.436, 87.03.437, and 89.30.154 and chapters 17.28, 27.12, 28A.310, 35.82, 36.57, 36.57A, 36.69, 36.73, 39.04, 39.34, 48.62, 70.46, 85.38, and 89.08 RCW.

(5) For purposes of this section, "local government" refers to all counties, cities, towns, other political subdivisions, and special purpose districts."

Correct the title.

Signed by Representatives Senn; Goehner; Appleton; Peterson, Vice Chair Pollet, Chair.

MINORITY recommendation: Without recommendation. Signed by Representative Griffey, Assistant Ranking Minority Member.

MINORITY recommendation: Do not pass. Signed by Representative Kraft, Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 1, 2019

**SSB 5441** Prime Sponsor, Committee on Ways & Means: Extending rental vouchers for eligible offenders. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass. Signed by Representatives Goodman, Chair; Davis, Vice Chair; Sutherland, Assistant Ranking Minority Member; Appleton; Graham; Griffey; Lovick; Orwall; Pellicciotti and Pettigrew.

MINORITY recommendation: Do not pass. Signed by Representative Klippert, Ranking Minority Member.

Referred to Committee on Appropriations.

April 1, 2019

**SSB 5550** Prime Sponsor, Committee on Ways & Means: Implementing the recommendations of the pesticide application safety work group. Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) In 2018, the legislature passed Engrossed Second Substitute Senate Bill No. 6529. The bill recognized that farmers, farmworkers, and the broader community share an interest in minimizing human exposure to pesticides. It also recognized that gains have been made in reducing human exposure to pesticides and that collaboration between state agencies and the farming community could further reduce agricultural workers exposure to pesticide drift.

(2) The legislation established a pesticide application safety work group that would make recommendations for improving pesticide application safety. Work group members included legislators from both chambers and caucuses, as well as representation from state agencies and the commission on Hispanic affairs. The work group sought public participation to learn more about pesticide application safety. Many stakeholders including but not limited to local farm hosts, the agricultural industry, and members of the agricultural workforce contributed valuable assistance and input.

(3) The work group reached two noteworthy recommendations regarding what can be done now to improve pesticide application safety. The recommendations are to:

(a) Expand training because the department of agriculture lacks sufficient resources to meet the training demand from pesticide applicators and handlers; and

(b) Establish a new pesticide application safety panel to provide an opportunity to evaluate and recommend policy options, and investigate exposure cases.

(4) The work group concluded that legislation is warranted to expand funding for a training program and set up a new pesticide application safety panel with clear objectives.

(5) This section expires July 1, 2025.

**NEW SECTION. Sec. 2.** A new section is added to chapter 70.104 RCW to read as follows:

(1) The pesticide application safety committee is established. Appointments to the committee must be made as soon as possible after the legislature convenes in regular session. The committee is composed of the following 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 director of the department of agriculture, or an assistant director designated by the director;

(d) The secretary of the department of health, or an assistant secretary designated by the secretary;

(e) The director of the department of labor and industries, or an assistant director designated by the director;

(f) The commissioner of public lands, or an assistant commissioner designated by the commissioner;

(g) The dean of the college of agricultural, human, and natural resource sciences at the Washington State University, or an assistant dean designated by the dean;

(h) The pesticide safety education coordinator at the Washington State University cooperative extension; and

(i) The director of the University of Washington Pacific Northwest agricultural safety and health center, or an assistant designated by the director.

(2) The committee shall be cochaired by the secretary of the department of health, or the assistant secretary designated by the secretary, and the director of the department of agriculture, or the assistant director designated by the director.

(3) Primary responsibility for administrative support for the committee, including developing reports, research, and other organizational support, shall be provided by the department of health and the department of agriculture. The committee must hold its first meeting by September 2019. The committee must meet at least three times each year. The

meetings shall be at a time and place specified by the cochairs, or at the call of a majority of the committee. When determining the time and place of meetings, the cochairs must consider costs and conduct committee meetings in Olympia when this choice would reduce costs to the state.

(4)(a) An advisory work group is created to collect information and make recommendations to the full committee on topics requiring unique expertise and perspectives on issues within the jurisdiction of the committee.

(b) The advisory work group shall consist of a representative from the department of agriculture, two representatives of employee organizations that represent farmworkers, two farmworkers with expertise on pesticide application, a representative of community and migrant health centers, a toxicologist, a representative of growers who use air blast sprayers, a representative of growers who use aerial pesticide application, a representative of growers who use fumigation to apply pesticides, and a representative of aerial applicators. The secretary of health, in consultation with the director of the department of agriculture and the full committee, must appoint members of the advisory work group, and the department of health must staff the advisory work group. The letter of appointment to the advisory work group members must be signed by both cochairs.

(c) The advisory work group must hold meetings only upon the committee's request. To reduce costs, the advisory work group must conduct meetings using teleconferencing or other methods, but may hold one in-person meeting per fiscal year.

(d) Members of the advisory work group shall be reimbursed for mileage expenses in accordance with RCW 43.03.060.

(e) The advisory work group must provide a report on their activities and recommendations to the full committee by November 9th of each year.

(5) The first priority of the committee is to explore how the departments of agriculture, labor and industries, and health, and the Washington poison center collect and track data. The committee must also consider the feasibility and requirements of developing a shared database, including how the department of health could use existing tools, such as the tracking network, to better display multiagency data regarding pesticides. The committee may also evaluate and recommend policy options that would take action to:

(a) Improve pesticide application safety with agricultural applications;

(b) Lead an effort to establish baseline data for the type and quantity of pesticide applications used in Washington to be able to compare the number of exposures with overall number of applications;

(c) Research ways to improve pesticide application communication among different members of the agricultural community, including educating the public in English and Spanish about acute and chronic health information about pesticides;

(d) Compile industry's best practices for use to improve pesticide application safety to limit pesticide exposure;

(e) Continue to investigate reasons why members of the agricultural workforce do not or may not report pesticide exposure;

(f) Explore new avenues for reporting with investigation without fear of retaliation;

(g) Work with stakeholders to consider trainings for how and when to report;

(h) Explore incentives for using new technology by funding a partial buy-out program for old spray technology;

(i) Consider developing an effective community health education plan;

(j) Consult with community partners to enhance educational initiatives that work with the agricultural workforce, their families, and surrounding communities to reduce the risk of pesticide exposure;

(k) Enhance efforts to work with pesticide manufacturers and the environmental protection agency to improve access to non-English pesticide labeling in the United States;

(l) Work with research partners to develop, or promote the use of translation apps for pesticide label safety information, or both;

(m) Evaluate prevention techniques to minimize exposure events;

(n) Develop more Spanish language and other language educational materials for distribution, including through social media and app-based learning for agricultural workforce communities;

(o) Explore development of an agricultural workforce education safety program to improve the understanding about leaving an area being sprayed; and

(p) Work with the industry and the agricultural workforce to improve protocols and best practices for use of personal safety equipment for applicators and reflective gear for the general workforce.

(6) The committee must provide a report to the appropriate committees of the legislature by May 1, 2020, and each year thereafter. An initial report on the progress of the committee must be provided in January 2020. The report may include recommendations the committee determines necessary, and must document the activities of the committee and report on the subjects listed in subsection (5) of this section. The department of health and the department of agriculture must provide staff support to the committee for the purpose of authoring the report and transmitting it to the legislature. Any member of the committee may provide a minority report as an appendix to the report submitted to the legislature under this section.

(7) This section expires July 1, 2025."

Signed by Representatives Sells, Chair; Chapman, Vice Chair; Mosbrucker, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Gregerson; Hoff and Ormsby.

Referred to Committee on Appropriations.

April 1, 2019

SB 5566

Prime Sponsor, Senator Braun: Concerning setting fees for administration of the prevailing wage program. Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby; Hoff; Gregerson; Chandler, Assistant Ranking Minority Member; Mosbrucker, Ranking Minority Member; Chapman, Vice Chair Sells, Chair.

Referred to Committee on Appropriations.

April 1, 2019

ESSB 5579

Prime Sponsor, Committee on Environment, Energy & Technology: Concerning the volatility of crude oil received in the state by rail. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 90.56 RCW to read as follows:

(1) A facility may not load or unload crude oil into or from a rail tank car unless the oil has a vapor pressure of less than nine pounds per square inch.

(2) The director may impose a penalty of up to twenty-five hundred dollars per day per rail tank car or the equivalent volume of oil for violations of this section. Any penalty recovered pursuant to this section must be credited to the coastal protection fund created in RCW 90.48.390.

(3) This section does not: (a) Prohibit a railroad car carrying crude oil from entering Washington; (b) require a railroad car carrying crude oil to stop before entering Washington; or (c) require a railroad car carrying crude oil to be checked for vapor pressure before entering Washington.

**Sec. 2.** RCW 90.56.565 and 2015 c 274 s 8 are each amended to read as follows:

(1)(a) A facility that receives crude oil from a railroad car must provide advance notice to the department

that the facility will receive crude oil from a railroad car, as provided in this section. The advance notice must include the route taken to the facility within the state, if known, and the scheduled time, location, volume, region per bill of lading, type, vapor pressure, and gravity as measured by standards developed by the American petroleum institute, of crude oil received. Each week, a facility that provides advance notice under this section must provide the required information regarding the scheduled arrival of railroad cars carrying crude oil to be received by the facility in the succeeding seven-day period. A facility is not required to provide advance notice when there is no receipt of crude oil from a railroad car scheduled for a seven-day period.

(b) Twice per year, pipelines that transport crude oil must report to the department the following information about the crude oil transported by the pipeline through the state: The volume of crude oil and the state or province of origin of the crude oil. This report must be submitted each year by July 31st for the period January 1st through June 30th and by January 31st for the period July 1st through December 31st.

(2) The department may share information provided by a facility through the advance notice system established in this section with the state emergency management division and any county, city, tribal, port, or local government emergency response agency upon request.

(3) The department must publish information collected under this section on a quarterly basis on the department's internet web site. With respect to the information reported under subsection (1)(a) of this section, the information published by the department must be aggregated on a statewide basis by route through the state, by week, and by type of crude oil. The report may also include other information available to the department including, but not limited to, place of origin, modes of transport, number of railroad cars delivering crude oil, and number and volume of spills during transport and delivery.

(4) To further strengthen rail safety and the transportation of crude oil, the department must provide to the utilities and transportation commission data reported by facilities on the characteristics, volatility, vapor pressure, and volume of crude oil transported by rail, as required under subsection (1)(a) of this section.

(5) A facility providing advance notice under this section is not responsible for meeting advance notice time frame requirements under subsection (1) of this section in the event that the schedule of arrivals of railroad cars carrying crude oil changes during a seven-day period.

~~((5))~~ (6) Consistent with the requirements of chapter 42.56 RCW, the department and any state, local, tribal, or public agency that receives information provided under this section may not disclose any such information to the public or to nongovernmental entities that contains proprietary, commercial, or financial information unless that information is aggregated. The requirement for aggregating information does not apply when information is shared by the department with emergency response agencies as provided in subsection (2) of this section.

~~((6))~~ (7) The department shall adopt rules to implement this section. The advance notice system required in this section must be consistent with the oil transfer reporting system adopted by the department pursuant to RCW 88.46.165.

**NEW SECTION. Sec. 3.** Section 1 of this act takes effect two years after the department of ecology provides notification that the volume of crude oil transported by rail in a calendar year as reported under RCW 90.56.565 has increased more than five percent above the volume reported in 2018. The department of ecology must provide written notice of the effective date of section 1 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department of ecology.

**NEW SECTION. Sec. 4.** A new section is added to chapter 81.44 RCW to read as follows:

(1) The commission shall, for the purposes of targeting high-risk inspections, incorporate data received from the department of ecology as required under RCW 90.56.565(4) in the development of its annual work plan and inspection activity.

(2) Nothing in this section is intended to interfere with or prevent the participation of the commission in the federal railroad administration's state rail safety participation program."

Correct the title.

Signed by Representatives Shewmake; Peterson; Mead; Fey; Doglio; Lekanoff, Vice Chair Fitzgibbon, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Boehnke; Dye, Assistant Ranking Minority Member Shea, Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 2, 2019

SB 5596

Prime Sponsor, Senator Holy: Extending the expiration date on the health sciences and services authority sales and use tax authorization. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Wylie; Vick; Stokesbary; Springer; Orwall; Macri; Frame; Chapman; Young, Assistant Ranking Minority Member; Orcutt, Ranking Minority Member; Walen, Vice Chair Tarleton, Chair.

Referred to Committee on Rules for second reading.

April 1, 2019

SSB 5612

Prime Sponsor, Committee on Early Learning & K-12 Education: Concerning

Holocaust education. Reported by  
Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Santos, Chair; Thai; Stonier; Rude; Ortiz-Self; Kraft; Kilduff; Harris; Valdez; Corry; Caldier; Bergquist; Volz, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Steele, Ranking Minority Member; Paul, Vice Chair; Dolan, Vice Chair; Callan and Ybarra.

Referred to Committee on Rules for second reading.

April 1, 2019

SB 5731 Prime Sponsor, Senator Short: Concerning petitions for proposed transfer of school district territory. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.315 RCW to read as follows:

(1) If the affected school districts dismiss a proposed transfer of territory initiated by a citizen petition under RCW 28A.315.199, the petitioner may request that the school districts appoint a mediator to attempt to reach agreement between the school districts and the petitioner on the proposal. The appointment of a mediator under this section must be approved by the school districts and the petitioner. Upon appointment, the mediator has thirty days to work with the school districts and the petitioner to attempt to reach an agreement on the proposal.

(2) If the school districts do not appoint a mediator that is approved by the districts and the petitioner within thirty days of the request by the petitioner, or if the mediator was unable to bring the districts and the petitioner to agreement, the petitioner may, in accordance with RCW 28A.315.199(5), file a written request for a hearing by a regional committee.

**Sec. 2.** RCW 28A.315.199 and 2012 c 186 s 5 are each amended to read as follows:

(1) Upon receipt of a petition to transfer territory pursuant to RCW 28A.315.195 or to dissolve a financially insolvent school district pursuant to RCW 28A.315.225, the educational service district superintendent shall notify in writing the affected districts that:

(a) Each school district board of directors, whether or not initiating a proposed transfer of territory or dissolution, must enter into negotiations with the affected district or districts;

(b) In the case of a citizen-initiated petition, the affected districts must negotiate on the entire proposed transfer of territory;

(c) The districts have ninety calendar days in which to agree to the proposed transfer of territory or to agree on the annexation of a financially insolvent district;

(d) Districts negotiating an agreement regarding annexation of a dissolving financially insolvent district may not agree to not dissolve a financially insolvent district;

(e) The agreement between at least one contiguous district and a financially insolvent district regarding the annexation of the dissolving district and the distribution of assets and liabilities is subject to approval by the financial oversight committee;

(f) The districts may request and shall be granted by the educational service district superintendent one thirty-day extension to try to reach agreement; and

(g) Any district involved in the negotiations may at any time during the ninety-day period notify the educational service district superintendent in writing that agreement will not be possible.

(2) If the negotiating school boards cannot come to agreement about the proposed transfer of territory, or cannot agree how to annex a financially insolvent district, the educational service district superintendent, if requested by the affected districts, shall appoint a mediator. The mediator has thirty days to work with the affected school districts to see if an agreement can be reached on the proposed transfer of territory.

(3) If the affected school districts cannot come to agreement about the proposed transfer of territory, or cannot agree how to annex a financially insolvent district, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, any affected district may file with the educational service district superintendent a written request for a hearing by the regional committee.

(4) If the affected school districts cannot come to agreement about the proposed transfer of territory initiated by citizen petition, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, the district in which the citizens who filed the petition reside must file with the educational service district superintendent a written request for a hearing by the regional committee, unless a majority of the citizen petitioners request otherwise.

(5) If the affected school districts agree to dismiss a proposed transfer of territory initiated by citizen petition, a petitioner may, in accordance with section 1(2) of this act, file with the educational service district superintendent a written request for a hearing by the regional committee. The request for a hearing must be filed no later than sixty days after the appointment of a mediator under section 1 of this act or, if no mediator is appointed, within sixty days of the request by the petitioner to appoint a mediator.

~~((6))~~ (6) Upon receipt of a notice under subsection (3) ~~((4))~~, (4), or (5) of this section, the educational service district superintendent must notify the chair of the regional committee in writing within ten days.

~~((7))~~ (7) Costs incurred by school districts under this section shall be reimbursed by the state from such funds as are appropriated for this purpose.

**Sec. 3.** RCW 28A.315.205 and 2012 c 186 s 6 are each amended to read as follows:

(1) The chair of the regional committee shall schedule a hearing on the proposed transfer of territory or dissolution petition at a location in the educational service district within sixty calendar days of being notified under RCW 28A.315.199 (3) ~~((4))~~, (4), or (5).

(2) Within thirty calendar days of the hearing under subsection (1) of this section, or final hearing if more than one is held by the committee, the committee shall issue its written findings and decision to approve or disapprove the proposed transfer of territory or the dissolution and annexation of a financially insolvent district. The educational service district superintendent shall transmit a copy of the committee's decision to the superintendents of the affected school districts within ten calendar days.

(3) In carrying out the purposes of RCW 28A.315.015 and in making decisions as authorized under RCW 28A.315.095(1), the regional committee shall base its judgment upon whether and to the extent the proposed change in school district organization complies with RCW 28A.315.015(2) and rules adopted by the superintendent of public instruction under chapter 34.05 RCW.

(4) The rules under subsection (3) of this section shall provide for giving consideration to all of the following:

(a) Student educational opportunities as measured by the percentage of students performing at each level of the statewide mandated assessments and data regarding student attendance, graduation, and dropout rates;

(b) The safety and welfare of pupils. For the purposes of this subsection, "safety" means freedom or protection from danger, injury, or damage and "welfare" means a positive condition or influence regarding health, character, and well-being;

(c) The history and relationship of the property affected to the students and communities affected, including, for example, the impact of the growth management act and current or proposed urban growth areas, city boundaries, and master planned communities;

(d) Whether or not geographic accessibility warrants a favorable consideration of a recommended change in school district organization, including remoteness or isolation of places of residence and time required to travel to and from school; and

(e) All funding sources of the affected districts, equalization among school districts of the tax burden for general fund and capital purposes through a reduction in

disparities in per pupil valuation when all funding sources are considered, improvement in the economies in the administration and operation of schools, and the extent the proposed change would potentially reduce or increase the individual and aggregate transportation costs of the affected school districts.

(5)(a)(i) A petitioner or school district may appeal a decision by the regional committee to the superintendent of public instruction based on the claim that the regional committee failed to follow the applicable statutory and regulatory procedures or acted in an arbitrary and capricious manner. Any such appeal shall be based on the record and the appeal must be filed within thirty days of the final decision of the regional committee. The appeal shall be heard and determined by an administrative law judge in the office of administrative hearings, based on the standards in (a)(ii) of this subsection.

(ii) If the administrative law judge finds that all applicable procedures were not followed or that the regional committee acted in an arbitrary and capricious manner, the administrative law judge shall refer the matter back to the regional committee with an explanation of his or her findings. The regional committee shall rehear the proposal.

(iii) If the administrative law judge finds that all applicable procedures were followed or that the regional committee did not act in an arbitrary and capricious manner, depending on the appeal, the educational service district shall be notified and directed to implement the changes.

(iv) The administrative law judge shall expedite review and issuance of a decision on an appeal of a decision approving the dissolution and annexation of a financially insolvent district.

(b) Any school district or citizen petitioner affected by a final decision of the regional committee may seek judicial review of the committee's decision in accordance with RCW 34.05.570. Judicial review of a regional committee decision approving dissolution and annexation of a financially insolvent district must be expedited.

**NEW SECTION. Sec. 4.** This act applies retroactively to all territory transfer proposals that were initiated by a citizen petition under RCW 28A.315.199 and were dismissed by the affected school districts on or after January 1, 2018."

Correct the title.

Signed by Representatives Stonier; Ortiz-Self; Kraft; Kilduff; Corry; Callan; Bergquist; Thai; Steele, Ranking Minority Member; Dolan, Vice Chair; Santos, Chair; Paul, Vice Chair and Valdez.

MINORITY recommendation: Do not pass. Signed by Representatives Caldier; Ybarra and Rude.

MINORITY recommendation: Without recommendation. Signed by Representatives Harris; Volz, Assistant Ranking Minority Member McCaslin, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 1, 2019

ESSB 5874 Prime Sponsor, Committee on Early Learning & K-12 Education: Funding rural satellite skill centers. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Ybarra; Paul, Vice Chair; Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Bergquist; Caldier; Callan; Dolan, Vice Chair; Corry; Kilduff; Kraft; Ortiz-Self; Rude; Stonier; Thai; Valdez; Harris Santos, Chair.

Referred to Committee on Appropriations.

### 1<sup>st</sup> SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

April 1, 2019

HB 2144 Prime Sponsor, Representative Sullivan: Concerning funding of law enforcement officers' and firefighters' plan 2 benefit improvements. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Ybarra; Volz; Tharinger; Tarleton; Sullivan; Steele; Stanford; Springer; Senn; Ryu; Pettigrew; Macri; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dolan; Cody; Chandler; Rude, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair and Pollet.

MINORITY recommendation: Without recommendation. Signed by Representatives Sutherland; Mosbrucker MacEwen, Assistant Ranking Minority Member.

MINORITY recommendation: Do not pass. Signed by Representatives Dye; Caldier; Kraft and Schmick.

Referred to Committee on Rules for second reading.

April 1, 2019

ESSB 5001 Prime Sponsor, Committee on Labor & Commerce: Concerning human remains. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Consumer Protection & Business.

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. A new section is added to chapter 68.04 RCW to read as follows:

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

Sec. 2. RCW 68.04.020 and 2005 c 365 s 27 are each amended to read as follows:

"Human remains" or "remains" means the body of a deceased person, ~~((includes the body in any stage of decomposition, and includes cremated human remains))~~ including remains following the process of cremation, alkaline hydrolysis, or natural organic reduction. This also includes the body in any stage of decomposition.

NEW SECTION. Sec. 3. A new section is added to chapter 68.04 RCW to read as follows:

"Alkaline hydrolysis" or "hydrolysis" means the reduction of human remains to bone fragments and essential elements in a licensed hydrolysis facility using heat, pressure, water, and base chemical agents.

NEW SECTION. Sec. 4. A new section is added to chapter 68.04 RCW to read as follows:

"Hydrolysis facility" means a structure, room, or other space in a building or structure containing one or more hydrolysis vessels, to be used for alkaline hydrolysis.

Sec. 5. RCW 68.04.080 and 2005 c 365 s 31 are each amended to read as follows:

"Columbarium" means a structure, room, or other space in a building or structure containing niches for permanent placement of ~~((cremated))~~ human remains in a place used, or intended to be used, and dedicated, for cemetery purposes.

Sec. 6. RCW 68.04.120 and 2005 c 365 s 34 are each amended to read as follows:

"Inurnment" means placing ~~((cremated))~~ human remains in a cemetery.

NEW SECTION. Sec. 7. A new section is added to chapter 68.04 RCW to read as follows:

"Natural organic reduction" means the contained, accelerated conversion of human remains to soil.

NEW SECTION. Sec. 8. A new section is added to chapter 68.04 RCW to read as follows:

"Natural organic reduction facility" means a structure, room, or other space in a building or real property where natural organic reduction of a human body occurs.

**Sec. 9.** RCW 68.04.170 and 2005 c 365 s 38 are each amended to read as follows:

"Niche" means a space in a columbarium for placement of ~~((cremated))~~ human remains.

**Sec. 10.** RCW 68.04.260 and 2005 c 365 s 43 are each amended to read as follows:

"Scattering garden" means a designated area in a cemetery for the scattering of ~~((cremated))~~ human remains.

**Sec. 11.** RCW 68.04.270 and 2005 c 365 s 44 are each amended to read as follows:

"Scattering" means the removal of ~~((cremated))~~ human remains from their container for the purpose of scattering the ~~((cremated human))~~ remains in any lawful manner.

**Sec. 12.** RCW 68.05.175 and 2009 c 102 s 11 are each amended to read as follows:

A ~~((permit))~~ license or endorsement issued ~~((by the board or))~~ under chapter 18.39 RCW is required in order to operate a crematory or conduct a cremation, operate or conduct alkaline hydrolysis, operate or conduct natural organic reduction, or operate a natural organic reduction facility.

**Sec. 13.** RCW 68.05.195 and 2005 c 365 s 58 are each amended to read as follows:

Any person other than persons defined in RCW 68.50.160 who buries or scatters ~~((cremated))~~ human remains by land, air, or sea or performs any other disposition of ~~((cremated))~~ human remains outside of a cemetery ~~((shall))~~ must have a permit issued in accordance with RCW 68.05.100 and ~~((shall be))~~ are subject to that section.

**Sec. 14.** RCW 68.05.205 and 2009 c 102 s 12 are each amended to read as follows:

The director with the consent of the board ~~((shall))~~ must set all fees for chapters 18.39, 68.05, 68.20, 68.24, 68.28, 68.32, 68.36, 68.40, 68.44, and 68.46 RCW in accordance with RCW 43.24.086, including fees for licenses, certificates, regulatory charges, permits, or endorsements, and the department ~~((shall))~~ must collect the fees.

**Sec. 15.** RCW 68.05.245 and 2005 c 365 s 64 are each amended to read as follows:

(1) All ~~((crematory))~~ permits, licenses, or endorsements issued under this chapter ~~((shall))~~ or chapter 18.39 RCW must be issued for the year and ~~((shall))~~ expire at midnight, the thirty-first day of January of each year, or at whatever time during any year that ownership or control of

any cemetery authority ~~((which))~~ that operates such ~~((crematory))~~ facility is transferred or sold.

(2) The director ~~((shall))~~ must set and the department ~~((shall))~~ must collect in advance the fees required for licensing.

**NEW SECTION. Sec. 16.** RCW 68.05.390 (Permit or endorsement required for cremation—Penalty) and 1987 c 331 s 32 are each repealed.

**Sec. 17.** RCW 68.24.010 and 2005 c 365 s 73 are each amended to read as follows:

Cemetery authorities may take by purchase, donation, or devise, property consisting of lands, mausoleums, ~~((crematories))~~ cremation, alkaline hydrolysis, or natural organic reduction facilities, and columbariums, or other property within which the placement of human remains may be authorized by law.

**Sec. 18.** RCW 68.24.150 and 2005 c 365 s 81 are each amended to read as follows:

Every person who pays, causes to be paid, or offers to pay to any other person, firm, or corporation, directly or indirectly, except as provided in RCW 68.24.140, any commission, bonus, or rebate, or other thing of value in consideration of recommending or causing the disposition of human remains in any ~~((crematory))~~ cremation, alkaline hydrolysis, or natural organic reduction facility or cemetery, is guilty of a misdemeanor. Each violation ~~((shall))~~ constitutes a separate offense.

**Sec. 19.** RCW 68.50.108 and 1953 c 188 s 8 are each amended to read as follows:

No dead body upon which the coroner, or prosecuting attorney, if there ~~((be no))~~ is not a coroner in the county, may perform an autopsy or postmortem, ~~((shall))~~ may be embalmed ~~((or cremated))~~ or make final disposition without the consent of the coroner having jurisdiction ~~((and))~~ Failure to obtain such consent ((shall be)) is a misdemeanor ~~((PROVIDED, That))~~ However, such autopsy or postmortem must be performed within five days, unless the coroner ~~((shall))~~ obtains an order from the superior court extending such time.

**Sec. 20.** RCW 68.50.110 and 2005 c 365 s 138 are each amended to read as follows:

Except in cases of dissection provided for in RCW 68.50.100, and where human remains ~~((shall))~~ are rightfully ~~((be))~~ carried through or removed from the state for the purpose of burial elsewhere, human remains lying within this state, and the remains of any dissected body, after dissection, ~~((shall))~~ must be decently buried, ~~((or cremated))~~ undergo cremation, alkaline hydrolysis, or natural organic reduction within a reasonable time after death.

**Sec. 21.** RCW 68.50.130 and 2005 c 365 s 139 are each amended to read as follows:

Every person who performs a disposition of any human remains, except as otherwise provided by law, in any place, except in a cemetery or a building dedicated exclusively for religious purposes, is guilty of a misdemeanor. Disposition of ~~((cremated))~~ human remains following cremation, alkaline hydrolysis, or natural organic reduction may also occur on private property, with the consent of the property owner; and on public or government lands or waters with the approval of the government agency that has either jurisdiction or control, or both, of the lands or waters.

**Sec. 22.** RCW 68.50.140 and 2005 c 365 s 140 are each amended to read as follows:

(1) Every person who ~~((shall))~~ removes human remains, or any part thereof, from a grave, vault, or other place where the same has been buried or deposited awaiting ~~((burial or cremation))~~ final disposition, without authority of law, with intent to sell the same, or for the purpose of securing a reward for its return, or for dissection, or from malice or wantonness, is guilty of a class C felony.

(2) Every person who ~~((shall))~~ purchases or receives, except for burial or ~~((cremation))~~ final disposition, human remains or any part thereof, knowing that the same has been removed contrary to the foregoing provisions, is guilty of a class C felony.

(3) Every person who ~~((shall))~~ opens a grave or other place of interment, temporary or otherwise, or a building where human remains are placed, with intent to sell or remove the casket, urn, or of any part thereof, or anything attached thereto, or any vestment, or other article interred, or intended to be interred with the human remains, is guilty of a class C felony.

(4) Every person who removes, disinters, or mutilates human remains from a place of interment, without authority of law, is guilty of a class C felony.

**Sec. 23.** RCW 68.50.160 and 2012 c 5 s 1 are each amended to read as follows:

(1) A person has the right to control the disposition of his or her own remains without the predeath or postdeath consent of another person. A valid written document expressing the decedent's wishes regarding the place or method of disposition of his or her remains, signed by the decedent in the presence of a witness, is sufficient legal authorization for the procedures to be accomplished.

(2) Prearrangements that are prepaid, or filed with a licensed funeral establishment or cemetery authority, under RCW 18.39.280 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation or substantial revision by survivors. Absent actual knowledge of contrary legal authorization under this section, a licensed funeral establishment or cemetery authority ~~((shall))~~ may not be held

criminally nor civilly liable for acting upon such prearrangements.

(3) If the decedent has not made a prearrangement as set forth in subsection (2) of this section or the costs of executing the decedent's wishes regarding the disposition of the decedent's remains exceeds a reasonable amount or directions have not been given by the decedent, the right to control the disposition of the remains of a deceased person vests in, and the duty of disposition and the liability for the reasonable cost of preparation, care, and disposition of such remains devolves upon the following in the order named:

(a) The person designated by the decedent as authorized to direct disposition as listed on the decedent's United States department of defense record of emergency data, DD form 93, or its successor form, if the decedent died while serving in military service as described in 10 U.S.C. Sec. 1481(a) (1)-(8) in any branch of the United States armed forces, United States reserve forces, or national guard;

(b) The designated agent of the decedent as directed through a written document signed and dated by the decedent in the presence of a witness. The direction of the designated agent is sufficient to direct the type, place, and method of disposition;

(c) The surviving spouse or state registered domestic partner;

(d) The majority of the surviving adult children of the decedent;

(e) The surviving parents of the decedent;

(f) The majority of the surviving siblings of the decedent;

(g) A court-appointed guardian for the person at the time of the person's death.

(4) If any person to whom the right of control has been vested pursuant to subsection (3) of this section has been arrested or charged with first or second degree murder or first degree manslaughter in connection with the decedent's death, the right of control is relinquished and passed on in accordance with subsection (3) of this section.

(5) If a cemetery authority as defined in RCW 68.04.190 or a funeral establishment licensed under chapter 18.39 RCW has made a good faith effort to locate the person cited in subsection (3)(a) through (g) of this section or the legal representative of the decedent's estate, the cemetery authority or funeral establishment ~~((shall have))~~ has the right to rely on an authority to bury or ~~((cremate))~~ make final disposition of the human remains, executed by the most responsible party available, and the cemetery authority or funeral establishment may not be held criminally or civilly liable for burying or ~~((cremating))~~ performing final disposition of the human remains. In the event any government agency or charitable organization provides the funds for the disposition of any human remains, the cemetery authority, alkaline hydrolysis, natural organic reduction facility, or funeral establishment may not be held criminally or civilly liable for ~~((cremating))~~ making final disposition of the human remains.

(6) The liability for the reasonable cost of preparation, care, and disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred, in the order listed in subsection (3) of this section, and upon the estate of the decedent.

**Sec. 24.** RCW 68.50.170 and 2005 c 365 s 142 are each amended to read as follows:

Any person signing any authorization for the interment ~~((or)), cremation, alkaline hydrolysis, or natural organic reduction~~ of any human remains warrants the truthfulness of any fact set forth in the authorization, the identity of the person whose human remains are sought to ~~((be interred or cremated, and his or her authority to order interments or cremation))~~ undergo final disposition, and his or her authority to order such. That person is personally liable for all damage occasioned by or resulting from breach of such warranty.

**Sec. 25.** RCW 68.50.185 and 2005 c 365 s 143 are each amended to read as follows:

(1) A person authorized to dispose of human remains ~~((shall))~~ may not ((cremate or cause to be cremated)) perform or cause to be performed final disposition of more than one human remains at a time unless written permission, after full and adequate disclosure regarding the manner of ((cremation)) disposition, has been received from the person or persons under RCW 68.50.160 having the authority to order ((cremation)) final disposition. This restriction ~~((shall))~~ does not apply when equipment, techniques, or devices are employed that keep human remains separate and distinct before, during, and after the ~~((cremation))~~ final disposition process.

(2) Violation of this section is a gross misdemeanor.

**Sec. 26.** RCW 68.50.240 and 2005 c 365 s 147 are each amended to read as follows:

The person in charge of any premises on which ~~((interments or cremations))~~ final dispositions are made ~~((shall))~~ must keep a record of all human remains ~~((interred or cremated))~~ on the premises under his or her charge, in each case stating the name of each deceased person, date of ~~((cremation or interment))~~ final disposition, and name and address of the funeral establishment.

**Sec. 27.** RCW 68.50.270 and 2005 c 365 s 148 are each amended to read as follows:

The person or persons determined under RCW 68.50.160 as having authority to order ~~((cremation shall be))~~ disposition is entitled to possession of the ~~((cremated))~~ human remains without further intervention by the state or its political subdivisions.

**Sec. 28.** RCW 68.64.120 and 2008 c 139 s 13 are each amended to read as follows:

(1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the department of licensing and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization must be allowed reasonable access to information in the records of the department of licensing to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under RCW 68.64.100 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(5) Unless prohibited by law other than this chapter, an examination under subsection (3) or (4) of this section may include an examination of all medical records of the donor or prospective donor.

(6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under subsection (1) of this section, a procurement organization shall make a reasonable search for any person listed in RCW 68.64.080 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to RCW 68.64.100(9), 68.64.190, and 68.64.901, the rights of the person to which a part passes under RCW 68.64.100 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial, ~~((or cremation))~~ alkaline hydrolysis, natural organic reduction, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under RCW 68.64.100, upon the death of the donor and before embalming~~((, burial, or cremation, shall))~~ or final disposition, must cause the part to be removed without unnecessary mutilation.

(9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(10) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

**Sec. 29.** RCW 70.15.010 and 2018 c 184 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) "Department" means the department of health.

(2) "Disaster relief organization" means an entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and that:

(a) Is designated or recognized as a provider of those services pursuant to a disaster response and recovery plan adopted by an agency of the federal government or the department; or

(b) Regularly plans and conducts its activities in coordination with an agency of the federal government or the department.

(3) "Emergency" means an event or condition that is an emergency, disaster, or public health emergency under chapter 38.52 RCW.

(4) "Emergency declaration" means a proclamation of a state of emergency issued by the governor under RCW 43.06.010.

(5) "Emergency management assistance compact" means the interstate compact approved by congress by P.L. 104-321, 110 Stat. 3877, RCW 38.10.010.

(6) "Entity" means a person other than an individual.

(7) "Health facility" means an entity licensed under the laws of this or another state to provide health or veterinary services.

(8) "Health practitioner" means an individual licensed under the laws of this or another state to provide health or veterinary services.

(9) "Health services" means the provision of treatment, care, advice or guidance, or other services, or supplies, related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:

(a) The following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

(i) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; and

(ii) Counseling, assessment, procedures, or other services;

(b) Sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

(c) Funeral, cremation, alkaline hydrolysis, natural organic reduction as defined in section 7 of this act, cemetery, or other mortuary services.

(10) "Host entity" means an entity operating in this state which uses volunteer health practitioners to respond to an emergency.

(11) "License" means authorization by a state to engage in health or veterinary services that are unlawful without the authorization. The term includes authorization under the laws of this state to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity.

(12) "Person" means an individual, corporation, business trust, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) "Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority.

(14) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(15) "Veterinary services" means the provision of treatment, care, advice or guidance, or other services, or supplies, related to the health or death of an animal or to animal populations, to the extent necessary to respond to an emergency, including:

(a) Diagnosis, treatment, or prevention of an animal disease, injury, or other physical or mental condition by the prescription, administration, or dispensing of vaccine, medicine, surgery, or therapy;

(b) Use of a procedure for reproductive management; and

(c) Monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans.

(16) "Volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services. The term does not include a practitioner who receives compensation pursuant to a preexisting employment relationship with a host entity or affiliate which requires the practitioner to provide health services in this state, unless the practitioner is not a resident of this state and is employed by a disaster relief organization providing services in this state while an emergency declaration is in effect.

**Sec. 30.** RCW 70.58.230 and 2009 c 231 s 4 are each amended to read as follows:

It ~~((shall be))~~ is unlawful for any person to inter~~((;))~~; deposit in a vault, grave, or tomb~~((; or cremate;))~~; perform alkaline hydrolysis or natural organic reduction as defined in section 7 of this act; or otherwise dispose of, or disinter or remove from one registration district to another, or hold for more than three business days after death, the human remains of any person whose death occurred in this state or any human remains which shall be found in this state, without obtaining, from the local registrar of the district in which the death occurred or in which the human remains were found, a permit for the burial, disinterment, or removal of the human remains. However, a licensed funeral director or embalmer of this state or a funeral establishment licensed in another state contiguous to Washington, with a current certificate of removal registration issued by the director of the department of licensing, may remove human remains from the district where the death occurred to another registration district or Oregon or Idaho without having obtained a permit but in such cases the funeral director or embalmer ~~((shall))~~ must at the time of removing human remains file with or mail to the local registrar of the district where the death occurred a notice of removal upon a blank to be furnished by the state registrar. The notice of removal ~~((shall))~~ must be signed or electronically approved by the funeral director or embalmer and ~~((shall))~~ must contain the name and address of the local registrar with whom the certificate of death will be filed and the burial-transit permit secured. Every local registrar, accepting a death certificate and issuing a burial-transit permit for a death that occurred outside his or her district, ~~((shall be))~~ is entitled to a fee of one dollar to be paid by the funeral director or embalmer at the time the death certificate is accepted and the permit is secured. It ~~((shall be))~~ is unlawful for any person to bring into or transport within the state or inter, deposit in a vault, grave, or tomb, or cremate or otherwise dispose of human remains of any person whose death occurred outside this state unless the human remains are accompanied by a removal or transit permit issued in accordance with the law and health regulations in force where the death occurred, or unless a special permit for bringing the human remains into this state ~~((shall be))~~ is obtained from the state registrar.

**Sec. 31.** RCW 70.58.260 and 2009 c 231 s 7 are each amended to read as follows:

It ~~((shall be))~~ is unlawful for any person in charge of any premises in which bodies of deceased persons are interred, cremated, or otherwise permanently disposed of, to permit the ~~((interment, cremation))~~ final disposition, or other disposition of any body upon such premises unless it is accompanied by a burial, removal, or transit permit as provided in this chapter. It ~~((shall be))~~ is the duty of the person in charge of any such premises to, in case of the interment, cremation, alkaline hydrolysis, natural organic reduction as defined in section 7 of this act, or other disposition of human remains therein, endorse upon the permit the date and character of such disposition, over his or her signature or electronic approval, to return all permits so endorsed to the local registrar of the district in which the

death occurred within ten days from the date of such disposition, and to keep a record of all human remains disposed of on the premises under his or her charge, stating, in each case, the name of the deceased person, if known, the place of death, the date of burial or other disposition, and the name and address of the undertaker, which record ~~((shall))~~ must at all times be open to public inspection, and it ~~((shall be))~~ is the duty of every undertaker, or person acting as such, when burying human remains in a cemetery or burial grounds having no person in charge, to sign or electronically approve the burial, removal, or transit permit, giving the date of burial, write across the face of the permit the words "no person in charge," and file the burial, removal, or transit permit within ten days with the registrar of the district in which the death occurred.

**Sec. 32.** RCW 70.95K.010 and 1994 c 165 s 2 are each amended to read as follows:

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

(1) "Biomedical waste" means, and is limited to, the following types of waste:

(a) "Animal waste" is waste animal carcasses, body parts, and bedding of animals that are known to be infected with, or that have been inoculated with, human pathogenic microorganisms infectious to humans.

(b) "Biosafety level 4 disease waste" is waste contaminated with blood, excretions, exudates, or secretions from humans or animals who are isolated to protect others from highly communicable infectious diseases that are identified as pathogenic organisms assigned to biosafety level 4 by the centers for disease control, national institute of health, biosafety in microbiological and biomedical laboratories, current edition.

(c) "Cultures and stocks" are wastes infectious to humans and includes specimen cultures, cultures and stocks of etiologic agents, wastes from production of biologicals and serums, discarded live and attenuated vaccines, and laboratory waste that has come into contact with cultures and stocks of etiologic agents or blood specimens. Such waste includes but is not limited to culture dishes, blood specimen tubes, and devices used to transfer, inoculate, and mix cultures.

(d) "Human blood and blood products" is discarded waste human blood and blood components, and materials containing free-flowing blood and blood products.

(e) "Pathological waste" is waste human source biopsy materials, tissues, and anatomical parts that emanate from surgery, obstetrical procedures, and autopsy. "Pathological waste" does not include teeth, human corpses, remains, and anatomical parts that are intended for ~~((interment or cremation))~~ final disposition.

(f) "Sharps waste" is all hypodermic needles, syringes with needles attached, IV tubing with needles attached, scalpel blades, and lancets that have been removed from the original sterile package.

(2) "Local government" means city, town, or county.

(3) "Local health department" means the city, county, city-county, or district public health department.

(4) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, or local government.

(5) "Treatment" means incineration, sterilization, or other method, technique, or process that changes the character or composition of a biomedical waste so as to minimize the risk of transmitting an infectious disease.

(6) "Residential sharps waste" has the same meaning as "sharps waste" in subsection (1) of this section except that the sharps waste is generated and prepared for disposal at a residence, apartment, dwelling, or other noncommercial habitat.

(7) "Sharps waste container" means a leak-proof, rigid, puncture-resistant red container that is taped closed or tightly lidded to prevent the loss of the residential sharps waste.

(8) "Mail programs" means those programs that provide sharps users with a multiple barrier protection kit for the placement of a sharps container and subsequent mailing of the wastes to an approved disposal facility.

(9) "Pharmacy return programs" means those programs where sharps containers are returned by the user to designated return sites located at a pharmacy to be transported by a biomedical or solid waste collection company approved by the utilities and transportation commission.

(10) "Drop-off programs" means those program sites designated by the solid waste planning jurisdiction where sharps users may dispose of their sharps containers.

(11) "Source separation" has the same meaning as in RCW 70.95.030.

(12) "Unprotected sharps" means residential sharps waste that are not disposed of in a sharps waste container.

**Sec. 33.** RCW 70.95M.090 and 2003 c 260 s 10 are each amended to read as follows:

Nothing in this chapter applies to crematories as ~~((that term is))~~ defined in RCW 68.04.070, alkaline hydrolysis, or natural organic reduction facilities as defined in section 8 of this act.

**Sec. 34.** RCW 73.08.070 and 2005 c 250 s 5 are each amended to read as follows:

(1) The legislative authority for each county must designate a proper authority to be responsible, at the expense of the county, for the ~~((burial or cremation))~~ lawful disposition of the remains of any deceased indigent veteran or deceased family member of an indigent veteran who died without leaving means sufficient to defray funeral expenses.

The costs of such a ~~((burial or cremation))~~ disposition may not exceed the limit established by the county legislative authority nor be less than three hundred dollars.

(2) If the deceased has relatives or friends who desire to conduct the ~~((burial or cremation))~~ disposition of such deceased ~~((person))~~ person's remains, then a sum not to exceed the limit established by the county legislative authority nor less than three hundred dollars ~~((shall))~~ must be paid to the relatives or friends by the county auditor, or by the chief financial officer in a county operating under a charter. Payment ~~((shall))~~ must be made to the relatives or friends upon presenting to the auditor or chief financial officer due proof of the death, ~~((burial or cremation)),~~ disposition of the remains, and expenses incurred.

(3) Expenses incurred for the ~~((burial or cremation))~~ disposition of the remains of a deceased indigent veteran or the deceased family member of an indigent veteran as provided by this section ~~((shall))~~ must be paid from the veterans' assistance fund authorized by RCW 73.08.080.

(4) Remains has the same meaning as provided in RCW 68.04.020.

**Sec. 35.** RCW 73.08.080 and 2013 c 123 s 2 are each amended to read as follows:

(1) The legislative authority in each county must levy, in addition to the taxes now levied by law, a tax in a sum equal to the amount ~~((which))~~ that would be raised by not less than one and one-eighth cents per thousand dollars of assessed value, and not greater than twenty-seven cents per thousand dollars of assessed value against the taxable property of their respective counties, to be levied and collected as now prescribed by law for the assessment and collection of taxes, for the purpose of creating a veterans' assistance fund. Expenditures from the veterans' assistance fund, and interest earned on balances from the fund, may be used only for:

(a) The veterans' assistance programs authorized by RCW 73.08.010;

(b) The ~~((burial or cremation))~~ lawful disposition of the remains as defined in RCW 68.04.020 of a deceased indigent veteran or deceased family member of an indigent veteran as authorized by RCW 73.08.070; and

(c) The direct and indirect costs incurred in the administration of the fund as authorized by subsection (2) of this section.

(2) If the funds on deposit in the veterans' assistance fund, less outstanding warrants, on the first Tuesday in September exceed the lesser of the expected yield of one and one-eighth cents per thousand dollars of assessed value against the taxable property of the county or the expected yield of a levy determined as set forth in subsection (5) of this section, the county legislative authority may levy a lesser amount than would otherwise be required under subsection (1) or (5) of this section.

(3) The direct and indirect costs incurred in the administration of the veterans' assistance fund must be

computed by the county auditor, or the chief financial officer in a county operating under a charter, not less than annually. Following the computation of these direct and indirect costs, an amount equal to these costs may then be transferred from the veterans' assistance fund to the county current expense fund.

(4) The amount of a levy allocated to the purposes specified in this section may be reduced in the same proportion as the regular property tax levy of the county is reduced by chapter 84.55 RCW.

(5)(a) The amount of a levy allocated to the purposes specified in this section may be modified from the amount required by subsection (1) of this section as follows:

(i) If the certified levy is reduced from the preceding year's certified levy, the amount of the levy allocated to the purposes specified in this section may be reduced by no more than the same percentage as the certified levy is reduced from the preceding year's certified levy;

(ii) If the certified levy is increased from the preceding year's certified levy, the amount of the levy allocated to the purposes specified in this section may not be less than the base allocation increased by the same percentage as the certified levy is increased from the preceding year's certified levy. However, the amount of the levy allocated to the purposes specified in this section does not have to be increased under this subsection (5)(a)(ii) for the portion of a certified levy increase resulting from a voter-approved increase under RCW 84.55.050 that is dedicated to a specific purpose; or

(iii) If the certified levy is unchanged from the preceding year's certified levy, the amount of the levy allocated to the purposes specified in this section must be equal to or greater than the base allocation.

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

(i) "Base allocation" means the most recent allocation that was not reduced under subsection (2) of this section.

(ii) "Certified levy" means the property tax levy for general county purposes certified to the county assessor as required by RCW 84.52.070, excluding any amounts certified under chapters 84.69 and 84.68 RCW.

(6) Subsections (2), (4), and (5) of this section do not preclude a county from increasing the levy amount in subsection (1) of this section to an amount that is greater than the change in the regular county levy.

**Sec. 36.** RCW 18.39.010 and 2009 c 102 s 1 are each reenacted and amended to read as follows:

The definitions in this section and in chapter 68.04 RCW apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the funeral and cemetery board created pursuant to RCW 18.39.173.

(2) "Director" means the director of licensing.

(3) "Embalmer" means a person engaged in the profession or business of disinfecting and preserving human remains for transportation or final disposition.

(4) "Funeral director" means a person engaged in the profession or business of providing for the care, shelter, transportation, and arrangements for the disposition of human remains that may include arranging and directing funeral, memorial, or other services.

(5) "Funeral establishment" means a place of business licensed in accordance with RCW 18.39.145, that provides for any aspect of the care, shelter, transportation, embalming, preparation, and arrangements for the disposition of human remains and includes all areas of such entity and all equipment, instruments, and supplies used in the care, shelter, transportation, preparation, and embalming of human remains.

(6) "Funeral merchandise or services" means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

(7) "Licensee" means any person or entity holding a license, registration, endorsement, or permit under this chapter issued by the director.

(8) "Prearrangement funeral service contract" means any contract under which, for a specified consideration, a funeral establishment promises, upon the death of the person named or implied in the contract, to furnish funeral merchandise or services.

(9) "Public depository" means a public depository defined by RCW 39.58.010 or a state or federally chartered credit union.

(10) "Two-year college course" means the completion of sixty semester hours or ninety quarter hours of college credit, including the satisfactory completion of certain college courses, as set forth in this chapter.

Words used in this chapter importing the singular may be applied to the plural of the person or thing, words importing the plural may be applied to the singular, and words importing the masculine gender may be applied to the female.

**Sec. 37.** RCW 18.39.170 and 2005 c 365 s 12 are each amended to read as follows:

~~((There shall be appointed by))~~ The director must appoint an agent whose title ~~((shall be))~~ is "inspector of funeral establishments, crematories, alkaline hydrolysis, and natural organic reduction facilities, funeral directors, and embalmers of the state of Washington." ~~((No))~~ A person ~~((shall be))~~ is not eligible for such appointment unless he or she has been a licensed funeral director and embalmer in the

state of Washington, with a minimum experience of not less than five consecutive years.

(1) The inspector (~~(shall)~~) must:

(a) Serve at the pleasure of the director; and

(b) At all times be under the supervision of the director.

(2) The inspector is authorized to:

(a) Enter the office, premises, establishment, or place of business, where funeral directing, embalming, (~~(or cremation)~~) alkaline hydrolysis, or natural organic reduction is carried on for the purpose of inspecting the premises;

(b) Inspect the licenses and registrations of funeral directors, embalmers, funeral director interns, and embalmer interns;

(c) Serve and execute any papers or process issued by the director under authority of this chapter; and

(d) Perform any other duty or duties prescribed or ordered by the director.

**Sec. 38.** RCW 18.39.217 and 2009 c 102 s 4 are each amended to read as follows:

(1) A license or endorsement issued (~~(by the board or)~~) under this chapter or chapter 68.05 RCW is required in order to operate a crematory, alkaline hydrolysis, or natural organic reduction facility or conduct a cremation, alkaline hydrolysis, or natural organic reduction.

(2) Conducting a (~~(cremation)~~) final disposition without a license or endorsement is a misdemeanor. Each such (~~(cremation)~~) action is a separate violation.

**Sec. 39.** RCW 18.39.410 and 2016 c 81 s 9 are each amended to read as follows:

In addition to the unprofessional conduct described in RCW 18.235.130, the board may take disciplinary action and may impose any of the sanctions specified in RCW 18.235.110 for the following conduct, acts, or conditions, except as provided in RCW 9.97.020:

(1) Solicitation of human remains by a licensee, registrant, endorsement, or permit holder, or agent, assistant, or employee of the licensee, registrant, endorsement, or permit holder whether the solicitation occurs after death or while death is impending. This chapter does not prohibit general advertising or the sale of prearrangement funeral service contracts;

(2) Solicitation may include employment of solicitors, payment of commission, bonus, rebate, or any form of gratuity or payment of a finders fee, referral fee, or other consideration given for the purpose of obtaining or providing the services for human remains or where death is impending;

(3) Acceptance by a licensee, registrant, endorsement, or permit holder or other employee of a funeral

establishment of a commission, bonus, rebate, or gratuity in consideration of directing business to a cemetery, crematory, alkaline hydrolysis, or natural organic reduction facility, mausoleum, columbarium, florist, or other person providing goods and services to the disposition of human remains;

(4) Using a casket or part of a casket that has previously been used as a receptacle for, or in connection with, the burial or other disposition of human remains without the written consent of the person lawfully entitled to control the disposition of remains of the deceased person in accordance with RCW 68.50.160. This subsection does not prohibit the use of rental caskets, such as caskets of which the outer shell portion is rented and the inner insert that contains the human remains is purchased and used for the disposition, that are disclosed as such in the statement of funeral goods and services;

(5) Violation of a state law, municipal law, or county ordinance or regulation affecting the handling, custody, care, transportation, or disposition of human remains, except as provided in RCW 9.97.020;

(6) Refusing to promptly surrender the custody of human remains upon the expressed order of the person lawfully entitled to its custody under RCW 68.50.160;

(7) Selling, or offering for sale, a share, certificate, or an interest in the business of a funeral establishment, or in a corporation, firm, or association owning or operating a funeral establishment that promises or purports to give to purchasers a right to the services of a licensee, registrant, endorsement, or permit holder at a charge or cost less than offered or given to the public;

(8) Violation of any state or federal statute or administrative ruling relating to funeral practice, except as provided in RCW 9.97.020;

(9) Knowingly concealing information concerning a violation of this title.

**NEW SECTION. Sec. 40.** This act takes effect May 1, 2020."

Correct the title.

Signed by Representatives Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Macri; Bergquist, 2nd Vice Chair; Mosbrucker; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Tarleton; Tharinger; Volz; Ybarra; Pettigrew Ormsby, Chair.

MINORITY recommendation: Without recommendation. Signed by Representative Sutherland.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler and Kraft.

Referred to Committee on Rules for second reading.

April 2, 2019

SSB 5004 Prime Sponsor, Committee on Health & Long Term Care: Allowing animal care and control agencies and nonprofit humane societies to provide additional veterinary services to low-income households. Reported by Committee on Rural Development, Agriculture, & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Blake, Chair; Shewmake, Vice Chair; Chapman; Fitzgibbon; Lekanoff; Orcutt; Pettigrew; Ramos and Springer.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler, Ranking Minority Member; Dye; Kretz; Schmick and Walsh.

Referred to Committee on Rules for second reading.

April 2, 2019

ESB 5008 Prime Sponsor, Senator Palumbo: Concerning short subdivisions. Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 58.17.020 and 2002 c 262 s 1 are each amended to read as follows:

As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

(1) "Subdivision" is the division or redivision of land into five or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership, except as provided in subsection (6) of this section.

(2) "Plat" is a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys, or other divisions and dedications.

(3) "Dedication" is the deliberate appropriation of land by an owner for any general and public uses, reserving to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat or short plat showing the dedication thereon; and, the acceptance by the public shall be evidenced by the approval of such plat for filing by the appropriate governmental unit.

A dedication of an area of less than two acres for use as a public park may include a designation of a name for the park, in honor of a deceased individual of good character.

(4) "Preliminary plat" is a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this chapter. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.

(5) "Final plat" is the final drawing of the subdivision and dedication prepared for filing for record with the county auditor and containing all elements and requirements set forth in this chapter and in local regulations adopted under this chapter.

(6) "Short subdivision" is the division or redivision of land into four or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership, provided that:

(a) If the legislative authority of a county or city is not planning under RCW 36.70A.040, it may, by local ordinance, define short subdivision as the division or redivision of land into as many as nine or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership;

(b) If the legislative authority of a county or city is planning under RCW 36.70A.040, it may, by local ordinance, define short subdivision as the division or redivision of land into as many as nine or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership; and

(c) If the legislative authority of a county or city planning under RCW 36.70A.040 has adopted a comprehensive plan and development regulations in compliance with chapter 36.70A RCW, it may, by local ordinance, define short subdivision as the division or redivision of land in any urban growth area, into as many as fourteen or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership. ((However, the legislative authority of any city or town may by local ordinance increase the number of lots, tracts, or parcels to be regulated as short subdivisions to a maximum of nine. The legislative authority of any county planning under RCW 36.70A.040 that has adopted a comprehensive plan and development regulations in compliance with chapter 36.70A RCW may by ordinance increase the number of lots, tracts, or parcels to be regulated as short subdivisions to a maximum of nine in any urban growth area.))

(7) "Binding site plan" means a drawing to a scale specified by local ordinance which: (a) Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local regulations; (b) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the local government body having authority to approve the site plan; and (c) contains provisions making any development be in conformity with the site plan.

(8) "Short plat" is the map or representation of a short subdivision.

(9) "Lot" is a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

(10) "Block" is a group of lots, tracts, or parcels within well defined and fixed boundaries.

(11) "County treasurer" shall be as defined in chapter 36.29 RCW or the office or person assigned such duties under a county charter.

(12) "County auditor" shall be as defined in chapter 36.22 RCW or the office or person assigned such duties under a county charter.

(13) "County road engineer" shall be as defined in chapter 36.40 RCW or the office or person assigned such duties under a county charter.

(14) "Planning commission" means that body as defined in chapter 36.70, 35.63, or 35A.63 RCW as designated by the legislative body to perform a planning function or that body assigned such duties and responsibilities under a city or county charter.

(15) "County commissioner" shall be as defined in chapter 36.32 RCW or the body assigned such duties under a county charter.

**Sec. 2.** RCW 58.17.060 and 1990 1st ex.s. c 17 s 51 are each amended to read as follows:

(1) The legislative body of a city, town, or county ~~((shall))~~ must adopt regulations and procedures, and appoint administrative personnel for the summary approval of short plats and short subdivisions or alteration or vacation thereof. When an alteration or vacation involves a public dedication, the alteration or vacation ~~((shall))~~ must be processed as provided in RCW 58.17.212 or 58.17.215. Such regulations ~~((shall))~~ must be adopted by ordinance and ~~((shall))~~ must provide that a short plat and short subdivision may be approved only if written findings that are appropriate, as provided in RCW 58.17.110, are made by the administrative personnel, and may contain wholly different requirements than those governing the approval of preliminary and final plats of subdivisions and may require surveys and monumentations and ~~((shall))~~ must require filing of a short plat, or alteration or vacation thereof, for record in the office of the county auditor: PROVIDED, That such regulations must contain a requirement that land in short subdivisions may not be further divided in any manner within a period of five years without the filing of a final plat, except that when the short plat contains fewer than four parcels, nothing in this section shall prevent the owner who filed the short plat from filing an alteration within the five-year period to create up to a total of four lots within the original short plat boundaries: PROVIDED FURTHER, That such regulations are not required to contain a penalty clause as provided in RCW 36.32.120 and may provide for wholly injunctive relief.

An ordinance requiring a survey ~~((shall))~~ must require that the survey be completed and filed with the application for approval of the short subdivision.

(2) In addition to the requirements of subsection (1) of this section, approval of short plats and short subdivisions creating ten or more lots in counties and cities planning under RCW 36.70A.040 and short plats and short subdivisions creating five or more lots in counties and cities not planning under RCW 36.70A.040 are subject to the provisions under RCW 58.17.110.

(3) Cities, towns, and counties ~~((shall))~~ must include in their short plat regulations and procedures pursuant to subsection (1) of this section provisions for considering sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

**Sec. 3.** RCW 58.17.110 and 2018 c 1 s 104 are each amended to read as follows:

(1) The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine: (a) If appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication.

(2)(a) A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: ~~((a))~~ (i) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools including but limited to school capacity and class size, and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and ~~((b))~~ (ii) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees imposed under RCW 82.02.050 through 82.02.090 may be required as a condition of subdivision approval. Dedications shall be clearly shown on the final plat. No dedication, provision of public improvements, or impact fees imposed under RCW 82.02.050 through 82.02.090 shall be allowed that constitutes an unconstitutional taking of private property. The legislative body shall not as a condition to the

approval of any subdivision require a release from damages to be procured from other property owners.

(b) The written findings required under (a) of this subsection must address any public comments received under subsection (3) of this section.

(3) Any ordinance proposing the increased allowable number of lots pursuant to RCW 58.17.020 and 58.17.060 must provide for effective notice to neighbors, the community, and school districts servicing the lots, and provide an opportunity for public comment prior to the approval of any short plats or short subdivisions creating more than four lots.

(4) If the preliminary plat includes a dedication of a public park with an area of less than two acres and the donor has designated that the park be named in honor of a deceased individual of good character, the city, town, or county legislative body must adopt the designated name.

~~((4))~~ (5) If water supply is to be provided by a groundwater withdrawal exempt from permitting under RCW 90.44.050, the applicant's compliance with RCW 90.44.050 and with applicable rules adopted pursuant to chapters 90.22 and 90.54 RCW is sufficient in determining appropriate provisions for water supply for a subdivision, dedication, or short subdivision under this chapter."

Correct the title.

Signed by Representatives Pollet, Chair; Peterson, Vice Chair; Kraft, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Appleton; Goehner and Senn.

Referred to Committee on Rules for second reading.

April 2, 2019

SSB 5025 Prime Sponsor, Committee on Ways & Means: Concerning tax relief to encourage self-help housing development. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) This section is the tax preference performance statement for this act. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any part or be used to determine eligibility for a preferential tax treatment.

(2) The legislature categorizes the tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to provide retail sales and use tax and real estate

excise tax relief to developers of self-help housing to encourage continued development of self-help housing.

(4) The joint legislative audit and review committee is directed to review:

(a) The total number of taxpayers that claimed the tax preferences established in sections 2 and 3, chapter . . . , Laws of 2019 (sections 2 and 3 of this act);

(b) The total amount of retail sales and use tax that was exempt with the tax preferences established in sections 2 and 3, chapter . . . , Laws of 2019 (sections 2 and 3 of this act);

(c) The total number of self-help units:

(i) Added to the stock of self-help units after the effective date of this section; and

(ii) For which any transaction qualified for any of the tax preferences established in sections 2 and 3, chapter . . . , Laws of 2019 (sections 2 and 3 of this act); and

(d) The total revenue calculated in (b) of this subsection, divided by the number of self-help units calculated in (c) of this subsection.

(5) In order to obtain this section, the joint legislative audit and review committee may refer to department of revenue data, as well as any other available data source.

NEW SECTION. Sec. 2. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to charges made for labor and services rendered by or for any affordable homeownership facilitator in respect to the constructing, repairing, decorating, or improving of new or existing self-help housing, or to sales of tangible personal property that becomes an ingredient or component of the buildings or other structures during the course of the constructing, repairing, decorating, or improving the self-help housing. The exemption is available only if the buyer provides the seller with an exemption certificate in a form and manner required by the department.

(2) The exemption provided in this section for self-help housing only applies if the housing is built to the current building code for single-family dwellings according to the state building code, chapter 19.27 RCW.

(3) Any self-help housing built under this section must be used as provided in this section for at least five consecutive years from the date the housing is approved for occupancy, or the full amount of tax otherwise due is immediately due and payable together with interest, but not penalties, from the date the housing was approved for occupancy until the date of payment. If self-help housing ceases to be the primary dwelling of a low-income purchaser within the five consecutive years from the date the housing is approved for occupancy, the full amount of tax otherwise due is immediately due and payable with interest, but not penalties, from the date the housing ceases to be used as self-help housing until the date of payment. The amount due under this subsection is payable by the seller.

(4) The exemption provided in this section does not apply to housing built for the occupancy of an employee, family members of an employee, or persons on the board of trustees or directors, of an affordable homeownership facilitator.

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

(a) "Affordable homeownership facilitator" means a nonprofit community or neighborhood-based organization that is exempt from income tax under Title 26 U.S.C. Sec. 501(c) of the internal revenue code of 1986, as amended, as of the effective date of this section and that is the developer of self-help housing.

(b) "Low-income" means household income as defined by the department, provided that the definition may not exceed eighty percent of median household income, adjusted for household size, for the county in which the dwelling is located.

(c) "Self-help housing" means dwelling residences provided for ownership by low-income individuals and families whose ownership requirement includes labor participation. "Self-help housing" does not include residential rental housing provided on a commercial basis to the general public.

(6) Affordable homeownership facilitators that claim this tax preference must annually provide the following information to the department, in a form and manner required by the department:

(a) The total number of self-help units:

(i) Added by the affordable homeownership facilitator after the effective date of this section; and

(ii) For which any purchase qualified for any of the tax preferences established in sections 2 and 3, chapter . . . , Laws of 2019 (sections 2 and 3 of this act); and

(b) The total amount of retail sales and use tax that was exempt with the tax preferences established in sections 2 and 3, chapter . . . , Laws of 2019 (sections 2 and 3 of this act).

(7) This section expires January 1, 2030.

**NEW SECTION. Sec. 3.** A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of tangible personal property that becomes an ingredient or component of buildings or structures used as self-help housing by any affordable homeownership facilitator during the course of constructing, repairing, decorating, or improving the buildings or other structures by any person.

(2) The exemption provided in this section for self-help housing only applies if the housing is built to the current building code for single-family dwellings according to the state building code, chapter 19.27 RCW.

(3) Any self-help housing built under this section must be used as the primary dwelling of a low-income purchaser for at least five consecutive years from the date the housing is approved for occupancy.

(4) The exemption provided in this section does not apply to housing built for the occupancy of an employee, family members of an employee, or persons on the board of trustees or directors, of an affordable homeownership facilitator.

(5) The definitions and reporting requirements in section 2 of this act apply to this section.

(6) This section expires January 1, 2030.

**NEW SECTION. Sec. 4.** This act takes effect October 1, 2019."

Correct the title.

Signed by Representatives Wylie; Vick; Stokesbary; Springer; Orwall; Macri; Frame; Chapman; Young, Assistant Ranking Minority Member; Orcutt, Ranking Minority Member; Walen, Vice Chair Tarleton, Chair.

Referred to Committee on Rules for second reading.

April 2, 2019

**SSB 5265** Prime Sponsor, Committee on State Government, Tribal Relations & Elections: Concerning the role of volunteerism within state government. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass. Signed by Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Appleton; Dolan; Hudgins; Mosbrucker and Smith.

Referred to Committee on Rules for second reading.

April 2, 2019

**ESSB 5279** Prime Sponsor, Committee on Agriculture, Water, Natural Resources & Parks: Regulating outdoor burning for the protection of life or property and for public health, safety, and welfare. Reported by Committee on Rural Development, Agriculture, & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Walsh; Springer; Schmick; Ramos; Pettigrew; Orcutt; Lekanoff; Kretz; Fitzgibbon; Dye; Chapman; Chandler, Ranking Minority Member; Shewmake, Vice Chair Blake, Chair.

Referred to Committee on Appropriations.

April 1, 2019

E2SSB 5291 Prime Sponsor, Committee on Ways & Means: Creating alternatives to total confinement for certain qualifying persons with minor children. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.030 and 2018 c 166 s 3 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders

directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Electronic monitoring" means tracking the location of an individual, whether pretrial or posttrial, through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

(25) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(26) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(27) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(28) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence twenty-four hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

~~(32) ("Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.~~

~~(33))~~ "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense

under this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

~~((34))~~ (33) "Nonviolent offense" means an offense which is not a violent offense.

~~((35))~~ (34) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

~~((36))~~ (35) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

~~((37))~~ (36) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

~~((38))~~ (37) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding

of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection ~~((38))~~ (37)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

~~((39))~~ (38) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

~~((40))~~ (39) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

~~((41))~~ (40) "Public school" has the same meaning as in RCW 28A.150.010.

~~((42))~~ (41) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

~~((43))~~ (42) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

~~((44))~~ (43) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

~~((45))~~ (44) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

~~((46))~~ (45) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

~~((47))~~ (46) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

~~((48))~~ (47) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

~~((49))~~ (48) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

~~((50))~~ (49) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

~~((51))~~ (50) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

~~((52))~~ (51) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

~~((53))~~ (52) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

~~((54))~~ (53) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

~~((55))~~ (54) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

~~((56))~~ (55) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

~~((57))~~ (56) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

~~((58))~~ (57) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

**Sec. 2.** RCW 9.94A.655 and 2018 c 58 s 45 are each amended to read as follows:

(1) An offender is eligible for the parenting sentencing alternative if:

(a) The high end of the standard sentence range for the current offense is greater than one year;

(b) The offender has no prior or current conviction for a felony ~~((that is a))~~ sex offense or a serious violent offense;

(c) The offender has ~~((not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence))~~ no prior or current conviction for a violent offense, or where the offender has a prior or current conviction for a violent offense, he or she has been determined to be a low risk to reoffend;

(d) The offender signs any release of information waivers required to allow information regarding current or prior child welfare cases to be shared with the department and the court; and

(e) The offender ~~((has physical custody of his or her minor child or is a legal guardian or custodian with physical custody of a child under the age of eighteen at the time of the current offense))~~ is:

(i) A parent with physical custody of a minor child;

(ii) An expectant parent;

(iii) A legal guardian of a minor child; or

(iv) A biological parent, adoptive parent, custodian, or stepparent with a proven, established, ongoing, and substantial relationship with a minor child that existed at the time of the offense.

(2) Prior juvenile adjudications are not considered offenses when considering eligibility under this section.

(3) To assist the court in making its determination, the court may order the department to complete ~~((either))~~ a risk assessment report, including a family impact statement or a chemical dependency screening report as provided in RCW 9.94A.500, ~~((or both reports))~~ prior to sentencing.

~~((3))~~ (4) If the court is considering this alternative, the court shall request that the department contact the department of children, youth, and families to determine if the agency has an open child welfare case or prior substantiated referral of abuse or neglect involving the offender or if the agency is aware of any substantiated case of abuse or neglect with a tribal child welfare agency involving the offender.

(a) If the offender has an open child welfare case, the department will provide the release of information waiver and request that the department of children, youth, and families or the tribal child welfare agency provide a report to the court. The department of children, youth, and families shall ~~((provide a report))~~, within seven business days of the request: Provide a copy of the most recent court order entered in a proceeding under chapter 13.34 or 13.36 RCW pertaining to the offender; or, if there is no court order or there has been no court involvement, provide a report that includes, at the minimum, the following:

(i) Legal status of the child welfare case or child protective services response;

(ii) Length of time the department of children, youth, and families has ~~((been involved with))~~ had an open child welfare case, or child protective services response involving the offender;

(iii) Legal status of the case ~~((and permanent plan));~~ and

(iv) Any special needs of the child;

~~((v))~~ Whether or not the offender has been cooperative with services ordered by a juvenile court under a child welfare case; and

~~((vi))~~ (b) The department shall report if the offender has been convicted of a crime against a child.

~~((b))~~ (c) If a report is required from a tribal child welfare agency, the department shall attempt to obtain information that is similar to what is required for the report provided by the department of children, youth, and families in a timely manner.

~~((c))~~ (d) If the offender does not have an open child welfare case with the department of children, youth, and families or with a tribal child welfare agency but has prior involvement, the department will obtain information from the department of children, youth, and families on the number and type of past substantiated referrals of abuse or neglect and report that information to the court. If the department of children, youth, and families has never had any substantiated referrals or an open case with the offender, the department will inform the court.

~~((d))~~ (e) The existence of a prior substantiated referral of child abuse or neglect or of an open child welfare case shall not, alone, disqualify an offender from applying or participating in this alternative. The court shall consider whether the child-parent relationship can be readily maintained during parental incarceration; and whether due to the existence of an open child welfare case, parental incarceration exacerbates the likelihood of termination of the child-parent relationship.

(f) The state and its agencies, officers, agents, or employees are not liable for the acts of offenders participating in the sentencing alternative under this section unless the state or its agencies, officers, agents, or employees act with willful disregard of a known risk of immediate harm.

(5) If the sentencing court determines that the offender is eligible for a sentencing alternative under this section and that the sentencing alternative is appropriate and should be imposed, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of twelve months of community custody. The court shall consider the offender's criminal history when determining if the alternative is appropriate. The court shall also give great weight to the minor child's best interest, which must include a determination by the juvenile court presiding over the minor child's proceedings under chapter 13.34 RCW, if any.

~~((5))~~ (6) When a court imposes a sentence of community custody under this section:

(a) The court may impose conditions as provided in RCW 9.94A.703 and may impose other affirmative conditions as the court considers appropriate.

(b) The department may impose conditions as authorized in RCW 9.94A.704 that may include, but are not limited to:

- (i) Parenting classes;
- (ii) Chemical dependency treatment;
- (iii) Mental health treatment;
- (iv) Vocational training;
- (v) ~~((Offender))~~ Change programs;
- (vi) Life skills classes.

(c) The department shall report to the court if the offender commits any violations of his or her sentence conditions.

~~((6))~~ (7) The department shall provide the court with quarterly progress reports regarding the offender's progress in required programming, treatment, and other supervision conditions. When an offender has an open child welfare case, the department will seek to coordinate services with the department of children, youth, and families.

~~((7))~~ (8)(a) The court may bring any offender sentenced under this section back into court at any time during the period of community custody on its own initiative to evaluate the offender's progress in treatment, or to determine if any violations of the conditions of the sentence have occurred.

(b) At the commencement of such a hearing, the court shall advise the offender sentenced under this section of his or her right to assistance of counsel and, if the offender is indigent, appoint counsel.

(c) If the offender is brought back to court, the court may modify the conditions of community custody or impose sanctions under ~~((e))~~ (d) of this subsection, including extending the length of community custody, by no more than six months. The court shall also consider modification to the offender's support and rehabilitation plan as needed.

~~((e))~~ (d) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody, if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

~~((d))~~ (e) An offender ordered to serve a term of total confinement under ~~((e))~~ (d) of this subsection shall receive credit for any time previously served in confinement under this section.

(f) An offender sentenced under this section is subject to all rules relating to earned release time with respect to any period served in total confinement.

(9) For the purposes of this section:

(a) "Expectant parent" means a pregnant or other parent awaiting the birth of his or her child, or an adoptive parent or person in process of a final adoption.

(b) "Minor child" means a child under the age of eighteen at the time of the current offense.

**Sec. 3.** RCW 9.94A.6551 and 2018 c 58 s 47 are each amended to read as follows:

For an offender~~(s)~~ not sentenced under RCW 9.94A.655, but otherwise eligible under this section, no more than the final twelve months of the offender's term of confinement may be served in partial confinement as home detention as part of the parenting program developed by the department.

(1) The secretary may transfer an offender from a correctional facility to home detention in the community if it is determined that the parenting program is an appropriate placement and when all of the following conditions exist:

(a) The offender is serving a sentence in which the high end of the range is greater than one year;

(b) The offender has no current conviction for a felony ~~((that is a))~~ sex offense or a serious violent offense;

(c) Where the offender has a current conviction for a violent offense, he or she has been determined to not be a high risk to reoffend;

(d) The offender ~~((has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence))~~;

(i) Is a parent with physical or legal custody of a minor child;

(ii) Is a biological parent, adoptive parent, custodian, or stepparent with a proven, established, ongoing, and substantial relationship with a minor child that existed at the time of the offense;

(iii) Is the legal guardian of a minor child; or

(iv) Is an expectant parent;

~~((d))~~ (e) The offender signs any release of information waivers required to allow information regarding current or prior child welfare cases to be shared with the department and the court;

~~((e))~~ The offender:

(i) Has physical or legal custody of a minor child;

(ii) Has a proven, established, ongoing, and substantial relationship with his or her minor child that existed prior to the commission of the current offense; or

(iii) Is a legal guardian of a child that was under the age of eighteen at the time of the current offense;) and

(f) The department determines that ~~((such a placement))~~ the offender's participation in the parenting

program is in the best interests of the child. Nothing in this section provides the department with authority to determine placement of a minor child.

(2) Prior juvenile adjudications are not considered offenses when considering eligibility under this section.

(3) When the department is considering partial confinement as part of the parenting program for an offender, the department shall inquire of the ((individual)) offender and the department of children, youth, and families whether the agency has an open child welfare case or prior substantiated referral for abuse or neglect involving the offender. If the department of children, youth, and families or a tribal jurisdiction has an open child welfare case, the department will seek input from the department of children, youth, and families or the involved tribal jurisdiction as to: (a) The status of the child welfare case; and (b) recommendations regarding placement of the offender ((and services required of the department and the court governing)), services agreed to by the offender working voluntarily with the department, or services ordered by the court within the ((individual's)) offender's child welfare case. The department and its officers, agents, and employees are not liable for the acts of offenders participating in the parenting program unless the department or its officers, agents, and employees acted with willful and wanton disregard.

~~((3))~~ (4) All offenders placed on home detention as part of the parenting program shall provide an approved residence and living arrangement prior to transfer to home detention.

~~((4))~~ (5) While in the community on home detention as part of the parenting program, the department shall:

(a) Require the offender to be placed on electronic home monitoring;

(b) Require the offender to participate in programming and treatment that the department and offender collectively determine((s)) is needed;

(c) Assign a community corrections officer who will monitor the offender's compliance with conditions of partial confinement and programming requirements; and

(d) If the offender has an open child welfare case with the department of children, youth, and families, collaborate and communicate with the identified social worker in the provision of services.

~~((5))~~ (6) The department has the authority to return any offender serving partial confinement in the parenting program to total confinement if the offender is not complying with sentence requirements.

(7) For the purposes of this section:

(a) "Expectant parent" means a pregnant or other parent awaiting the birth of his or her child, or an adoptive parent or person in the process of a final adoption.

(b) "Minor child" means a child under the age of eighteen at the time of the current offense."

Correct the title.

Signed by Representatives Goodman, Chair; Davis, Vice Chair; Appleton; Lovick; Orwall; Pellicciotti and Pettigrew.

MINORITY recommendation: Do not pass. Signed by Representatives Klippert, Ranking Minority Member Sutherland, Assistant Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representatives Graham and Griffey.

Referred to Committee on Appropriations.

April 2, 2019

SSB 5305 Prime Sponsor, Committee on Agriculture, Water, Natural Resources & Parks: Concerning electric utility wildland fire prevention. Reported by Committee on Rural Development, Agriculture, & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Blake, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Chapman; Dye; Fitzgibbon; Kretz; Lekanoff; Orcutt; Pettigrew; Ramos; Schmick; Springer and Walsh.

Referred to Committee on Rules for second reading.

April 2, 2019

2SSB 5352 Prime Sponsor, Committee on Ways & Means: Concerning the Walla Walla watershed management pilot program. Reported by Committee on Rural Development, Agriculture, & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Walsh; Springer; Schmick; Ramos; Pettigrew; Orcutt; Lekanoff; Kretz; Fitzgibbon; Dye; Chapman; Chandler, Ranking Minority Member; Shewmake, Vice Chair Blake, Chair.

Referred to Committee on Appropriations.

April 1, 2019

SB 5360 Prime Sponsor, Senator Conway: Addressing plan membership default provisions in the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Robinson, 1st Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant

Ranking Minority Member; Caldier; Cody; Dolan; Dye; Fitzgibbon; Hansen; Jinkins; Macri; Pettigrew; Pollet; Ryu; Bergquist, 2nd Vice Chair; Schmick; Springer; Stanford; Steele; Sullivan; Tarleton; Tharinger; Volz; Ybarra; Senn Ormsby, Chair.

MINORITY recommendation: Without recommendation. Signed by Representative Mosbrucker.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chandler; Hoff; Hudgins; Kraft and Sutherland.

Referred to Committee on Rules for second reading.

April 1, 2019

ESSB 5389 Prime Sponsor, Committee on Ways & Means: Establishing a telehealth training and treatment program to assist youth. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that unaddressed behavioral health needs in our schools is a growing problem in Washington. Early identification, intervention, and prevention are critical to a student's success in school and life. Other states have demonstrated that students' grades increase and truancy decreases by addressing behavioral health among students in schools. Future behavioral health care and housing costs will be reduced by addressing mental health issues early.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.20 RCW to read as follows:

(1) The University of Washington college of education and department of psychiatry and behavioral sciences, including child and adolescent licensed mental health professionals at Seattle children's hospital, and in consultation with the office of the superintendent of public instruction, shall design a training curriculum and training delivery system to train middle, junior high, and high school staff to identify students who are at risk for substance abuse, violence, or suicide.

(2) The training curriculum in subsection (1) of this section must:

(a) Be developed in consultation with mental health providers;

(b) Be designed in conjunction and collaboration with training prescribed in RCW 28A.310.500;

(c) Align with national best practices; and

(d) Be designed to assist any school staff in identifying students who have:

(i) Had thoughts of suicide or harming others; and

(ii) Abused, are abusing, or are at risk of abusing alcohol or drugs, including opioids.

(3) The training delivery system in subsection (1) of this section may use live teleconference capabilities similar to the project ECHO training model already developed at the University of Washington, in addition to in-person trainings.

NEW SECTION. Sec. 3. A new section is added to chapter 28B.20 RCW to read as follows:

(1) The University of Washington, in conjunction with child and adolescent licensed mental health professionals at Seattle children's hospital, shall coordinate with medical schools, hospitals, clinics, and independent providers to develop a directory of child and adolescent licensed mental health professionals who have access to the technology necessary to provide telemedicine to students who are determined to be at risk for substance abuse, violence, or suicide.

(2) The University of Washington must update the directory periodically and make the directory available to the school districts participating in the pilot program described in section 4 of this act.

(3) For the purposes of this section:

(a) "Licensed mental health professional" means a psychiatrist, psychologist, or mental health counselor licensed to practice in Washington; and

(b) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. "Telemedicine" does not include the use of audio-only telephone, facsimile, or email.

NEW SECTION. Sec. 4. (1) The University of Washington and child and adolescent licensed mental health professionals at Seattle children's hospital, in consultation with the office of the superintendent of public instruction, shall establish a pilot program for selected school districts to participate as described in section 6 of this act. The University of Washington and the office of the superintendent of public instruction must select three school districts representing eastern, central, and western Washington, as well as urban and rural areas. Every junior high or middle school and high school in each of the selected school districts must participate as described in section 6 of this act.

(2) The pilot program must begin at the start of the 2020-21 school year and must conclude at the end of the 2024-25 school year.

(3)(a) The selected school districts shall require that all certificated employees at each school receive training based on the curriculum developed under section 2 of this act prior to the 2020-21 school year and to otherwise follow the provisions described in section 6 of this act.

(b) The training required under this section may be incorporated within existing school district and educational service district training programs and related resources.

(4) By August 1st of each year that the pilot program is active, the University of Washington, in conjunction with child and adolescent licensed mental health professionals at Seattle children's hospital and the office of the superintendent of public instruction, shall submit a report to the governor, the education committees of the legislature, and the joint select committee on health care oversight. The report must include: Information about the number of students who were identified as potentially at risk for substance abuse, violence, or suicide; the number of students who received a telemedicine consultation or visit in school; the number of students who were referred and received further treatment outside of the two authorized visits in the school; and information on the progress of the at-risk students who were identified and received treatment in the pilot program, if available.

(5) For the purposes of this section:

(a) "Licensed mental health professional" means a psychiatrist, psychologist, or mental health counselor licensed to practice in Washington; and

(b) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. "Telemedicine" does not include the use of audio-only telephone, facsimile, or email.

**NEW SECTION. Sec. 5.** A new section is added to chapter 28A.300 RCW to read as follows:

By March 30, 2020, the office of the superintendent of public instruction, in conjunction with the Washington state school directors' association and the University of Washington, shall develop a policy and procedure regarding the use of telemedicine in schools. The policy and procedure must address privacy requirements under the federal family educational rights and privacy act of 1974 and its implementing regulations and the federal health insurance portability and accountability act of 1996 and its implementing regulations. The policy and procedure must include provisions related to parent notification, student consent, and parent involvement.

**NEW SECTION. Sec. 6.** (1)(a) This section applies to school districts selected for participation in the pilot program established in section 4 of this act.

(b) Prior to participating as described in this section, school districts shall adopt the policy and procedure

regarding the use of telemedicine in schools developed under section 5 of this act.

(2) If a certificated employee trained under section 4 of this act identifies a student who may be at risk for substance abuse, violence, or suicide, the certificated employee must notify a school counselor, school psychologist, school social worker, or school nurse. The school counselor, school psychologist, school social worker, or school nurse must screen the identified student to determine if the student is at risk for substance abuse, violence, or suicide.

(3) If a school counselor, school psychologist, school social worker, or school nurse determines that a student is at risk for substance abuse, violence, or suicide, the student's school district may schedule a telemedicine consultation or visit for the student, based upon the assessed risk, within thirty days of the determination.

(4) Any telemedicine consultations or visits must be scheduled and conducted in accordance with the following requirements:

(a) The school district must utilize the directory developed under section 3 of this act to enlist a licensed mental health professional to provide:

(i) Consultation with a licensed mental health professional qualified to diagnose and treat students at risk for substance abuse, violence, or suicide; or

(ii) Treatment by a licensed mental health professional qualified to treat students at risk for substance abuse, violence, or suicide;

(b) The school district must provide an unoccupied room and the technology necessary for an employee or the student to connect with the remote licensed mental health professional for the telemedicine consultation or visit; and

(c) The school district must allow the student to participate in the telemedicine consultation or visit during normal school hours.

(5) If after the initial telemedicine consultation or visit the licensed mental health professional recommends a second telemedicine visit, then the student's school district must schedule a second telemedicine visit for the student. The scheduling of the second telemedicine visit must be based upon the risk assessment from the initial consultation or visit and must be urged to be scheduled beyond thirty days of the initial consultation or visit.

(6) Following a second telemedicine visit, the school district must work with the licensed mental health professional to refer the student to any appropriate medical, mental health, or behavioral health services.

(7) Licensed mental health professionals who provide telemedicine under this section may seek reimbursement for the health care services provided from the health plan in which a student is enrolled, including apple health for kids. For students with no health care coverage, a licensed mental health professional may seek reimbursement from the state for any uncompensated health care services provided to the students.

(8) For the purposes of this section:

districts. Reported by Committee on Local Government

(a) "Licensed mental health professional" means a psychiatrist, psychologist, or mental health counselor licensed to practice in Washington; and

(b) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. "Telemedicine" does not include the use of audio-only telephone, facsimile, or email.

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 87.03.082 and 2013 c 23 s 488 are each amended to read as follows:

NEW SECTION. **Sec. 7.** This act does not create any civil liability on the part of the state or any state agency, officer, employee, agent, political subdivision, or school district.

Each director shall take and subscribe an official oath for the faithful discharge of the duties of his or her office (~~and shall execute a bond to the district in the sum of one thousand dollars, conditioned for the faithful discharge of his or her duties, which shall be approved by the judge of the superior court of the county where the district was organized,~~) and the oath (~~and bond~~) shall be recorded (~~in the office of the county clerk of that county~~) and filed with the secretary of the board of directors. The secretary shall take and subscribe a written oath of office (~~and execute a bond in the sum of not less than one thousand dollars to be fixed by the directors~~), which shall be approved and filed as in the case of (~~the bond of~~) a director. (~~If a district is appointed fiscal agent of the United States to collect money for it, the secretary and directors and the district treasurer shall each execute such additional bonds as the secretary of the interior may require, conditioned for the faithful discharge of their duties which shall be approved, recorded, and filed as other official bonds. All such bonds shall be secured at the cost of the district.~~)

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."

**Sec. 2.** RCW 87.03.435 and 1997 c 354 s 3 are each amended to read as follows:

Correct the title.

Signed by Representatives Steele, Ranking Minority Member; Volz, Assistant Ranking Minority Member; Bergquist; Callan; Corry; Harris; Kilduff; Paul, Vice Chair; Kraft; Rude; Stonier; Thai; Valdez; Ybarra; Ortiz-Self Santos, Chair.

(1) Except as provided in subsections (2) and (3) of this section and RCW 87.03.436, whenever in the construction of the district canal or canals, or other works, or the furnishing of materials therefor, the board of directors shall determine to let a contract or contracts for the doing of the work or the furnishing of the materials, a notice calling for sealed proposals shall be published. The notice shall be published in a newspaper in the county in which the office of the board is situated, (~~and~~) in any other newspaper which may be designated by the board, and on the irrigation district's web site or on the county's web site where the district is located if the district does not have a web site, and for such length of time, not less than once each week for two weeks, as may be fixed by the board. At the time and place appointed in the notice for the opening of bids, the sealed proposals shall be opened in public, and as soon as convenient thereafter, the board shall let the work or the contract for the purchase of materials, either in portions or as a whole, to the lowest responsible bidder, or the board may reject any or all bids and readvertise, or may contract using the small works roster process in RCW 39.04.155 or may proceed to construct the work under its own superintendence. All work shall be done under the direction and to the satisfaction of the engineer of the district, and be approved by the board. The board of directors may require bidders submitting bids for the construction or maintenance

MINORITY recommendation: Without recommendation. Signed by Representative McCaslin, Assistant Ranking Minority Member.

MINORITY recommendation: Do not pass. Signed by Representatives Caldier Dolan, Vice Chair.

Referred to Committee on Appropriations.

April 2, 2019

SB 5404 Prime Sponsor, Senator Rolfes: Expanding the definition of fish habitat enhancement projects. Reported by Committee on Rural Development, Agriculture, & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Blake, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Chapman; Dye; Fitzgibbon; Kretz; Lekanoff; Orcutt; Pettigrew; Ramos; Schmick; Springer and Walsh.

Referred to Committee on Rules for second reading.

April 2, 2019

ESB 5453 Prime Sponsor, Senator Takko: Concerning the administration of irrigation

for any of the works of the district, or for the furnishing of labor or material, to accompany their bids by a deposit in cash, certified check, cashier's check, or surety bond in an amount equal to five percent of the amount of the bid and a bid shall not be considered unless the deposit is enclosed with it. If the contract is let, then all the bid deposits shall be returned to the unsuccessful bidders. The bid deposit of the successful bidder shall be retained until a contract is entered into for the purchase of the materials or doing of such work, and a bond given to the district in accordance with chapter 39.08 RCW for the performance of the contract. The performance bond shall be conditioned as may be required by law and as may be required by resolution of the board, with good and sufficient sureties satisfactory to the board, payable to the district for its use, for at least twenty-five percent of the contract price. If the successful bidder fails to enter into a contract and furnish the necessary bond within twenty days from the award, exclusive of the day of the award, the bid deposit shall be forfeited to the district and the contract may then be awarded to the second lowest bidder.

(2) The provisions of this section in regard to public bidding shall not apply in cases where the board is authorized to exchange bonds of the district in payment for labor and material.

(3) The provisions of this section do not apply:

(a) In the case of any contract between the district and the United States;

(b) In the case of an emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board of directors or proclamation of an official designated by the board to act for the board during such emergencies. The resolution or proclamation shall declare the existence of the emergency and recite the facts constituting the emergency; or

(c) To purchases which are clearly and legitimately limited to a single source of supply or to purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation.

NEW SECTION. **Sec. 3.** (1) The Washington association of county officials must conduct a study of irrigation district election-related practices and procedures and recommend best practices to standardize those procedures across all districts. Best practices are those that are equitable and ensure thorough governance of irrigation districts. In conducting this study, the Washington association of county officials may collaborate with the secretary of state, county assessors, county auditors, and other relevant stakeholders as necessary.

(2) The Washington association of county officials must report its findings and recommendations to the governor and the appropriate committees of the legislature by December 1, 2019. At minimum, recommendations for the standardization of election procedures must include procedures to:

- (a) Identify qualified voters and directors;
- (b) Notify qualified voters and directors;
- (c) Deliver and return ballots;
- (d) Identify and count official returns; and
- (e) Declare the winning candidate."

Correct the title.

Signed by Representatives Pollet, Chair; Peterson, Vice Chair; Kraft, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Appleton; Goehner and Senn.

Referred to Committee on Rules for second reading.

April 2, 2019

SB 5467

Prime Sponsor, Senator Liias: Extending the tax preferences in RCW 82.04.260(12). Reported by Committee on Rural Development, Agriculture, & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Walsh; Springer; Schmick; Ramos; Pettigrew; Orcutt; Lekanoff; Kretz; Fitzgibbon; Dye; Chapman; Chandler, Ranking Minority Member; Shewmake, Vice Chair Blake, Chair.

Referred to Committee on Finance.

April 2, 2019

ESB 5496

Prime Sponsor, Senator Zeiger: Concerning modification of precinct and district boundary lines. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass. Signed by Representatives Smith; Mosbrucker; Hudgins; Dolan; Appleton; Goehner, Assistant Ranking Minority Member; Walsh, Ranking Minority Member; Pellicciotti, Vice Chair Gregerson, Chair.

Referred to Committee on Rules for second reading.

April 2, 2019

ESSB 5536

Prime Sponsor, Committee on Ways & Means: Concerning intermediate care facilities for individuals with intellectual disability. Reported by Committee on Human Services & Early Learning

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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

(1) Individuals with developmental disabilities should have access to a broad array of health, social, and supportive services that are designed to meet their individual preferences and needs.

(2) Intermediate care facilities play a critical role in the array of services for individuals with developmental disabilities by actively and continuously working with individuals to develop the skills they need to live in the least restrictive setting possible.

(3) As soon as an individual with developmental disabilities develops the skills that the individual needs to live in a community setting or the individual's health changes such that he or she can no longer benefit from the treatment provided by the intermediate care facility, the individual should be afforded the opportunity to transition to a community-based setting or nursing facility that more appropriately meets his or her individual preferences and needs.

(4) As the individual with developmental disabilities transitions from an intermediate care facility to a more appropriate service setting, there should be strong communication between all parties involved in the transition to mitigate stress and ensure a smooth transition.

**Sec. 2.** RCW 71A.10.020 and 2014 c 139 s 2 are each reenacted and amended to read as follows:

As used in this title, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Assessment" means an evaluation is provided by the department to determine:

(a) If the individual meets functional and financial criteria for medicaid services; and

(b) The individual's support needs for service determination.

(2) "Community residential support services," or "community support services," and "in-home services" means one or more of the services listed in RCW 71A.12.040.

(3) "Crisis stabilization services" means services provided to persons with developmental disabilities who are experiencing behaviors that jeopardize the safety and stability of their current living situation. Crisis stabilization services include:

(a) Temporary intensive services and supports, typically not to exceed sixty days, to prevent psychiatric hospitalization, institutional placement, or other out-of-home placement; and

(b) Services designed to stabilize the person and strengthen their current living situation so the person may continue to safely reside in the community during and beyond the crisis period.

(4) "Department" means the department of social and health services.

(5) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual. By January 1, 1989, the department shall promulgate rules which define neurological or other conditions in a way that is not limited to intelligence quotient scores as the sole determinant of these conditions, and notify the legislature of this action.

(6) "Eligible person" means a person who has been found by the secretary under RCW 71A.16.040 to be eligible for services.

(7) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and to raise their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy.

(8) "Legal representative" means a parent of a person who is under eighteen years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of the limited guardianship, a person's attorney-at-law, a person's attorney-in-fact, or any other person who is authorized by law to act for another person.

(9) "Notice" or "notification" of an action of the secretary means notice in compliance with RCW 71A.10.060.

(10) "Residential habilitation center" means a state-operated facility for persons with developmental disabilities governed by chapter 71A.20 RCW and may be certified as an intermediate care facility for individuals with intellectual disability or licensed as a nursing home.

(11) "Respite services" means relief for families and other caregivers of people with disabilities, typically not to exceed ninety days, to include both in-home and out-of-home respite care on an hourly and daily basis, including twenty-four hour care for several consecutive days. Respite care workers provide supervision, companionship, and personal care services temporarily replacing those provided by the primary caregiver of the person with disabilities. Respite care may include other services needed by the client, including medical care which must be provided by a licensed health care practitioner.

(12) "Secretary" means the secretary of social and health services or the secretary's designee.

(13) "Service" or "services" means services provided by state or local government to carry out this title.

(14) "Service request list" means a list of eligible persons who have received an assessment for service determination and their assessment shows that they meet the eligibility requirements for the requested service but were denied access due to funding limits.

(15) "State-operated living alternative" means programs for community residential services which may include assistance with activities of daily living, behavioral, habilitative, interpersonal, protective, medical, nursing, and mobility supports to individuals who have been assessed by the department as meeting state and federal requirements for eligibility in home and community-based waiver programs for individuals with developmental disabilities. State-operated living alternatives are operated and staffed with state employees.

(16) "Supported living" means community residential services and housing which may include assistance with activities of daily living, behavioral, habilitative, interpersonal, protective, medical, nursing, and mobility supports provided to individuals with disabilities who have been assessed by the department as meeting state and federal requirements for eligibility in home and community-based waiver programs for individuals with developmental disabilities. Supported living services are provided under contracts with private agencies or with individuals who are not state employees.

(17) "Vacancy" means an opening at a residential habilitation center, which when filled, would not require the center to exceed its biennially budgeted capacity.

(18) "Active treatment" means a continuous, aggressive, and consistently implemented program of specialized and generic training, treatment, and health or related services directed toward helping the client function with as much self-determination and independence as possible.

(19) "Intermediate care facility for individuals with intellectual disability" means an intermediate care facility for individuals with intellectual disability certified by Title XIX of the federal social security act to provide active treatment services for persons with developmental disabilities.

(20) "Nursing home" has the same meaning as defined in RCW 18.51.010.

**NEW SECTION. Sec. 3.** A new section is added to chapter 71A.20 RCW to read as follows:

(1) By January 1, 2020, or sooner, the department shall assess all residents receiving services from an intermediate care facility for individuals with intellectual disability to determine if the resident is benefiting from the active treatment.

(2) The department shall partner with stakeholders to identify the appropriate frequency for reassessing residents receiving services from an intermediate care facility for individuals with intellectual disability to determine if the resident is still benefiting from the active

treatment and reassess residents according to the frequency identified.

(3) If the assessment determines that the resident is no longer benefiting from the active treatment provided by the intermediate care facility for individuals with intellectual disability, then the department shall work with the resident on transitioning the resident to an alternative setting that more appropriately meets the resident's needs.

(4) The assessments required in this section are subject to the availability of amounts appropriated for this specific purpose.

(5) The department shall develop a plan to expand supported living and state-operated living alternatives to ensure residents of residential habilitation centers can transition to these settings when necessary."

Signed by Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Eslick, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Corry; Goodman; Griffey; Kilduff; Klippert; Lovick and Ortiz-Self.

Referred to Committee on Appropriations.

April 1, 2019

SB 5605

Prime Sponsor, Senator Nguyen:  
Concerning misdemeanor marijuana  
offense convictions. Reported by  
Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.96.060 and 2017 c 336 s 2, 2017 c 272 s 9, and 2017 c 128 s 1 are each reenacted and amended to read as follows:

~~(1) ((Every person convicted of a misdemeanor or gross misdemeanor offense who has completed all of the terms of the sentence for the misdemeanor or gross misdemeanor offense may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. If the court finds the applicant meets the tests prescribed in subsection (2) of this section, the court may in its discretion vacate the record of conviction))~~ When vacating a conviction under this section, the court effectuates the vacation by: (a)(i) Permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or (ii) if the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of guilty; and (b) the court dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

(2) Every person convicted of a misdemeanor or gross misdemeanor offense who has completed all of the terms of the sentence for the misdemeanor or gross

misdemeanor offense may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. If the court finds the applicant meets the requirements of this subsection, the court may in its discretion vacate the record of conviction. Except as provided in subsections (3), (4), and (5) of this section, an applicant may not have the record of conviction for a misdemeanor or gross misdemeanor offense vacated if any one of the following is present:

(a) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court;

(b) The offense was a violent offense as defined in RCW 9.94A.030 or an attempt to commit a violent offense;

(c) The offense was a violation of RCW 46.61.502 (driving while under the influence), 46.61.504 (actual physical control while under the influence), 9.91.020 (operating a railroad, etc. while intoxicated), or the offense is considered a "prior offense" under RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug violation within ten years of the date of arrest for the prior offense or less than ten years has elapsed since the date of the arrest for the prior offense;

(d) The offense was any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44 RCW (sex offenses);

(e) The applicant was convicted of a misdemeanor or gross misdemeanor offense as defined in RCW 10.99.020, or the court determines after a review of the court file that the offense was committed by one family member or household member against another, or the court, after considering the damage to person or property that resulted in the conviction, any prior convictions for crimes defined in RCW 10.99.020, or for comparable offenses in another state or in federal court, and the totality of the records under review by the court regarding the conviction being considered for vacation, determines that the offense involved domestic violence, and any one of the following factors exist:

(i) The applicant has not provided written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought, or has not provided that notification to the court;

(ii) The applicant has previously had a conviction for domestic violence. For purposes of this subsection, however, if the current application is for more than one conviction that arose out of a single incident, none of those convictions counts as a previous conviction;

(iii) The applicant has signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense, and a criminal history check reveals that the applicant has had such a conviction; or

(iv) Less than five years have elapsed since the person completed the terms of the original conditions of the sentence, including any financial obligations and successful completion of any treatment ordered as a condition of sentencing;

(f) For any offense other than those described in (e) of this subsection, less than three years have passed since the person completed the terms of the sentence, including any financial obligations;

(g) The offender has been convicted of a new crime in this state, another state, or federal court since the date of conviction;

(h) The applicant has ever had the record of another conviction vacated; or

(i) The applicant is currently restrained, or has been restrained within five years prior to the vacation application, by a domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order which restrains one party from contacting the other party.

(3) Subject to RCW 9.96.070, every person convicted of prostitution under RCW 9A.88.030 who committed the offense as a result of being a victim of trafficking, RCW 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070, promoting commercial sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq. may apply to the sentencing court for vacation of the applicant's record of conviction for the prostitution offense. An applicant may not have the record of conviction for prostitution vacated if any one of the following is present:

(a) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court, for any crime other than prostitution; or

(b) The offender has been convicted of another crime, except prostitution, in this state, another state, or federal court since the date of conviction. The limitation in this subsection (3)(b) does not apply to convictions where the offender proves by a preponderance of the evidence that he or she committed the crime as a result of being a victim of trafficking, RCW 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070, promoting commercial sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq., according to the requirements provided in RCW 9.96.070 for each respective conviction.

(4) Every person convicted prior to January 1, 1975, of violating any statute or rule regarding the regulation of fishing activities, including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070, 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240 who claimed to be exercising a treaty Indian fishing right, may apply to the sentencing court for vacation of the applicant's record of the misdemeanor, gross misdemeanor, or felony conviction for the offense. If the person is deceased, a member of the person's family or an official representative

of the tribe of which the person was a member may apply to the court on behalf of the deceased person. Notwithstanding the requirements of RCW 9.94A.640, the court shall vacate the record of conviction if:

(a) The applicant is a member of a tribe that may exercise treaty Indian fishing rights at the location where the offense occurred; and

(b) The state has been enjoined from taking enforcement action of the statute or rule to the extent that it interferes with a treaty Indian fishing right as determined under *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and any posttrial orders of those courts, or any other state supreme court or federal court decision.

(5) Every person convicted of a misdemeanor marijuana offense, who was twenty-one years of age or older at the time of the offense, may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. A misdemeanor marijuana offense includes, but is not limited to: Any offense under RCW 69.50.4014, from July 1, 2004, onward, and its predecessor statutes, including RCW 69.50.401(e), from March 21, 1979, to July 1, 2004, and RCW 69.50.401(d), from May 21, 1971, to March 21, 1979, and any offense under an equivalent municipal ordinance. The requirements and restrictions in subsection (2) of this section do not apply to applications under this subsection. If an applicant qualifies under this subsection, the court shall vacate the record of conviction.

(6)(a) Once the court vacates a record of conviction under this section, the person shall be released from all penalties and disabilities resulting from the offense and the fact that the person has been convicted of the offense shall not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated under this section may state that he or she has never been convicted of that crime. Except as provided in (b) of this subsection, nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

(b) When a court vacates a record of domestic violence as defined in RCW 10.99.020 under this section, the state may not use the vacated conviction in a later criminal prosecution unless the conviction was for: (i) Violating the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going on to the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, ~~(26.26.138)~~ 26.26B.050, 26.44.063, 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145); or (ii) stalking (RCW 9A.46.110). A vacated conviction under this section is not considered a conviction of such an offense for the purposes of 27 C.F.R. 478.11.

~~((6))~~ (7) All costs incurred by the court and probation services shall be paid by the person making the

motion to vacate the record unless a determination is made pursuant to chapter 10.101 RCW that the person making the motion is indigent, at the time the motion is brought.

~~((7))~~ (8) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local police agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local police agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies."

Correct the title.

Signed by Representatives Pettigrew; Pellicciotti; Orwall; Lovick; Griffey; Graham; Appleton; Sutherland, Assistant Ranking Minority Member; Davis, Vice Chair Goodman, Chair.

MINORITY recommendation: Do not pass. Signed by Representative Klippert, Ranking Minority Member.

Referred to Committee on Appropriations.

April 1, 2019

SB 5649

Prime Sponsor, Senator Dhingra: Adjusting the statute of limitations for sexual assault. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass. Signed by Representatives Goodman, Chair; Davis, Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Graham; Griffey; Lovick; Orwall and Pellicciotti.

MINORITY recommendation: Do not pass. Signed by Representatives Appleton and Pettigrew.

Referred to Committee on Rules for second reading.

April 1, 2019

SSB 5689

Prime Sponsor, Committee on Early Learning & K-12 Education: Concerning harassment, bullying, and discrimination in public schools. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 28A.600 RCW to read as follows:

**PROHIBITION OF HARASSMENT, INTIMIDATION, OR BULLYING.**

(1)(a) By January 31, 2020, each school district must adopt or amend if necessary a policy and procedure prohibiting harassment, intimidation, and bullying of any student and that, at a minimum, incorporates the model policy and procedure described in subsection (3) of this section.

(b) School districts must share the policy and procedure prohibiting harassment, intimidation, and bullying with parents or guardians, students, volunteers, and school employees in accordance with the rules adopted by the office of the superintendent of public instruction.

(c)(i) Each school district must designate one person in the school district as the primary contact regarding the policy and procedure prohibiting harassment, intimidation, and bullying. In addition to other duties required by law and the school district, the primary contact must:

(A) Ensure the implementation of the policy and procedure prohibiting harassment, intimidation, and bullying;

(B) Receive copies of all formal and informal complaints relating to harassment, intimidation, or bullying;

(C) Communicate with the school district employees responsible for monitoring school district compliance with chapter 28A.642 RCW prohibiting discrimination in public schools, and the primary contact regarding the school district's policies and procedures related to transgender students under section 2 of this act; and

(D) Serve as the primary contact between the school district, the office of the education ombuds, and the office of the superintendent of public instruction on the policy and procedure prohibiting harassment, intimidation, and bullying.

(ii) The primary contact from each school district must attend at least one training class as provided in subsection (4) of this section, once this training is available.

(iii) The primary contact may also serve as the primary contact regarding the school district's policies and procedures relating to transgender students under section 2 of this act.

(2) School districts are encouraged to adopt and update the policy and procedure prohibiting harassment, intimidation, and bullying through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

(3)(a) By September 1, 2019, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to develop and update a model policy and procedure prohibiting harassment, intimidation, and bullying.

(b) Each school district must provide to the office of the superintendent of public instruction a brief summary of its policies, procedures, programs, partnerships, vendors, and instructional and training materials prohibiting harassment, intimidation, and bullying to be posted on the office of the superintendent of public instruction's school safety center web site, and must also provide the office of the superintendent of public instruction with a link to the school district's web site for further information. The school district's primary contact for harassment, intimidation, and bullying issues must annually by August 15th verify posted information and links and notify the school safety center of any updates or changes.

(c) The office of the superintendent of public instruction must publish on its web site, with a link to the school safety center web site, the revised and updated model policy and procedure prohibiting harassment, intimidation, and bullying, along with training and instructional materials on the components that must be included in any school district policy and procedure prohibiting harassment, intimidation, and bullying. By September 1, 2019, the office of the superintendent of public instruction must adopt rules regarding school districts' communication of the policy and procedure prohibiting harassment, intimidation, and bullying to parents, students, employees, and volunteers.

(4) By December 31, 2020, the office of the superintendent of public instruction must develop a statewide training class for those people in each school district who act as the primary contact regarding the policy and procedure prohibiting harassment, intimidation, and bullying as provided in subsection (1) of this section. The training class must be offered on an annual basis by educational service districts in collaboration with the office of the superintendent of public instruction. The training class must be based on the model policy and procedure prohibiting harassment, intimidation, and bullying as provided in subsection (3) of this section and include materials related to hazing and the Washington state school directors' association model transgender student policy and procedure as provided in section 2 of this act.

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

(a) "Electronic" means any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means.

(b)(i) "Harassment, intimidation, or bullying" means any intentional electronic, written, verbal, or physical act including, but not limited to, one shown to be motivated by any characteristic in RCW 28A.640.010 and 28A.642.010, or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

(A) Physically harms a student or damages the student's property;

(B) Has the effect of substantially interfering with a student's education;

(C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(D) Has the effect of substantially disrupting the orderly operation of the school.

(ii) Nothing in (b)(i) of this subsection requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.642 RCW to read as follows:

**POLICIES AND PROCEDURES RELATING TO TRANSGENDER STUDENTS.**

(1)(a) By January 31, 2020, each school district must adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements of the model transgender student policy and procedure described in subsection (3) of this section.

(b) School districts must share the policies and procedures that meet the requirements of (a) of this subsection with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by the office of the superintendent of public instruction.

(c)(i) Each school district must designate one person in the school district as the primary contact regarding the policies and procedures relating to transgender students that meet the requirements of (a) of this subsection. In addition to any other duties required by law and the school district, the primary contact must:

(A) Ensure the implementation of the policies and procedures relating to transgender students that meet the requirements of (a) of this subsection;

(B) Receive copies of all formal and informal complaints relating to transgender students that meet the requirements of (a) of this subsection;

(C) Communicate with the school district employees responsible for monitoring school district compliance with this chapter, and the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under section 1 of this act; and

(D) Serve as the primary contact between the school district, the office of the education ombuds, and the office of the superintendent of public instruction on policies and procedures relating to transgender students that meet the requirements of (a) of this subsection.

(ii) The primary contact from each school district must attend at least one training class as provided in section 1 of this act, once this training is available.

(iii) The primary contact may also serve as the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under section 1 of this act.

(2) As required by the office of the superintendent of public instruction, each school district must provide to the

office of the superintendent of public instruction its policies and procedures relating to transgender students that meet the requirements of subsection (1)(a) of this section.

(3)(a) By September 1, 2019, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to develop and update a model transgender student policy and procedure.

(b) The elements of the model transgender student policy and procedure must, at a minimum: Incorporate the office of the superintendent of public instruction's rules and guidelines developed under RCW 28A.642.020 to eliminate discrimination in Washington public schools on the basis of gender identity and expression; address the unique challenges and needs faced by transgender students in public schools; and describe the application of the model policy and procedure prohibiting harassment, intimidation, and bullying, required under section 1 of this act, to transgender students.

(c) The office of the superintendent of public instruction and the Washington state school directors' association must maintain the model policy and procedure on each agency's web site at no cost to school districts.

(4)(a) By December 31, 2020, the office of the superintendent of public instruction must develop online training material available to all school staff based on the model transgender student policy and procedure described in subsection (3) of this section and the office of the superintendent of public instruction's rules and guidance as provided under this chapter.

(b) The online training material must describe the role of school district primary contacts for monitoring school district compliance with this chapter prohibiting discrimination in public schools, section 1 of this act related to the policies and procedures prohibiting harassment, intimidation, and bullying, and this section related to policies and procedures relating to transgender students.

(c) The online training material must include best practices for policy and procedure implementation and cultural change that are guided by school district experiences.

(d) The office of the superintendent of public instruction must annually notify school districts of the availability of the online training material.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28A.300 RCW to read as follows:

The office of the superintendent of public instruction, in collaboration with the health care authority, the department of health, and the liquor and cannabis board, must review and align the healthy youth survey with the model transgender student policy and procedure developed under section 2 of this act.

**NEW SECTION. Sec. 4.** A new section is added to chapter 28A.405 RCW to read as follows:

A teacher's evaluation under RCW 28A.405.100 may not be negatively impacted if a teacher chooses to use curriculum or instructional materials that address subject matter related to sexual orientation including gender expression or identity so long as the subject matter is age-appropriate and connected to the teacher's content area.

NEW SECTION. **Sec. 5.** RCW 28A.300.285 (Harassment, intimidation, and bullying prevention policies and procedures—Model policy and procedure—Training materials—Posting on web site—Rules—Advisory committee) and 2013 c 23 s 50, 2010 c 239 s 2, 2007 c 407 s 1, & 2002 c 207 s 2 are each repealed."

Correct the title.

Signed by Representatives Paul, Vice Chair; Santos, Chair; Stonier; Valdez; Thai; Dolan, Vice Chair; Ortiz-Self; Kilduff; Harris; Callan; Bergquist; Steele, Ranking Minority Member and Rude.

MINORITY recommendation: Do not pass. Signed by Representatives Volz, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Ybarra; Kraft; Caldier and Corry.

Referred to Committee on Rules for second reading.

April 1, 2019

SSB 5851 Prime Sponsor, Committee on Ways & Means: Enhancing educational opportunities for vulnerable children and youth using funding distributed from the Puget Sound taxpayer accountability account. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.79.520 and 2015 3rd sp.s. c 44 s 423 are each amended to read as follows:

(1) The Puget Sound taxpayer accountability account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used for distribution to or appropriation for contracted services in counties where a portion of the county is within the boundaries of a regional transit authority that includes a county with a population of one million five hundred thousand or more. Counties and contracted service providers may use distributions from the account only ~~((for educational services))~~ to improve educational outcomes in early learning, K-12, and higher education including, but not limited to, for ~~((youths))~~ facilities and programs for children and youth that are low-income, homeless, or in foster care, or other vulnerable populations; and for the purposes in subsection (2) of this

section. ((Counties)) Entities receiving distributions under this section must track all expenditures and uses of the funds. To the greatest extent practicable, the expenditures of the counties must follow the requirements of any transportation subarea equity element used by the regional transit authority.

(2) Counties that directly receive distributions under this section may use distributions under this section to start endowments to provide support for improving educational outcomes in early learning, K-12, and higher education.

(3)(a) Except as provided in (b) of this subsection, beginning September 1, 2017, and by the last day of September, December, March, and June of each year thereafter, the state treasurer ((shall)) must distribute moneys deposited in the Puget Sound taxpayer accountability account to counties for which a portion of the county is within the boundaries of a regional transit authority that includes a county with a population of one million five hundred thousand. The treasurer must make the distribution to the counties on the relative basis of that transit authority's population that lives within the respective counties.

(b) If a county has not adopted a sales and use tax under RCW 82.14.460 before July 1, 2019, then in lieu of distributing to the county under (a) of this subsection the legislature may appropriate the distribution attributable to that county to the department of commerce for expenditure in that county under a contract with a nonprofit community service organization. The contract must be for services that will improve educational outcomes as described in subsection (1) of this section and the contractor must have broad experience in administering grants and contracts for education-related services in the county. The legislature may also appropriate a portion of that distribution to the department of commerce for expenditure as capital facilities grants in that county for purposes of subsection (1) of this section, subject to the matching and oversight requirements of RCW 43.63A.125 (2)(c), (5), and (6)."

Correct the title.

Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sullivan; Stanford; Senn; Ryu; Pollet; Pettigrew; Macri; Jinkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair and Springer.

MINORITY recommendation: Do not pass. Signed by Representatives Sutherland; Steele; Schmick; Mosbrucker; Kraft; Hoff; Dye; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Volz and Ybarra.

Referred to Committee on Rules for second reading.

April 2, 2019

SSB 5861 Prime Sponsor, Committee on State Government, Tribal Relations & Elections: Extending respectful workplace code of conduct provisions to all members of the legislative community. Reported by

Committee on State Government & Tribal  
Relations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 44.04 RCW to read as follows:

The chief clerk of the house of representatives and the secretary of the senate shall develop and provide a training course for registered lobbyists regarding the legislative code of conduct and any policies related to appropriate conduct adopted by the senate or the house of representatives.

**Sec. 2.** RCW 42.17A.600 and 2010 c 204 s 801 are each amended to read as follows:

(1) Before lobbying, or within thirty days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the commission a lobbyist registration statement, in such detail as the commission shall prescribe, that includes the following information:

(a) The lobbyist's name, permanent business address, and any temporary residential and business addresses in Thurston county during the legislative session;

(b) The name, address and occupation or business of the lobbyist's employer;

(c) The duration of the lobbyist's employment;

(d) The compensation to be received for lobbying, the amount to be paid for expenses, and what expenses are to be reimbursed;

(e) Whether the lobbyist is employed solely as a lobbyist or whether the lobbyist is a regular employee performing services for his or her employer which include but are not limited to the influencing of legislation;

(f) The general subject or subjects to be lobbied;

(g) A written authorization from each of the lobbyist's employers confirming such employment;

(h) The name and address of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this chapter;

(i) If the lobbyist's employer is an entity (including, but not limited to, business and trade associations) whose members include, or which as a representative entity undertakes lobbying activities for, businesses, groups, associations, or organizations, the name and address of each member of such entity or person represented by such entity whose fees, dues, payments, or other consideration paid to such entity during either of the prior two years have exceeded five hundred dollars or who is obligated to or has agreed to pay fees, dues, payments, or other consideration

exceeding five hundred dollars to such entity during the current year;

(j) An attestation that the lobbyist has read and completed a training course provided under section 1 of this act regarding the legislative code of conduct and any policies related to appropriate conduct adopted by the senate or the house of representatives.

(2) Any lobbyist who receives or is to receive compensation from more than one person for lobbying shall file a separate notice of representation for each person. However, if two or more persons are jointly paying or contributing to the payment of the lobbyist, the lobbyist may file a single statement detailing the name, business address, and occupation of each person paying or contributing and the respective amounts to be paid or contributed.

(3) Whenever a change, modification, or termination of the lobbyist's employment occurs, the lobbyist shall file with the commission an amended registration statement within one week of the change, modification, or termination.

(4) Each registered lobbyist shall file a new registration statement, revised as appropriate, on the second Monday in January of each odd-numbered year. Failure to do so terminates the lobbyist's registration.

**Sec. 3.** RCW 42.17A.605 and 2010 c 204 s 802 are each amended to read as follows:

Each lobbyist shall at the time he or she registers submit to the commission a recent photograph of himself or herself of a size and format as determined by rule of the commission, together with the name of the lobbyist's employer, the length of his or her employment as a lobbyist before the legislature, a brief biographical description, and any other information he or she may wish to submit not to exceed fifty words in length. The photograph (~~and~~), information, and attestation submitted under RCW 42.17A.600(1)(j) shall be published by the commission at least biennially in a booklet form for distribution to legislators and the public.

**NEW SECTION. Sec. 4.** A new section is added to chapter 42.17A RCW to read as follows:

(1) A lobbyist who is registered under RCW 42.17A.600 before December 31, 2019, is required to update the lobbyist's registration materials to include the attestation required by RCW 42.17A.600(1)(j) by December 31, 2019.

(2) The commission shall revoke the registration of any lobbyist registered under RCW 42.17A.600 who does not comply with subsection (1) of this section.

(3) The commission may not impose any other penalty on a lobbyist registered under RCW 42.17A.600 for failure to comply with subsection (1) of this section.

(4) The commission shall collaborate with the chief clerk of the house of representatives and the secretary of the senate to develop a process to verify that lobbyists who submit an attestation under RCW 42.17A.600(1)(j) have

completed the training course provided under section 1 of this act.

**NEW SECTION. Sec. 5.** Sections 2 and 3 of this act take effect December 31, 2019."

Correct the title.

Signed by Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Appleton; Dolan; Hudgins; Mosbrucker and Smith.

Referred to Committee on Rules for second reading.

April 1, 2019

**SSB 5876** Prime Sponsor, Committee on Ways & Means: Creating a gender-responsive and trauma-informed work group within the department of corrections. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature intends to assist the department of corrections in ensuring that gender-responsive and trauma-informed practices are integrated into classification, programming, and interactions with persons experiencing incarceration. In furtherance of this goal, it is the intent of the legislature to establish a gender-responsive and trauma-informed work group within the department of corrections to study and make recommendations for effective implementation of gender-specific programs, classification systems, and organizational structures within the department including, but not limited to, the creation of a women's division and other items identified in section 2(2) of this act.

**NEW SECTION. Sec. 2.** (1) Subject to the availability of amounts appropriated for this specific purpose, the gender-responsive and trauma-informed work group is established within the department of corrections. The work group membership may consist of, but is not limited to, the following:

(a) Representatives who specialize in the medical and psychological treatment of women;

(b) Representatives from the financial, faith-based, educational, arts, and cultural communities;

(c) Representatives from the department of corrections reentry division, prison division, community corrections division, correctional industries, and human resources;

(d) A family member of a person experiencing incarceration;

(e) Individuals with training and experience in developmental psychology, parenting, trauma-informed practices, and adverse childhood experiences;

(f) A representative from an organization supporting crime victims, and interested and willing victims of crimes;

(g) A representative from the office of the corrections ombuds;

(h) Any interested members of the legislature;

(i) At least two individuals who have experienced incarceration and successfully reentered; and

(j) A representative familiar with aging and disability services.

(2) The work group must develop suggestions and recommendations specific to:

(a) Evidence-based, gender-responsive, and trauma-informed practices that govern operations and programs for women experiencing incarceration;

(b) Appropriate ongoing training, orientation, and curriculum about gender-responsive and trauma-informed practices and a plan for how the training shall incorporate emerging best practices, and be delivered to department of corrections staff;

(c) How best to implement validated gender-responsive classification and placement instruments;

(d) How best to implement a validated gender-responsive assessment tool and case management system that is based on the risk-needs-responsivity model;

(e) How best to implement policies, practices, and programs to address differences in physical conditions of incarceration and physical health needs for men and women;

(f) How to create and implement a women's division within the department of corrections; and

(g) How to ensure staff responsible for supervision of females under mandatory supervised release are appropriately trained in evidence-based practices in community supervision, gender-responsive practices, and trauma-informed practices.

(3) Staff support for the work group must be provided by the department of corrections.

(4) The work group must submit a report to the governor and the legislature with its recommendations, and to the extent possible an estimation of the costs associated with implementing the recommendations, by December 1, 2020.

(5) This section expires June 30, 2021.

**Sec. 3.** RCW 43.06C.040 and 2018 c 270 s 5 are each amended to read as follows:

(1) The ombuds shall:

(a) Establish priorities for use of the limited resources available to the ombuds;

(b) Maintain a statewide toll-free telephone number, a collect telephone number, a web site, and a mailing address for the receipt of complaints and inquiries;

(c) Provide information, as appropriate, to inmates, family members, representatives of inmates, department employees, and others regarding the rights of inmates;

(d) Provide technical assistance to support inmate participation in self-advocacy;

(e) Monitor department compliance with applicable federal, state, and local laws, rules, regulations, and policies as related to the health, safety, welfare, and rehabilitation of inmates;

(f) Monitor and participate in legislative and policy developments affecting correctional facilities;

(g) Establish a statewide uniform reporting system to collect and analyze data related to complaints received by the ombuds regarding the department;

(h) Establish procedures to receive, investigate, and resolve complaints;

(i) Establish procedures to gather stakeholder input into the ombuds' activities and priorities, which must include at a minimum quarterly public meetings;

(j) Submit annually to the governor's office, the legislature, and the statewide family council, by November 1st of each year, a report that includes, at a minimum, the following information:

(i) The budget and expenditures of the ombuds;

(ii) The number of complaints received and resolved by the ombuds, including information specific to the number and a description of gender-based complaints;

(iii) A description of significant systemic or individual investigations or outcomes achieved by the ombuds during the prior year;

(iv) Any outstanding or unresolved concerns or recommendations of the ombuds; and

(v) Input and comments from stakeholders, including the statewide family council, regarding the ombuds' activities during the prior year; and

(k) Adopt and comply with rules, policies, and procedures necessary to implement this chapter.

(2)(a) The ombuds may initiate and attempt to resolve an investigation upon his or her own initiative, or upon receipt of a complaint from an inmate, a family member, a representative of an inmate, a department employee, or others, regarding any of the following that may adversely affect the health, safety, welfare, and rights of inmates:

(i) Abuse or neglect;

(ii) Department decisions or administrative actions;

(iii) Inactions or omissions;

(iv) Policies, rules, or procedures; or

(v) Alleged violations of law by the department that may adversely affect the health, safety, welfare, and rights of inmates.

(b) Prior to filing a complaint with the ombuds, a person shall have reasonably pursued resolution of the complaint through the internal grievance, administrative, or appellate procedures with the department. However, in no event may an inmate be prevented from filing a complaint more than ninety business days after filing an internal grievance, regardless of whether the department has completed the grievance process. This subsection (2)(b) does not apply to complaints related to threats of bodily harm including, but not limited to, sexual or physical assaults or the denial of necessary medical treatment.

(c) The ombuds may decline to investigate any complaint as provided by the rules adopted under this chapter.

(d) If the ombuds does not investigate a complaint, the ombuds shall notify the complainant of the decision not to investigate and the reasons for the decision.

(e) The ombuds may not investigate any complaints relating to an inmate's underlying criminal conviction.

(f) The ombuds may not investigate a complaint from a department employee that relates to the employee's employment relationship with the department or the administration of the department, unless the complaint is related to the health, safety, welfare, and rehabilitation of inmates.

(g) The ombuds must attempt to resolve any complaint at the lowest possible level.

(h) The ombuds may refer complainants and others to appropriate resources, agencies, or departments.

(i) The ombuds may not levy any fees for the submission or investigation of complaints.

(j) The ombuds must remain neutral and impartial and may not act as an advocate for the complainant or for the department.

(k) At the conclusion of an investigation of a complaint, the ombuds must render a public decision on the merits of each complaint, except that the documents supporting the decision are subject to the confidentiality provisions of RCW 43.06C.060. The ombuds must communicate the decision to the inmate, if any, and to the department. The ombuds must state its recommendations and reasoning if, in the ombuds' opinion, the department or any employee thereof should:

(i) Consider the matter further;

(ii) Modify or cancel any action;

(iii) Alter a rule, practice, or ruling;

(iv) Explain in detail the administrative action in question; or

(v) Rectify an omission.

(l) If the ombuds so requests, the department must, within the time specified, inform the ombuds about any action taken on the recommendations or the reasons for not complying with the recommendations.

(m) If the ombuds believes, based on the investigation, that there has been or continues to be a significant inmate health, safety, welfare, or rehabilitation issue, the ombuds must report the finding to the governor and the appropriate committees of the legislature.

(n) Before announcing a conclusion or recommendation that expressly, or by implication, criticizes a person or the department, the ombuds shall consult with that person or the department. The ombuds may request to be notified by the department, within a specified time, of any action taken on any recommendation presented. The ombuds must notify the inmate, if any, of the actions taken by the department in response to the ombuds' recommendations.

(3) This chapter does not require inmates to file a complaint with the ombuds in order to exhaust available administrative remedies for purposes of the prison litigation reform act of 1995, P.L. 104-134."

Correct the title.

Signed by Representatives Pettigrew; Pellicciotti; Orwall; Lovick; Griffey; Graham; Appleton; Sutherland, Assistant Ranking Minority Member; Klippert, Ranking Minority Member; Davis, Vice Chair Goodman, Chair.

Referred to Committee on Appropriations.

April 2, 2019

SB 5918 Prime Sponsor, Senator Lovelett: Providing whale watching guidelines in the boating safety education program. Reported by Committee on Rural Development, Agriculture, & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Blake, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Chapman; Fitzgibbon; Kretz; Lekanoff; Orcutt; Pettigrew; Ramos and Springer.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick; Dye and Walsh.

Referred to Committee on Appropriations.

April 1, 2019

ESSB 5946 Prime Sponsor, Committee on Housing Stability & Affordability: Concerning the application of the state environmental policy act to temporary shelters and transitional encampments. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.21C RCW to read as follows:

(1) Permit actions to site a temporary shelter or transitional encampment are exempt from compliance with this chapter if the shelter or encampment meets each of the following standards:

(a) The temporary shelter or transitional encampment is used for people experiencing homelessness;

(b) The temporary shelter or transitional encampment includes no more than two hundred beds and the number of occupants is based on one person for each bed;

(c) The permit for the temporary shelter or transitional encampment includes a condition that the shelter or encampment is used on the site for no more than three years. If a temporary shelter or transitional encampment is to remain on the site for more than three years, the permit action to extend or reissue a permit to the temporary shelter or transitional encampment is not exempt from compliance with this chapter;

(d) The temporary shelter or transitional encampment does not involve erecting a new permanent structure;

(e) The local jurisdiction acting as lead agency has declared a state of emergency on homelessness that is in effect at the time of the permit action; and

(f) The temporary encampment or shelter may not be located within one thousand feet of a public or private school or an early learning facility, unless the public or private school, early learning facility, or controlling affiliate organization of the public or private school or early learning facility has provided written notification approving of the siting to the government entity responsible for the permit action.

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

(a) "School" means:

(i) A public school under RCW 28A.150.010;

(ii) A private school approved by the state under chapter 28A.195 RCW; and

(iii) A charter school under RCW 28A.710.010.

(b) "Early learning facility" means:

(i) A child day care center under RCW 43.216.010(1)(a);

(ii) An early childhood education and assistance program provider under RCW 43.216.010(8);

(iii) A family day care provider under RCW 43.216.010(1)(c);

(iv) A head start program under 42 U.S.C. 9801 et seq.; and

(v) A nursery school under RCW 43.216.010(2)(e).

(c) "Temporary shelter" means a use sited in a new or existing structure or modular structure that provides temporary quarters for sleeping and shelter. The use may have common food preparation, shower, or other commonly used facilities that support temporary shelters.

(d) "Transitional encampment" means a use having tents, modular structures, or a similar shelter, including vehicles used for shelter, that provides temporary quarters for sleeping and shelter. The use may have common food preparation, shower, or other commonly used facilities that are separate from the sleeping shelters and that support transitional encampments.

(3) The exemption established in this section is in addition to the exemption established by rule pursuant to RCW 43.21C.110(1)(k), and does not in any way limit or change that exemption."

Correct the title.

Signed by Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; Doglio; Fey; Mead; Peterson and Shewmake.

MINORITY recommendation: Do not pass. Signed by Representatives Boehnke; Dye, Assistant Ranking Minority Member Shea, Ranking Minority Member.

Referred to Committee on Rules for second reading.

## 2<sup>nd</sup> SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

April 2, 2019

SB 5054 Prime Sponsor, Senator O'Ban: Increasing the behavioral health workforce by establishing a reciprocity program to increase the portability of behavioral health licenses and certifications. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 18.83.170 and 2004 c 262 s 12 are each amended to read as follows:

(1) Upon compliance with administrative procedures, administrative requirements, and fees determined under RCW 43.70.250 and 43.70.280, the board may grant a license, without oral examination, to any applicant who has not previously failed any examination

held by the board of psychology of the state of Washington and furnishes evidence satisfactory to the board that the applicant:

~~((+))~~ (a) Holds a doctoral degree with primary emphasis on psychology from an accredited college or university; and

~~((+))~~ (b)(i) Is licensed or certified to practice psychology in another state or country in which the requirements for such licensing or certification are, in the judgment of the board, essentially equivalent to those required by this chapter and the rules and regulations of the board. Such individuals must have been licensed or certified in another state for a period of at least two years; or

~~((+))~~ (ii) Is a diplomate in good standing of the American Board of Examiners in Professional Psychology; or

~~((+))~~ (iii) Is a member of a professional organization and holds a certificate deemed by the board to meet standards equivalent to this chapter.

(2)(a)(i) The department shall establish a reciprocity program for applicants for licensure as a psychologist in Washington.

(ii) The reciprocity program applies to applicants for a license as a psychologist who:

(A) Hold or have held within the past twelve months a credential in good standing from another state or territory of the United States which has a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed psychologists as established under this chapter; and

(B) Have no disciplinary record or disqualifying criminal history.

(b) The department shall issue a probationary license to an applicant who meets the requirements of (a)(ii) of this subsection. The department must determine what deficiencies, if any, exist between the education and experience requirements of the other state's credential and, after consideration of the experience and capabilities of the applicant, determine whether it is appropriate to require the applicant to complete additional education or experience requirements to maintain the probationary license and, within a reasonable time period, transition to a full license. A person who holds a probationary license may only practice as a psychologist in a licensed or certified service provider, as defined in RCW 71.24.025. The department may place a reasonable time limit on a probationary license and may, if appropriate, require the applicant to pass a jurisprudential examination.

(c) The department must maintain and publish a list of credentials in other states and territories that the department has determined to have a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed psychologists as established under this chapter. The department shall prioritize identifying and publishing the department's determination for the five states or territories that have historically had the most applicants

for reciprocity under subsection (1) of this section with a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed psychologists as established under this chapter.

**Sec. 2.** RCW 18.205.140 and 1998 c 243 s 14 are each amended to read as follows:

(1) An applicant holding a credential in another state may be certified to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

(2)(a)(i) The department shall establish a reciprocity program for applicants for certification as a chemical dependency professional in Washington.

(ii) The reciprocity program applies to applicants for certification as a chemical dependency professional who:

(A) Hold or have held within the past twelve months a credential in good standing from another state or territory of the United States which has a scope of practice that is substantially equivalent to or greater than the scope of practice for certified chemical dependency professionals as established under this chapter; and

(B) Have no disciplinary record or disqualifying criminal history.

(b) The department shall issue a probationary certificate to an applicant who meets the requirements of (a)(ii) of this subsection. The department must determine what deficiencies, if any, exist between the education and experience requirements of the other state's credential and, after consideration of the experience and capabilities of the applicant, determine whether it is appropriate to require the applicant to complete additional education or experience requirements to maintain the probationary certificate and, within a reasonable time period, transition to a full certificate. A person who holds a probationary certificate may only practice as a chemical dependency professional in a licensed or certified service provider, as defined in RCW 71.24.025. The department may place a reasonable time limit on a probationary certificate and may, if appropriate, require the applicant to pass a jurisprudential examination.

(c) The department must maintain and publish a list of credentials in other states and territories that the department has determined to have a scope of practice that is substantially equivalent to or greater than the scope of practice for certified chemical dependency professionals as established under this chapter. The department shall prioritize identifying and publishing the department's determination for the five states or territories that have historically had the most applicants for reciprocity under subsection (1) of this section with a scope of practice that is substantially equivalent to or greater than the scope of practice for certified chemical dependency professionals as established under this chapter.

**Sec. 3.** RCW 18.225.140 and 2001 c 251 s 14 are each amended to read as follows:

(1) An applicant holding a credential in another state may be licensed to practice in this state without examination if the secretary determines that the other state's credentialing standards are substantially equivalent to the licensing standards in this state.

(2)(a)(i) The department shall establish a reciprocity program for applicants for licensure as an advanced social worker, an independent clinical social worker, a mental health counselor, or a marriage and family therapist in Washington.

(ii) The reciprocity program applies to applicants for a license as an advanced social worker, an independent clinical social worker, a mental health counselor, or a marriage and family therapist who:

(A) Hold or have held within the past twelve months a credential in good standing from another state or territory of the United States which has a scope of practice that is substantially equivalent to or greater than the scope of practice for the corresponding license as established under this chapter; and

(B) Have no disciplinary record or disqualifying criminal history.

(b) The department shall issue a probationary license to an applicant who meets the requirements of (a)(ii) of this subsection. The department must determine what deficiencies, if any, exist between the education and experience requirements of the other state's credential and, after consideration of the experience and capabilities of the applicant, determine whether it is appropriate to require the applicant to complete additional education or experience requirements to maintain the probationary license and, within a reasonable time period, transition to a full license. A person who holds a probationary license may only practice in the relevant profession in a licensed or certified service provider, as defined in RCW 71.24.025. The department may place a reasonable time limit on a probationary license and may, if appropriate, require the applicant to pass a jurisprudential examination.

(c) The department must maintain and publish a list of credentials in other states and territories that the department has determined to have a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed advanced social workers, independent clinical social workers, mental health counselors, or marriage and family therapists as established under this chapter. The department shall prioritize identifying and publishing the department's determination for the five states or territories that have historically had the most applicants for reciprocity under subsection (1) of this section with a scope of practice that is substantially equivalent to or greater than the scope of practice for licensed advanced social workers, independent clinical social workers, mental health counselors, and marriage and family therapists under this chapter.

NEW SECTION. Sec. 4. A new section is added to chapter 18.83 RCW to read as follows:

(1) The department must explore options for adoption of an interstate compact or compacts supporting license portability for professionals licensed under this chapter and report recommendations to the governor and legislature by November 1, 2020.

(2) This section expires June 30, 2022.

NEW SECTION. Sec. 5. A new section is added to chapter 18.205 RCW to read as follows:

(1) The department must explore options for adoption of an interstate compact or compacts supporting license portability for professionals certified under this chapter and report recommendations to the governor and legislature by November 1, 2020.

(2) This section expires June 30, 2022.

NEW SECTION. Sec. 6. A new section is added to chapter 18.225 RCW to read as follows:

(1) The department must explore options for adoption of an interstate compact or compacts supporting license portability for professionals licensed under this chapter and report recommendations to the governor and legislature by November 1, 2020.

(2) This section expires June 30, 2022."

Correct the title.

Signed by Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers; Davis; Harris; Jinkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

Referred to Committee on Appropriations.

April 3, 2019

SB 5078 Prime Sponsor, Senator Kuderer: Requiring disclosure of federal income tax returns of presidential and vice presidential candidates prior to appearing on the ballot. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass. Signed by Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Appleton; Dolan and Hudgins.

MINORITY recommendation: Do not pass. Signed by Representatives Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Mosbrucker and Smith.

Referred to Committee on Rules for second reading.

April 2, 2019

E2SSB 5116 Prime Sponsor, Committee on Ways & Means: Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended by Committee on Finance and without amendment by Committee on Environment & Energy.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that Washington must address the impacts of climate change by leading the transition to a clean energy economy. One way in which Washington must lead this transition is by transforming its energy supply, modernizing its electricity system, and ensuring that the benefits of this transition are broadly shared throughout the state.

(2) With our wealth of carbon-free hydropower, Washington has some of the cleanest electricity in the United States. But electricity remains a large source of emissions in our state. We are at a critical juncture for transforming our electricity system. It is the policy of the state to eliminate coal-fired electricity, transition the state's electricity supply to one hundred percent carbon-neutral by 2030, and one hundred percent carbon-free by 2045. In implementing this chapter, the state must prioritize the maximization of family wage job creation, seek to ensure that all customers are benefiting from the transition to a clean energy economy, and provide safeguards to ensure that the achievement of this policy does not impair the reliability of the electricity system or impose unreasonable costs on utility customers.

(3) The transition to one hundred percent clean energy is underway, but must happen faster than our current policies can deliver. Absent significant and swift reductions in greenhouse gas emissions, climate change poses immediate significant threats to our economy, health, safety, and national security. The prices of clean energy technologies continue to fall, and are, in many cases, competitive or even cheaper than conventional energy sources.

(4) The legislature finds that Washington can accomplish the goals of this act while: Promoting energy independence; creating high-quality jobs in the clean energy sector; maximizing the value of hydropower, our principal renewable resource; continuing to encourage and provide incentives for clean alternative energy sources, including providing electricity for the transportation sector; maintaining safe and reliable electricity to all customers at stable and affordable rates; and protecting clean air and water in the Pacific Northwest. Clean energy creates more jobs per unit of energy produced than fossil fuel sources, so this transition will contribute to job growth in Washington while addressing our climate crisis head on. Our abundance of renewable energy and our strong clean technology sector

make Washington well positioned to be at the forefront of the transition to one hundred percent clean electricity.

(5) The legislature declares that utilities in the state have an important role to play in this transition, and must be fully empowered, through regulatory tools and incentives, to achieve the goals of this policy. In combination with new technology and emerging opportunities for customers, this policy will spur transformational change in the utility industry. Given these changes, the legislature recognizes and finds that the utilities and transportation commission's statutory grant of authority for rate making includes consideration and implementation of performance and incentive-based regulation, multiyear rate plans, and other flexible regulatory mechanisms where appropriate to achieve fair, just, reasonable, and sufficient rates and its public interest objectives.

(6) The legislature recognizes and finds that the public interest includes, but is not limited to: The equitable distribution of energy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks; and energy security and resiliency. It is the intent of the legislature that in achieving this policy for Washington, there should not be an increase in environmental health impacts to highly impacted communities.

(7) It is the intent of the legislature to provide flexible tools to address the variability of hydropower for compliance under this act.

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

(1) "Allocation of electricity" means, for the purposes of setting electricity rates, the costs and benefits associated with the resources used to provide electricity to an electric utility's retail electricity consumers that are located in this state.

(2) "Alternative compliance payment" means the payment established in section 9(2) of this act.

(3) "Attorney general" means the Washington state office of the attorney general.

(4) "Auditor" means: (a) The Washington state auditor's office or its designee for utilities under its jurisdiction under this chapter that are consumer-owned utilities; or (b) an independent auditor selected by a utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(5)(a) "Biomass energy" includes: (i) Organic by-products of pulping and the wood manufacturing process; (ii) animal manure; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) untreated wooden demolition or construction debris; (vi) food waste and food processing residuals; (vii) liquors derived from algae; (viii) dedicated energy crops; and (ix) yard waste.

(b) "Biomass energy" does not include: (i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth forests; or (iii) municipal solid waste.

(6) "Carbon dioxide equivalent" has the same meaning as defined in RCW 70.235.010.

(7)(a) "Coal-fired resource" means a facility that uses coal-fired generating units, or that uses units fired in whole or in part by coal as feedstock, to generate electricity.

(b)(i) "Coal-fired resource" does not include an electric generating facility that is included as part of a limited duration wholesale power purchase, not to exceed one month, made by an electric utility for delivery to retail electricity consumers that are located in this state for which the source of the power is not known at the time of entry into the transaction to procure the electricity.

(ii) "Coal-fired resource" does not include an electric generating facility that is subject to an obligation to meet the standards contained in RCW 80.80.040(3)(c).

(8) "Commission" means the Washington utilities and transportation commission.

(9) "Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

(10) "Consumer-owned utility" means a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual corporation or association formed under chapter 24.06 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(11) "Demand response" means changes in electric usage by demand-side resources from their normal consumption patterns in response to changes in the price of electricity, or to incentive payments designed to induce lower electricity use, at times of high wholesale market prices or when system reliability is jeopardized. "Demand response" may include measures to increase or decrease electricity production on the customer's side of the meter in response to incentive payments.

(12) "Department" means the department of commerce.

(13) "Distributed energy resource" means a nonemitting electric generation or renewable resource or program that reduces electric demand, manages the level or timing of electricity consumption, or provides storage, electric energy, capacity, or ancillary services to an electric utility and that is located on the distribution system, any subsystem of the distribution system, or behind the customer meter, including conservation and energy efficiency.

(14) "Electric utility" or "utility" means a consumer-owned utility or an investor-owned utility.

(15) "Energy assistance" means a program undertaken by a utility to reduce the household energy burden of its customers.

(a) Energy assistance includes, but is not limited to, weatherization, conservation and efficiency services, and monetary assistance, such as a grant program or rate class for lower income households, intended to lower a household's energy burden.

(b) Energy assistance may include direct customer ownership in distributed energy resources or other strategies if such strategies achieve a reduction in energy burden for the customer above other available conservation and demand-side measures.

(16) "Energy assistance need" means the amount of assistance necessary to achieve a level of household energy burden established by the department or commission.

(17) "Energy burden" means the share of annual household income used to pay annual home energy bills.

(18)(a) "Energy transformation project" means a project or program that: Provides energy-related goods or services, other than the generation of electricity; results in a reduction of fossil fuel consumption and in a reduction of the emission of greenhouse gases attributable to that consumption; and provides benefits to the customers of an electric utility.

(b) "Energy transformation project" may include but is not limited to:

(i) Home weatherization or other energy efficiency measures, including market transformation for energy efficiency products, in excess of: The target established under RCW 19.285.040(1), if applicable; other state obligations; or other obligations in effect on the effective date of this section;

(ii) Support for electrification of the transportation sector including, but not limited to:

(A) Equipment on an electric utility's transmission and distribution system to accommodate electric vehicle connections, as well as smart grid systems that enable electronic interaction between the electric utility and charging systems, and facilitate the utilization of vehicle batteries for system needs;

(B) Incentives for the sale or purchase of electric vehicles, both battery and fuel cell powered, as authorized under state or federal law;

(C) Incentives for the installation of charging equipment for electric vehicles;

(D) Incentives for the electrification of vehicle fleets utilizing a battery or fuel cell for electric supply;

(E) Incentives to install and operate equipment to produce or distribute renewable hydrogen; and

(F) Incentives for renewable hydrogen fueling stations;

(iii) Investment in distributed energy resources and grid modernization to facilitate distributed energy resources and improved grid resilience;

(iv) Investments in equipment for renewable natural gas processing, conditioning, and production, or equipment or infrastructure used solely for the purpose of delivering renewable natural gas for consumption or distribution;

(v) Contributions to self-directed investments in the following measures to serve the sites of large industrial gas and electrical customers: (A) Conservation; (B) new renewable resources; (C) behind-the-meter technology that facilitates demand response cooperation to reduce peak loads; (D) infrastructure to support electrification of transportation needs, including battery and fuel cell electrification; or (E) renewable natural gas processing, conditioning, or production; and

(vi) Projects and programs that achieve energy efficiency and emission reductions in the agricultural sector, including bioenergy and renewable natural gas projects.

(19) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such a material.

(20) "Governing body" means: The council of a city or town; the commissioners of an irrigation district, municipal electric utility, or public utility district; or the board of directors of an electric cooperative or mutual association that has the authority to set and approve rates.

(21) "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or gases designated by the department of ecology by rule under RCW 70.235.010.

(22) "Greenhouse gas content calculation" means a calculation expressed in carbon dioxide equivalent and made by the department of ecology, in consultation with the department, for the purposes of determining the emissions from the complete combustion or oxidation of fossil fuels and the greenhouse gas emissions in electricity for use in calculating the greenhouse gas emissions content in electricity.

(23) "Highly impacted community" means a community designated by the department of health based on cumulative impact analyses in section 25 of this act or a community located in census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

(24) "Investor-owned utility" means a company owned by investors that meets the definition of "corporation" in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(25) "Low-income" means household incomes as defined by the department or commission, provided that the definition may not exceed the higher of eighty percent of area median household income or two hundred percent of the federal poverty level, adjusted for household size.

(26)(a) "Market customer" means a nonresidential retail electric customer of an electric utility that: (i)

Purchases electricity from an entity or entities other than the utility with which it is directly interconnected; or (ii) generates electricity to meet one hundred percent of its own needs.

(b) An "affected market customer" is a customer of an investor-owned utility who becomes a market customer after the effective date of this section.

(27)(a) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form, including methane clathrate.

(b) "Natural gas" does not include renewable natural gas or the portion of renewable natural gas when blended into other fuels.

(28)(a) "Nonemitting electric generation" means electricity from a generating facility or a resource that provides electric energy, capacity, or ancillary services to an electric utility and that does not emit greenhouse gases as a by-product of energy generation.

(b) "Nonemitting electric generation" does not include renewable resources.

(29)(a) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity, including but not limited to the facility's fuel type, geographic location, vintage, qualification as a renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(b) "Nonpower attributes" does not include any aspects, claims, characteristics, and benefits associated with the on-site capture and destruction of methane or other greenhouse gases at a facility through a digester system, landfill gas collection system, or other mechanism, which may be separately marketable as greenhouse gas emission reduction credits, offsets, or similar tradable commodities. However, these separate avoided emissions may not result in or otherwise have the effect of attributing greenhouse gas emissions to the electricity.

(30) "Qualified transmission line" means an overhead transmission line that is: (a) Designed to carry a voltage in excess of one hundred thousand volts; (b) owned in whole or in part by an investor-owned utility; and (c) primarily or exclusively used by such an investor-owned utility as of the effective date of this section to transmit electricity generated by a coal-fired resource.

(31) "Renewable energy credit" means a tradable certificate of proof of one megawatt-hour of a renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity and the certificate is verified by a renewable energy credit tracking system selected by the department.

(32) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for

the hydrogen and the source for the energy input into the production process.

(33) "Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

(34) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) renewable natural gas; (f) renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (i) biomass energy.

(35)(a) "Retail electric customer" means a person or entity that purchases electricity from any electric utility for ultimate consumption and not for resale.

(b) "Retail electric customer" does not include, in the case of any electric utility, any person or entity that purchases electricity exclusively from carbon-free and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved by an order of the commission prior to the effective date of this section.

(36) "Retail electric load" means the amount of megawatt-hours of electricity delivered in a given calendar year by an electric utility to its Washington retail electric customers. "Retail electric load" does not include:

(a) Megawatt-hours delivered from qualifying facilities under the federal public utility regulatory policies act of 1978, P.L. 95-617, in operation prior to the effective date of this section, provided that no entity other than the electric utility can make a claim on delivery of the megawatt-hours from those resources; or

(b) Megawatt-hours delivered to an electric utility's system from a renewable resource through a voluntary renewable energy purchase by a retail electric customer of the utility in which the renewable energy credits associated with the megawatt-hours delivered are retired on behalf of the retail electric customer.

(37) "Thermal renewable energy credit" means, with respect to a facility that generates electricity using biomass energy that also generates thermal energy for a secondary purpose, a renewable energy credit that is equivalent to three million four hundred twelve thousand British thermal units of energy used for such secondary purpose.

(38) "Unbundled renewable energy credit" means a renewable energy credit that is sold, delivered, or purchased separately from electricity. All thermal renewable energy credits are considered unbundled renewable energy credits.

(39) "Unspecified electricity" means an electricity source for which the fuel attribute is unknown or has been separated from the energy delivered to retail electric customers.

(40) "Vulnerable populations" means communities that experience a disproportionate cumulative risk from environmental burdens due to:

(a) Adverse socioeconomic factors, including unemployment, high housing and transportation costs relative to income, access to food and health care, and linguistic isolation; and

(b) Sensitivity factors, such as low birth weight and higher rates of hospitalization.

**NEW SECTION. Sec. 3.** (1)(a) On or before December 31, 2025, each electric utility must eliminate coal-fired resources from its allocation of electricity. This does not include costs associated with decommissioning and remediation of these facilities.

(b) The commission shall allow in electric rates all decommissioning and remediation costs prudently incurred by an investor-owned utility for a coal-fired facility.

(2) The commission must accelerate depreciation schedules for any coal-fired resource to a date no later than December 31, 2025. The commission may accelerate the depreciation schedule for any qualified transmission line owned by an investor-owned utility when the commission finds the qualified transmission line is no longer used and useful and there is no reasonable likelihood that the qualified transmission line will be utilized in the future. The adjusted depreciation schedule must require such a qualified transmission line to be fully depreciated on or before December 31, 2025.

(3) The commission must allow in rates, directly or indirectly, amounts on an investor-owned utility's books of account that the commission finds represent prudently incurred undepreciated investment in a fossil fuel generating resource that has been retired from service when:

(a) The retirement is due to ordinary wear and tear, casualties, acts of God, acts of governmental authority, inability to procure or use fuel, termination or expiration of any ownership, or a operation agreement affecting such a fossil fuel generating resource; or

(b) The commission finds that the retirement is in the public interest.

(4) An electric utility that fails to comply with the requirements of subsection (1) of this section must pay the administrative penalty established under section 9(1) of this act, except as otherwise provided in this chapter.

**NEW SECTION. Sec. 4.** (1) It is the policy of the state that all retail sales of electricity to Washington retail electric customers be greenhouse gas neutral by January 1, 2030.

(a) For the four-year compliance period beginning January 1, 2030, and for each multiyear compliance period thereafter through December 31, 2044, an electric utility must demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from renewable resources, or alternative compliance options, as provided in this section. To achieve compliance with this standard, an electric utility must: (i) Pursue all cost-effective, reliable, and feasible conservation

and efficiency resources to reduce or manage retail electric load, using the methodology established in RCW 19.285.040, if applicable; and (ii) use electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility's retail electric loads over each multiyear compliance period. An electric utility must achieve compliance with this standard for the following compliance periods: January 1, 2030, through December 31, 2033; January 1, 2034, through December 31, 2037; January 1, 2038, through December 31, 2041; and January 1, 2042, through December 31, 2044.

(b) Through December 31, 2044, an electric utility may satisfy up to twenty percent of its compliance obligation under (a) of this subsection with an alternative compliance option consistent with this section. An alternative compliance option may include any combination of the following:

(i) Making an alternative compliance payment under section 9(2) of this act;

(ii) Using unbundled renewable energy credits, provided that there is no double counting of any nonpower attributes associated with renewable energy credits within Washington or programs in other jurisdictions, as follows:

(A) Unbundled renewable energy credits used by the electric utility for compliance with RCW 19.285.040 in a RCW 19.285.040 compliance year within the compliance period under this section; and

(B) Unbundled renewable energy credits, other than those included in (b)(ii)(A) of this subsection, that represent electricity generated within the compliance period;

(iii) Investing in energy transformation projects, including additional conservation and efficiency resources beyond what is otherwise required under this section, provided the projects meet the requirements of subsection (2) of this section and are not credited as resources used to meet the standard under (a) of this subsection; or

(iv) Using electricity from an energy recovery facility using municipal solid waste as the principal fuel source, where the facility was constructed prior to 1992, and the facility is operated in compliance with federal laws and regulations and meets state air quality standards. An electric utility may only use electricity from such an energy recovery facility if the department and the department of ecology determine that electricity generation at the facility provides a net reduction in greenhouse gas emissions compared to any other available waste management best practice. The determination must be based on a life-cycle analysis comparing the energy recovery facility to other technologies available in the jurisdiction in which the facility is located for the waste management best practices of waste reduction, recycling, composting, and minimizing the use of a landfill.

(c) Electricity from renewable resources used to meet the standard under (a) of this subsection must be verified by the retirement of renewable energy credits. Renewable energy credits must be tracked and retired in the tracking system selected by the department.

(d) Hydroelectric generation used by an electric utility in meeting the standard under (a) of this subsection may not include new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of this section unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility that: (i) Does not conflict with existing state or federal fish recovery plans; and (ii) complies with all local, state, and federal laws and regulations.

(e) Nothing in (d) of this subsection precludes an electric utility that owns and operates hydroelectric generating facilities, or the owner of a hydroelectric generating facility whose energy output is marketed by the Bonneville power administration, from making efficiency or other improvements to its hydroelectric generating facilities existing as of the effective date of this section or from installing hydroelectric generation in pipes, culverts, irrigation canals, and other manmade waterways, as long as those changes do not create conflicts with existing state or federal fish recovery plans and comply with all local, state, and federal laws and regulations.

(f) Nonemitting electric generation resources used to meet the standard under (a) of this subsection must be generated during the compliance period and must be verified by documentation that the electric utility owns the nonpower attributes of the electricity generated by the nonemitting resource.

(g) Nothing in this section prohibits an electric utility from purchasing or exchanging power from the Bonneville power administration.

(2) Investments in energy transformation projects used to satisfy an alternative compliance option provided under subsection (1)(b) of this section must use criteria developed by the department of ecology, in consultation with the department and the commission. For the purpose of crediting an energy transformation project toward the standard in subsection (1)(a) of this section, the department of ecology must establish a conversion factor of emissions reductions resulting from energy transformation projects to megawatt-hours of electricity from nonemitting electric generation that is consistent with the emission factors for unspecified electricity, or for energy transformation projects in the transportation sector, consistent with default emissions or conversion factors established by other jurisdictions for clean alternative fuels. Emissions reductions from energy transformation projects must be:

- (a) Real, specific, identifiable, and quantifiable;
- (b) Permanent: The department of ecology must look to other jurisdictions in setting this standard and make a reasonable determination on length of time;
- (c) Enforceable by the state of Washington;
- (d) Verifiable;
- (e) Not required by another statute, rule, or other legal requirement; and

(f) Not reasonably assumed to occur absent investment, or if an investment has already been made, not reasonably assumed to occur absent additional funding in the near future.

(3) Energy transformation projects must be associated with the consumption of energy in Washington and must not create a new use of fossil fuels that results in a net increase of fossil fuel usage.

(4) The compliance eligibility of energy transformation projects may be scaled or prorated by an approved protocol in order to distinguish effects related to reductions in electricity usage from reductions in fossil fuel usage.

(5) Any compliance obligation fulfilled through an investment in an energy transformation project is eligible for use only: (a) By the electric utility that makes the investment; (b) if the investment is made by the Bonneville power administration, by electric utilities that are preference customers of the Bonneville power administration; or (c) if the investment is made by a joint operating agency organized under chapter 43.52 RCW, by a member of the joint operating agency. An electric utility making an investment in partnership with another electric utility or entity may claim credit proportional to its share invested in the total project cost.

(6)(a) In meeting the standard under subsection (1) of this section, an electric utility must, consistent with the requirements of RCW 19.285.040, if applicable, pursue all cost-effective, reliable, and feasible conservation and efficiency resources, and demand response. In making new investments, an electric utility must, to the maximum extent feasible:

- (i) Achieve targets at the lowest reasonable cost, considering risk;
- (ii) Consider acquisition of existing renewable resources; and
- (iii) In the acquisition of new resources constructed after the effective date of this section, rely on renewable resources and energy storage, insofar as doing so is consistent with (a)(i) of this subsection.

(b) Electric utilities subject to RCW 19.285.040 must demonstrate pursuit of all conservation and efficiency resources through compliance with the requirements in RCW 19.285.040.

(7) An electric utility that fails to meet the requirements of this section must pay the administrative penalty established under section 9(1) of this act, except as otherwise provided in this chapter.

(8) In complying with this section, an electric utility must, consistent with the requirements of RCW 19.280.030 and section 25 of this act, ensure that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public

health and environmental benefits and reduction of costs and risks; and energy security and resiliency.

(9) Affected market customers must comply with the standard established under subsection (1) of this section.

(10) A market customer that purchases electricity exclusively from carbon-free resources and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved, prior to the effective date of this section, by order of the commission is subject to the requirements of such an order and not to the standard established in this section. For purposes of interpreting any such special contract, chapter 19.285 RCW, as in effect on January 1, 2019, is not, either directly or indirectly, amended or supplemented.

(11) To reduce costs for utility customers or avoid exceeding the cost impact limit in section 6(3)(a) of this act, a multistate electric utility with fewer than two hundred fifty thousand customers in Washington may apply the total amount of megawatt-hour of coal-fired resources eliminated from the utility's allocation of electricity before December 31, 2025, as an equivalent amount of megawatt-hour of nonemitting electric generation or electricity from renewable resources required to comply with subsection (1)(a) of this section. The utility must demonstrate that for every megawatt-hour of early action credit there is a real, permanent reduction in greenhouse gas emissions in the western interconnection directly associated with that credit. A multistate electric utility must request to use early compliance credit in its clean energy implementation plan that is submitted under section 6 of this act. The multistate electric utility must specify in its clean energy implementation plan the compliance years to which the early action compliance credit will apply, but in no event may the multistate electric utility use the early action compliance credits beyond 2035. The commission must establish conditions for use of early action compliance credits, including a determination of whether action constitutes early action, before the multistate electric utility's use of early action compliance credits in a clean energy implementation plan.

**NEW SECTION. Sec. 5.** (1) It is the policy of the state that nonemitting electric generation and electricity from renewable resources supply one hundred percent of all sales of electricity to Washington retail electric customers by January 1, 2045. By January 1, 2045, and each year thereafter, each electric utility must demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from renewable resources.

(2) Each electric utility must incorporate subsection (1) of this section into all relevant planning and resource acquisition practices including, but not limited to: Resource planning under chapter 19.280 RCW; the construction or acquisition of property, including electric generating facilities; and the provision of electricity service to retail electric customers.

(3) In planning to meet projected demand consistent with the requirements of subsection (2) of this section and RCW 19.285.040, if applicable, an electric utility must pursue all cost-effective, reliable, and feasible conservation and efficiency resources, and demand response. In making new investments, an electric utility must, to the maximum extent feasible:

(a) Achieve targets at the lowest reasonable cost, considering risk;

(b) Consider acquisition of existing renewable resources; and

(c) In the acquisition of new resources constructed after the effective date of this section, rely on renewable resources and energy storage, insofar as doing so is consistent with (a) of this subsection.

(4) The commission, department, energy facility site evaluation council, department of ecology, and all other state agencies must incorporate this section into all relevant planning and utilize all programs authorized by statute to achieve subsection (1) of this section.

(5)(a) Hydroelectric generation used by an electric utility to satisfy the requirements of this section may not include new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of this section unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility that: (i) Does not conflict with existing state or federal fish recovery plans; and (ii) complies with all local, state, and federal laws and regulations.

(b) Nothing in (a) of this subsection precludes an electric utility that owns and operates hydroelectric generating facilities, or the owner of a hydroelectric generating facility whose energy output is marketed by the Bonneville power administration, from making efficiency or other improvements to its hydroelectric generating facilities existing as of the effective date of this section or from installing hydroelectric generation in pipes, culverts, irrigation canals, and other manmade waterways as long as those changes do not create conflicts with existing state or federal fish recovery plans and comply with all local, state, and federal laws and regulations.

(6) Nothing in this section prohibits an electric utility from purchasing or exchanging power from the Bonneville power administration.

(7) Affected market customers must comply with the obligations of this section.

(8) Any market customer that purchases electricity exclusively from carbon-free resources and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved, prior to the effective date of this section, by order of the commission is subject to the requirements of such an order and not to the standards established in this section. For the purposes of interpreting such a special contract, chapter 19.285 RCW, as in effect on

January 1, 2019, is not, either directly or indirectly, amended or supplemented.

**NEW SECTION. Sec. 6.** (1)(a) By January 1, 2022, and every four years thereafter, each investor-owned utility must develop and submit to the commission:

(i) A four-year clean energy implementation plan for the standards established under sections 4(1) and 5(1) of this act that proposes specific targets for energy efficiency, demand response, and renewable energy; and

(ii) Proposed interim targets for meeting the standard under section 4(1) of this act during the years prior to 2030 and between 2030 and 2045.

(b) An investor-owned utility's clean energy implementation plan must:

(i) Be informed by the investor-owned utility's clean energy action plan developed under RCW 19.280.030;

(ii) Be consistent with subsection (3) of this section; and

(iii) Identify specific actions to be taken by the investor-owned utility over the next four years, consistent with the utility's long-range integrated resource plan and resource adequacy requirements, that demonstrate progress toward meeting the standards under sections 4(1) and 5(1) of this act and the interim targets proposed under (a)(i) of this subsection. The specific actions identified must be informed by the investor-owned utility's historic performance under median water conditions and resource capability and by the investor-owned utility's participation in centralized markets. In identifying specific actions in its clean energy implementation plan, the investor-owned utility may also take into consideration any significant and unplanned loss or addition of load it experiences.

(c) The commission, after a hearing, must by order approve, reject, or approve with conditions an investor-owned utility's clean energy implementation plan and interim targets. The commission may, in its order, recommend or require more stringent targets than those proposed by the investor-owned utility. The commission may periodically adjust or expedite timelines if it can be demonstrated that the targets or timelines can be achieved in a manner consistent with the following:

(i) Maintaining and protecting the safety, reliable operation, and balancing of the electric system;

(ii) Planning to meet the standards at the lowest reasonable cost, considering risk;

(iii) Ensuring that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and the reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency; and

(iv) Ensuring that no customer or class of customers is unreasonably harmed by any resulting increases in the cost

of utility-supplied electricity as may be necessary to comply with the standards.

(2)(a) By January 1, 2022, and every four years thereafter, each consumer-owned utility must develop and submit to the department a four-year clean energy implementation plan for the standards established under sections 4(1) and 5(1) of this act that:

(i) Proposes interim targets for meeting the standard under section 4(1) of this act during the years prior to 2030 and between 2030 and 2045, as well as specific targets for energy efficiency, demand response, and renewable energy;

(ii) Is informed by the consumer-owned utility's clean energy action plan developed under RCW 19.280.030(1) or other ten-year plan developed under RCW 19.280.030(5);

(iii) Is consistent with subsection (4) of this section; and

(iv) Identifies specific actions to be taken by the consumer-owned utility over the next four years, consistent with the utility's long-range resource plan and resource adequacy requirements, that demonstrate progress towards meeting the standards under sections 4(1) and 5(1) of this act and the interim targets proposed under (a)(i) of this subsection. The specific actions identified must be informed by the consumer-owned utility's historic performance under median water conditions and resource capability and by the consumer-owned utility's participation in centralized markets. In identifying specific actions in its clean energy implementation plan, the consumer-owned utility may also take into consideration any significant and unplanned loss or addition of load it experiences.

(b) The governing body of the consumer-owned utility must, after a public meeting, adopt the consumer-owned utility's clean energy implementation plan. The clean energy implementation plan must be submitted to the department and made available to the public. The governing body may adopt more stringent targets than those proposed by the consumer-owned utility and periodically adjust or expedite timelines if it can be demonstrated that such targets or timelines can be achieved in a manner consistent with the following:

(i) Maintaining and protecting the safety, reliable operation, and balancing of the electric system;

(ii) Planning to meet the standards at the lowest reasonable cost, considering risk;

(iii) Ensuring that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency; and

(iv) Ensuring that no customer or class of customers is unreasonably harmed by any resulting increases in the cost of utility-supplied electricity as may be necessary to comply with the standards.

(3)(a) An investor-owned utility must be considered to be in compliance with the standards under sections 4(1) and 5(1) of this act if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the interim targets established under subsection (1) of this section meets but does not exceed a two percent increase of the investor-owned utility's weather-adjusted sales revenue to customers for electric operations above the previous year, as reported by the investor-owned utility in its most recent commission basis report. All costs included in the determination of cost impact must be directly attributable to actions necessary to comply with the requirements of sections 4 and 5 of this act.

(b) If an investor-owned utility relies on (a) of this subsection as a basis for compliance with the standard under section 4(1) of this act, then it must demonstrate that it has maximized investments in renewable resources and nonemitting electric generation prior to using alternative compliance options allowed under section 4(1)(b) of this act.

(4)(a) A consumer-owned utility must be considered to be in compliance with the standards under sections 4(1) and 5(1) of this act if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the interim targets established under subsection (2) of this section meets but does not exceed a two percent increase of the consumer-owned utility's retail revenue requirement above the previous year. All costs included in the determination of cost impact must be directly attributable to actions necessary to comply with the requirements of sections 4 and 5 of this act.

(b) If a consumer-owned utility relies on (a) of this subsection as a basis for compliance with the standard under section 4(1) of this act, and it has not met eighty percent of its annual retail electric load using electricity from renewable resources and nonemitting electric generation, then it must demonstrate that it has maximized investments in renewable resources and nonemitting electric generation prior to using alternative compliance options allowed under section 4(1)(b) of this act.

(5) The commission, for investor-owned utilities, and the department, for consumer-owned utilities, must adopt rules establishing the methodology for calculating the incremental cost of compliance under this section, as compared to the cost of an alternative lowest reasonable cost portfolio of investments that are reasonably available.

**NEW SECTION. Sec. 7.** (1) Each electric utility must disclose its greenhouse gas content calculation in conformance with this section. A utility's disclosure must be consistent with the fuel sources that it reports and discloses in compliance with chapter 19.29A RCW. The department must by rule incorporate the carbon content disclosure into the power source or fuel mix disclosure required under chapter 19.29A RCW.

(2) For unspecified electricity, the utility must use an emissions rate determined, and periodically updated, by the department of ecology by rule. The department of ecology must adopt an emissions rate for unspecified

electricity consistent with the emissions rate established for other markets in the western interconnection. If the department of ecology has not adopted an emissions rate for unspecified electricity, the emissions rate that applies for the purposes of this chapter is 0.437 metric tons of carbon dioxide per megawatt-hour of electricity.

(3) For the purposes of this act, the fuel mix calculated for the Bonneville power administration may exclude any purchases of electric generation that are not associated with load in the state of Washington.

**NEW SECTION. Sec. 8.** By January 1, 2024, and at least every four years thereafter and in compliance with RCW 43.01.036, the department must submit a report to the legislature. The report must include the following:

(1) A review of the standards described in sections 3 through 5 of this act focused on technologies, forecasts, and existing transmission, and an evaluation of safety, environmental and public safety protection, affordability, and system reliability.

(2)(a) An evaluation, produced in consultation with the commission, electric utilities, transmission operators in Washington, the reliability coordinator for electric utilities, any regional planning organization serving electric utilities, public interest and environmental organizations, and the regional entity for the western interconnection identifying the potential benefits, impacts, and risks on system reliability associated with achieving the standards described in sections 4 and 5 of this act. The evaluation must assess whether electric utilities have sufficient electric generation resources to meet forecasted retail electric load in addition to adequate transmission capability to implement sections 3 through 5 of this act without: (i) Violating mandatory and enforceable reliability standards of the North American electric reliability corporation; (ii) violating prudent utility practice for assuring resource adequacy; or (iii) compromising the power quality or integrity of the electricity system. Subject to funding appropriated for this purpose, the commission and the department must consult with a national laboratory with expertise in grid reliability, security, and resilience.

(b) The evaluation should assess the anticipated financial costs and benefits of investments necessary to correct those deficiencies at the lowest reasonable costs as identified by electric utilities, transmission operators in Washington, the regional entity for the western interconnection, or any regional planning organization serving electric utilities. The assessment of these investments in the report is not deemed to be approval of such investments for rate recovery by any authorizing entity.

(3) An evaluation identifying the nature of any anticipated financial costs and benefits to electric utilities, including customer rate impacts and benefits including, but not limited to:

(a) Greenhouse gas emissions of electric utilities;

(b) The allocation of risk between customers and electric utilities;

(c) The allocation of financial costs among electric utilities in the state and whether retail electric customers are equitably bearing the financial costs of implementing sections 3 through 5 of this act;

(d) The timing of cost recovery for electricity generated by nonemitting electric generation or renewable resources;

(e) The resource procurement process of electric utilities; and

(f) The barriers to, and benefits of, implementing sections 4 and 5 of this act.

(4) An evaluation of new or emerging technologies that could be considered to be a renewable resource.

(5) An assessment of the impacts of sections 3 through 5 of this act on middle-income families, small businesses, and manufacturers in Washington.

**NEW SECTION. Sec. 9.** (1)(a) An electric utility or an affected market customer that fails to meet the standards established under sections 3(1) and 4(1) of this act must pay an administrative penalty to the state of Washington in the amount of one hundred dollars, times the following multipliers, for each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or nonemitting electric generation:

(i) 1.5 for coal-fired resources;

(ii) 0.84 for gas-fired peaking power plants; and

(iii) 0.60 for gas-fired combined-cycle power plants.

(b) Beginning in 2027, this penalty must be adjusted on a biennial basis according to the rate of change of the inflation indicator, gross domestic product implicit price deflator, as published by the bureau of economic analysis of the United States department of commerce or its successor. Beginning in 2040, the commission may by rule increase this penalty for investor-owned utilities if the commission determines that doing so will accelerate utilities' compliance with the standards established under this chapter and that doing so is in the public interest.

(2) Consistent with the requirements of section 4(1)(b) of this act, a utility may opt to make a payment in the amount of the administrative penalty as an alternative compliance payment, without incurring a penalty for noncompliance.

(3)(a) Upon its own motion or at the request of an investor-owned utility, and after a hearing, the commission may issue an order relieving the utility of its administrative penalty obligation under subsection (1) of this section if it finds that:

(i) After taking all reasonable measures, the investor-owned utility's compliance with this chapter is likely to result in conflicts with or compromises to its obligation to comply with the mandatory and enforceable reliability standards of the North American electric reliability corporation, violate prudent utility practice for

assuring resource adequacy, or compromise the power quality or integrity of its system; or

(ii) The investor-owned utility is unable to comply with the standards established in section 3(1) or 4(1) of this act due to reasons beyond the reasonable control of the investor-owned utility, as set forth in subsection (6) of this section.

(b) If the commission issues an order pursuant to (a) of this subsection that relieves an investor-owned utility of its administrative penalty obligation under subsection (1) of this section, the commission may issue an order:

(i) Temporarily exempting the investor-owned utility from the requirements of section 4(1) of this act for an amount of time sufficient to allow the investor-owned utility to achieve full compliance with the standard;

(ii) Directing the investor-owned utility to file a progress report to the commission on achieving full compliance with the standard within six months after issuing the order, or within an amount of time determined to be reasonable by the commission; and

(iii) Directing the investor-owned utility to take specific actions to achieve full compliance with the requirements of this chapter.

(c) An investor-owned utility may request an extension of a temporary exemption granted under this section. An investor-owned utility that requests an extension must request an update to the order issued by the commission under (b) of this subsection.

(4) Subsection (3) of this section does not permanently relieve an investor-owned utility of its obligation to comply with the requirements of this chapter.

(5)(a) The governing body of a consumer-owned utility may authorize a temporary exemption from the standard established under section 4(1) of this act, for an amount of time sufficient to allow the consumer-owned utility to achieve full compliance with the standard, if the governing body finds that:

(i) The consumer-owned utility's compliance with the standard is likely to: Result in conflicts with or compromises to its obligation to comply with the mandatory and enforceable reliability standards of the North American electric reliability corporation; violate prudent utility practice for assuring resource adequacy; or compromise the power quality or integrity of its system; or

(ii) The consumer-owned utility is unable to comply with the standard due to reasons beyond the reasonable control of the utility, as set forth in subsection (6) of this section; and

(iii) The consumer-owned utility has provided to the department a plan demonstrating how it plans to achieve full compliance with the standard, consistent with the findings of the report submitted to the legislature under section 8 of this act.

(b) Upon request by the governing body of a consumer-owned utility, a consumer-owned utility must be

relieved of its administrative penalty obligation under subsection (1) of this section if the auditor issues a finding that:

(i) The governing body of the consumer-owned utility has properly issued a temporary exemption under (a) of this subsection for a period of time not to exceed six months; and

(ii) The governing body of the consumer-owned utility has submitted to the department a plan to take specific actions to achieve full compliance with the standard, consistent with the findings of the report submitted to the legislature under section 8 of this act.

(c) Upon issuance of a finding by the auditor, the consumer-owned utility must submit a progress report to the department on achieving full compliance with the standard within the term authorized in the temporary exemption.

(d) A consumer-owned utility may request an extension of a temporary exemption granted under this subsection, subject to the same requirements as provided in (a) through (c) of this subsection.

(e) The attorney general may bring a civil action in the name of the state for any appropriate civil remedy including, but not limited to, injunctive relief, penalties, costs, and attorneys' fees, to enforce compliance with this chapter:

(i) Upon the failure of the governing body of a consumer-owned utility to comply with the conditions of a temporary exemption found by the auditor to be properly adopted or extended; or

(ii) Upon failure of the governing body of a consumer-owned utility to comply with a finding by the auditor that a temporary exemption is not properly granted.

(f) This subsection does not permanently relieve a consumer-owned utility of its obligation to comply with the requirements of this chapter.

(6) To the extent an event or circumstance cannot be reasonably foreseen and ameliorated, such events or circumstances beyond the reasonable control of an electric utility may include but are not limited to:

(a) Weather-related damage;

(b) Natural disasters;

(c) Mechanical or resource failure;

(d) Failure of a third party to meet contractual obligations to the electric utility;

(e) Actions of governmental authorities that adversely affect the generation, transmission, or distribution of nonemitting electric generation or renewable resources owned or under contract to an electric utility, including condemnation actions by municipal electric utilities, public utility districts, or irrigation districts that adversely affect an investor-owned utility's ability to meet the standard established in sections 3(1) and 4(1) of this act;

(f) Inability to acquire sufficient transmission to transmit electricity from nonemitting electric generation or renewable resources to load; and

(g) Substantial limitations, restrictions, or prohibitions on nonemitting electric generation or renewable resources.

(7) An electric utility must notify its retail electric customers in published form within three months of paying the administrative penalty established under subsection (1) of this section. An electric utility is not required to notify its retail electric customers when making a payment in the amount of the administrative penalty as an alternative compliance payment consistent with the requirements of section 4(1)(b) of this act.

(8) Moneys collected under this section must be deposited into the low-income weatherization and structural rehabilitation assistance account created in RCW 70.164.030.

(9) For an investor-owned utility, the commission must determine compliance with the requirements of this chapter.

(10) For consumer-owned utilities, the auditor is responsible for auditing compliance with this chapter and rules adopted under this chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance.

(11) If the report submitted under section 8 of this act demonstrates adverse system reliability impacts from the implementation of sections 4 and 5 of this act, the governor, consistent with the emergency powers under RCW 43.21G.040, may suspend or delay implementation of this chapter, or exempt an electric utility from paying the administrative penalty under this section, until system reliability impacts can be addressed. Adverse system reliability impacts may include, but are not limited to, the inability of electric utilities or transmission operators to meet reliability standards mandated by federal or state law and required by prudent utility practices.

**NEW SECTION. Sec. 10.** (1) It is the intent of this chapter that the commission and department adopt rules to streamline the implementation of this act with chapter 19.285 RCW to simplify compliance and avoid duplicative processes. It is the intent of the legislature that the commission and the department coordinate in developing rules related to process, timelines, and documentation that are necessary for the implementation of this chapter.

(2) The commission may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to investor-owned utilities.

(3) The department may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to consumer-owned utilities. Nothing in this subsection may be construed to restrict the rate-making authority of the governing body of a consumer-owned utility as otherwise provided by law.

(4) The department must adopt rules establishing reporting requirements for electric utilities to demonstrate compliance with this chapter. The requirements must, to the extent practicable, be consistent with the disclosures required under chapter 19.29A RCW.

(5) An investor-owned utility must also report all information required in subsection (4) of this section to the commission.

(6) An electric utility must also make reports required in this section available to its retail electric customers.

(7) The department of ecology must adopt rules, in consultation with the commission and the department of commerce, to establish requirements for energy transformation project investments including, but not limited to, verification procedures, reporting standards, and other logistical issues as necessary.

(8) The department must adopt rules providing for the measuring and tracking of thermal renewable energy credits that may be used for compliance under section 4 of this act.

(9) Pursuant to the administrative procedure act, chapter 34.05 RCW, rules needed for the implementation of this chapter must be adopted by January 1, 2021, unless specified otherwise elsewhere in this chapter. These rules may be revised as needed to carry out the intent and purposes of this chapter.

**NEW SECTION. Sec. 11.** The requirements of sections 3 through 9 of this act do not replace or modify the requirements established under chapter 19.285 RCW. All utility activities to comply with the requirements established under chapter 19.285 RCW also qualify for compliance with the requirements contained in this chapter, insofar as those activities meet the requirements of this act.

**NEW SECTION. Sec. 12.** (1) It is the intent of the legislature to demonstrate progress toward making energy assistance funds available to low-income households consistent with the policies identified in this section.

(2) An electric utility must make programs and funding available for energy assistance to low-income households by July 31, 2021. Each utility must demonstrate progress in providing energy assistance pursuant to the assessment and plans in subsection (4) of this section. To the extent practicable, priority must be given to low-income households with a higher energy burden.

(3) Beginning July 31, 2020, the department must collect and aggregate data estimating the energy burden and energy assistance need and reported energy assistance for each electric utility, in order to improve agency and utility efforts to serve low-income households with energy assistance. The department must update the aggregated data on a biennial basis, make it publicly accessible on its internet web site and, to the extent practicable, include geographic attributes.

(a) The aggregated data published by the department must include, but is not limited to:

(i) The estimated number and demographic characteristics of households served by energy assistance for each utility and the dollar value of the assistance;

(ii) The estimated level of energy burden and energy assistance need among customers served, accounting for household income and other drivers of energy burden;

(iii) Housing characteristics including housing type, home vintage, and fuel types; and

(iv) Energy efficiency potential.

(b) Each utility must disclose information to the department for use under this subsection, including:

(i) The amount and type of energy assistance and the number and type of households, if applicable, served for programs administered by the utility;

(ii) The amount of money passed through to third parties that administer energy assistance programs; and

(iii) Subject to availability, any other information related to the utility's low-income assistance programs that is requested by the department.

(c) The information required by (b) of this subsection must be from the electric utility's most recent completed budget period and in a form, timeline, and manner as prescribed by the department.

(4)(a) In addition to the requirements under subsection (3) of this section, each electric utility must submit biennially to the department an assessment of:

(i) The programs and mechanisms used by the utility to reduce energy burden and the effectiveness of those programs and mechanisms in both short-term and sustained energy burden reductions;

(ii) The outreach strategies used to encourage participation of eligible households, including consultation with community-based organizations and Indian tribes as appropriate, and comprehensive enrollment campaigns that are linguistically and culturally appropriate to the customers they serve in vulnerable populations; and

(iii) A cumulative assessment of previous funding levels for energy assistance compared to the funding levels needed to meet: (A) Sixty percent of the current energy assistance need, or increasing energy assistance by fifteen percent over the amount provided in 2018, whichever is greater, by 2030; and (B) ninety percent of the current energy assistance need by 2050.

(b) The assessment required in (a) of this subsection must include a plan to improve the effectiveness of the assessed mechanisms and strategies toward meeting the energy assistance need.

(5) A consumer-owned utility may enter into an agreement with a public university, community-based organization, or joint operating agency organized under chapter 43.52 RCW to aggregate the disclosures required in

this section and submit the assessment required in subsections (3) and (4) of this section.

(6)(a) The department must submit a biennial report to the legislature that:

(i) Aggregates information into a statewide summary of energy assistance programs, energy burden, and energy assistance need;

(ii) Identifies and quantifies current expenditures on low-income energy assistance; and

(iii) Evaluates the effectiveness of additional optimal mechanisms for energy assistance including, but not limited to, customer rates, a low-income specific discount, system benefits charges, and public and private funds.

(b) The department must also assess mechanisms to prioritize energy assistance towards low-income households with a higher energy burden.

(7) Nothing in this section may be construed to restrict the rate-making authority of the commission or the governing body of a consumer-owned utility as otherwise provided by law.

**NEW SECTION. Sec. 13.** (1) The department and the commission must convene a stakeholder work group to examine the:

(a) Efficient and consistent integration of this act and transactions with carbon and electricity markets outside the state; and

(b) Compatibility of the requirements under this act relative to a linked cap-and-trade program.

(2) To assist in its examination of the issues identified in this section, as well as any other issues pertinent to its review, the work group must, at a minimum, consist of electric utilities, gas companies, the Bonneville power administration, public interest and environmental organizations, and other agencies.

(3) The department and the commission must adopt rules by June 30, 2022, defining requirements, including appropriate verification and reporting requirements, for the following: (a) Retail load met with market purchases and the western energy imbalance market or other centralized market administered by a market operator; and (b) to address the prohibition on double counting of nonpower attributes under section 4(1) of this act that could occur under other programs. With respect to purchases from the western energy imbalance market or other centralized market, the department and the commission must consult with the market operator and market participants to consider options that support the objectives of this chapter and the efficient dispatch of the generation resources dispatched by those markets.

**Sec. 14.** RCW 19.280.030 and 2015 3rd sp.s. c 19 s 9 are each amended to read as follows:

Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than twenty-five thousand customers that are not full requirements customers (~~shall~~) must develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ten years or longer, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources, as informed, as applicable, by the assessment for conservation potential under RCW 19.285.040 for the planning horizon consistent with (a) of this subsection. Such assessment may include, as appropriate, opportunities for development of combined heat and power as an energy and capacity resource, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power or building new resources;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) An assessment of methods, commercially available technologies, or facilities for integrating renewable resources, including but not limited to battery storage and pumped storage, and addressing overgeneration events, if applicable to the utility's resource portfolio;

(f) An assessment and ten-year forecast of the availability of regional generation and transmission capacity on which the utility may rely to provide and deliver electricity to its customers;

(g) A determination of resource adequacy metrics for the resource plan consistent with the forecasts;

(h) A forecast of distributed energy resources that may be installed by the utility's customers and an assessment of their effect on the utility's load and operations;

(i) An identification of an appropriate resource adequacy requirement and measurement metric consistent with prudent utility practice in implementing sections 3 through 5 of this act;

(j) The integration of the demand forecasts (~~and~~), resource evaluations, and resource adequacy requirement into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency

resources that will meet current and projected needs, including mitigating overgeneration events and implementing sections 3 through 5 of this act, at the lowest reasonable cost and risk to the utility and its ((ratepayers)) customers, while maintaining and protecting the safety, reliable operation, and balancing of its electric system; ((and

~~(g))~~ (k) An assessment, informed by the cumulative impact analysis conducted under section 25 of this act, of: Energy and nonenergy benefits and reductions of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and risk; and

(l) A ((short-term plan identifying)) ten-year clean energy action plan for implementing sections 3 through 5 of this act at the lowest reasonable cost, and at an acceptable resource adequacy standard, that identifies the specific actions to be taken by the utility consistent with the long-range integrated resource plan.

(2) For an investor-owned utility, the clean energy action plan must: (a) Identify and be informed by the utility's ten-year cost-effective conservation potential assessment as determined under RCW 19.285.040, if applicable; (b) establish a resource adequacy requirement; (c) identify the potential cost-effective demand response and load management programs that may be acquired; (d) identify renewable resources, nonemitting electric generation, and distributed energy resources that may be acquired and evaluate how each identified resource may be expected to contribute to meeting the utility's resource adequacy requirement; (e) identify any need to develop new, or expand or upgrade existing, bulk transmission and distribution facilities; and (f) identify the nature and possible extent to which the utility may need to rely on alternative compliance options under section 4(1)(b) of this act, if appropriate.

(3)(a) An electric utility shall consider the social cost of greenhouse gas emissions, as determined by the commission for investor-owned utilities pursuant to section 15 of this act and the department for consumer-owned utilities, when developing integrated resource plans and clean energy action plans. An electric utility must incorporate the social cost of greenhouse gas emissions as a cost adder when:

(i) Evaluating and selecting conservation policies, programs, and targets;

(ii) Developing integrated resource plans and clean energy action plans; and

(iii) Evaluating and selecting intermediate term and long-term resource options.

(b) For the purposes of this subsection (3): (i) Gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters must be considered a nonemitting resource; and (ii) qualified biomass energy must be considered a nonemitting resource.

(4) To facilitate broad, equitable, and efficient implementation of this act, a consumer-owned energy utility

may enter into an agreement with a joint operating agency organized under chapter 43.52 RCW or other nonprofit organization to develop and implement a joint clean energy action plan in collaboration with other utilities.

(5) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

(a) Estimates loads for the next five and ten years;

(b) Enumerates the resources that will be maintained and/or acquired to serve those loads; ((and))

(c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not: (i) Renewable resources; (ii) methods, commercially available technologies, or facilities for integrating renewable resources, including addressing any overgeneration event; or (iii) conservation and efficiency resources, why such a decision was made; and

(d) By December 31, 2020, and in every resource plan thereafter, identifies how the utility plans over a ten-year period to implement sections 4 and 5 of this act.

~~((3))~~ (6) Assessments for demand side resources included in an integrated resource plan may include combined heat and power systems as one of the measures in a conservation supply curve. The value of recoverable waste heat resulting from combined heat and power must be reflected in analyses of cost-effectiveness under this subsection.

~~((4))~~ (7) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

~~((5) Resource)~~ (8) Plans developed under this section must be updated on a regular basis, on intervals approved by the commission or the department, or at a minimum on intervals of two years.

~~((6))~~ (9) Plans shall not be a basis to bring legal action against electric utilities.

~~((7))~~ (10)(a) To maximize transparency, the commission, for investor-owned utilities, or the governing body, for consumer-owned utilities, may require an electric utility to make the utility's data input files available in a native format. Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

(b) Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095.

(11) By December 31, 2021, the department and the commission must adopt rules establishing the requirements for incorporating the cumulative impact analysis developed under section 25 of this act into the criteria for developing clean energy action plans under this section.

**NEW SECTION. Sec. 15.** A new section is added to chapter 80.28 RCW to read as follows:

For the purposes of this act, the cost of greenhouse gas emissions resulting from the generation of electricity, including the effect of emissions, is equal to the cost per metric ton of carbon dioxide equivalent emissions, using the two and one-half percent discount rate, listed in table 2, technical support document: Technical update of the social cost of carbon for regulatory impact analysis under Executive Order No. 12866, published by the interagency working group on social cost of greenhouse gases of the United States government, August 2016. The commission must adjust the costs established in this section to reflect the effect of inflation.

**NEW SECTION. Sec. 16.** A new section is added to chapter 80.28 RCW to read as follows:

(1) Notwithstanding RCW 54.16.020, the fair market value compensation for an asset that is condemned by a municipal electric utility, public utility district, or irrigation district and that is either demonstrated in an electric utility's clean energy action plan or clean energy implementation plan to be used or acquired after the effective date of this act to meet the requirements of sections 4 and 5 of this act, or an asset that generates electricity from renewable resources or nonemitting electric generation, must include but not be limited to a replacement value approach. Additionally, the electric utility may seek, and the court may award, damages attributable to the severance, separation, replacement, or relocation of utility assets. The trier of fact may also consider other damages, as well as offsetting benefits, that it finds just and equitable.

(2) An entity that establishes or extends service to the premises of a customer who is being served by an electric utility or was served by an electric utility prior to the effective date of this act must serve those premises in a manner that complies with the requirements of this act and with chapter 19.285 RCW, if applicable. An electric utility or other entity that fails to comply with the requirements of this subsection must pay the administrative penalty under section 9(1) of this act for each megawatt-hour of electric generation used to serve load that does not meet the terms of this subsection.

**Sec. 17.** RCW 80.84.010 and 2016 c 220 s 1 are each amended to read as follows:

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

(1) "Eligible coal plant" means a coal-fired electric generation facility that: (a) ~~((Had two or fewer generating units as of January 1, 1980, and four generating units as of January 1, 2016; (b)))~~ Is owned in whole or in part by more than one electrical company as of January 1, 2016; and ~~((c))~~ (b) provides, as a portion of the load served by the coal-fired electric generation facility, electricity paid for in rates by customers in the state of Washington.

(2) "Eligible coal unit" means any generating unit of an eligible coal plant.

**NEW SECTION. Sec. 18.** This section is the tax preference performance statement for the tax preferences contained in sections 19 and 20, chapter . . . , Laws of 2019 (sections 19 and 20 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to reduce the amount of carbon dioxide emissions in Washington. It is the legislature's intent to extend the expiration date of and expand the existing sales and use tax exemption for machinery and equipment used directly in generating certain types of alternative energy, in order to reduce the price charged to customers for that machinery and equipment, thereby inducing some customers to buy machinery and equipment for alternative energy when they might not otherwise, thereby displacing electricity from fossil-fueled generating resources, thereby reducing the amount of carbon dioxide emissions in Washington. It is also the intent of the legislature to maximize cost savings associated with clean energy construction for Washington electric customers by encouraging development of these resources in time for projects to benefit from both this incentive and expiring federal incentives.

(3) It is also the legislature's specific public policy objective to provide an incentive for more of the projects that meet the objectives of subsection (2) of this section to be constructed with high labor standards, including family level wages and providing benefits including health care and pensions, as well as maximizing access to economic benefits from such projects for local workers and diverse businesses.

(4) The joint legislative audit and review committee is not required to perform a tax preference review under chapter 43.136 RCW for the tax preferences contained in sections 19 and 20, chapter . . . , Laws of 2019 (sections 19 and 20 of this act) and it is the intent of the legislature to allow the tax preferences to expire upon their scheduled expiration dates.

**Sec. 19.** RCW 82.08.962 and 2018 c 164 s 5 are each amended to read as follows:

(1)(a) ~~((Except as provided in RCW 82.08.963,))~~ Purchasers who have paid the tax imposed by RCW 82.08.020 on machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, as the principal source of power, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, are eligible for an

exemption as provided in this section, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts of electricity.

(b) Beginning on July 1, 2011, through ~~(January 1, 2020)~~ December 31, 2019, the amount of the exemption under this subsection (1)(b) is equal to seventy-five percent of the state and local sales tax paid. The purchaser is eligible for an exemption under this subsection (1)(b) in the form of a remittance.

(c) Beginning January 1, 2020, through December 31, 2029, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (1)(c) in an amount equal to:

(i) Fifty percent of the state and local sales tax paid, if:

(A) The exempt purchase is for machinery and equipment or labor and services rendered in respect to installing such machinery and equipment in (a) of this subsection, excluding qualified purchases under subsection (c)(i)(B) of this subsection, and the department of labor and industries certifies that the project includes: Procurement from and contracts with women, minority, or veteran-owned businesses; procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations; apprenticeship utilization; and preferred entry for workers living in the area where the project is being constructed. In the event that a project is built without one or more of these standards, and a project developer or its designated principal contractor demonstrates that it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with that standard; or

(B) The exempt purchase is for machinery and equipment that is used directly in the generation of electricity by a solar energy system capable of generating more than one hundred kilowatts but no more than five hundred kilowatts of electricity, or labor and services rendered in respect to installing such machinery and equipment, and the department of labor and industries certifies that the project has met the requirements of (c)(i)(A) of this subsection, and the purchaser has provided the following documentation:

(I) A copy of the contractor's certificate of registration in compliance with chapter 18.27 RCW;

(II) The contractor's current state unified business identifier number;

(III) A copy of the contractor's proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(IV) Documentation of the contractor's history of compliance with federal and state wage and hour laws and regulations;

(ii) Seventy-five percent of the state and local sales tax paid, if the department of labor and industries certifies that the project complies with (c)(i)(A) and (B) of this subsection and compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries; or

(iii) One hundred percent of the state and local sales tax paid, if the department of labor and industries certifies that the project is developed under a community workforce agreement or project labor agreement.

(d) In order to qualify for the remittance under (c) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

(e) Beginning January 1, 2020, and through December 31, 2029, the purchaser is entitled to an exemption under this subsection (1)(e) in an amount equal to one hundred percent of the state and local sales tax paid, if the exempt purchase is for machinery and equipment that is used directly in the generation of electricity by a solar energy system that is capable of generating no more than one hundred kilowatts of electricity, or labor and services rendered in respect to installing such machinery and equipment, and the purchaser meets the following requirements:

(i) The purchaser has obtained a certificate of registration in compliance with chapter 18.27 RCW;

(ii) The purchaser has obtained a current state unified business identifier number;

(iii) The purchaser possesses proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(iv) The purchaser has a history of compliance with federal and state wage and hour laws and regulations.

(f) In order to qualify for the exemption under (e) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

(2) The department of labor and industries must initiate an emergency rule making on the effective date of this section to be completed by December 1, 2019, to:

(a) Define and set minimum requirements for all labor standards identified in subsection (1)(c) of this section; and

(b) Set requirements for all good faith efforts under subsection (1)(c)(i) and (ii) of this section, as well as documentation requirements and a certification process. Requirements for all good faith efforts must be designed to maximize the likelihood that the project is completed with

said standards and could include: Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms; participating in community job fairs, conferences, and trade shows; and other measures. The certification process and timeline must be designed to prevent undue delay to project development.

(3) For purposes of this section and RCW 82.12.962, the following definitions apply:

(a) "Biomass energy" includes: (i) By-products of pulping and wood manufacturing process; (ii) animal waste; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) wooden demolition or construction debris; (vi) food waste; (vii) liquors derived from algae and other sources; (viii) dedicated energy crops; (ix) biosolids; and (x) yard waste. "Biomass energy" does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests; or municipal solid waste.

(b) "Fuel cell" means an electrochemical reaction that generates electricity by combining atoms of hydrogen and oxygen in the presence of a catalyst.

(c)(i) "Machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust.

(ii) "Machinery and equipment" does not include: (A) Hand-powered tools; (B) property with a useful life of less than one year; (C) repair parts required to restore machinery and equipment to normal working order; (D) replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment; (E) buildings; or (F) building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

~~((3))~~ (d) "Project labor agreement" and "community workforce agreement" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f).

(4)(a) Machinery and equipment is "used directly" in generating electricity by wind energy, solar energy, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust if it provides any part of the process that captures the energy of the wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(b) Machinery and equipment is "used directly" in generating electricity by fuel cells if it provides any part of

the process that captures the energy of the fuel, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

~~((4))~~ (5)(a)(i) A purchaser claiming an exemption in the form of a remittance under subsection (1)(b) or (c) of this section must pay the tax imposed by RCW 82.08.020 and all applicable local sales taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The purchaser may then apply to the department for remittance in a form and manner prescribed by the department. A purchaser may not apply for a remittance under this section more frequently than once per quarter. The purchaser must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The purchaser must retain, in adequate detail, records to enable the department to determine whether the purchaser is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(ii) The application for remittance must include a copy of the certificate issued for the project by the department of labor and industries as prescribed by rule under subsection (2) of this section.

(b) The department must determine eligibility under this section based on the information provided by the purchaser, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying purchasers who submitted applications during the previous quarter.

~~((5))~~ The exemption provided by this section expires September 30, 2017, as it applies to: (a)) (6)(a) From October 1, 2017, through December 31, 2019, the exemption provided by this section does not apply to: (i) Machinery and equipment that is used directly in the generation of electricity using solar energy and capable of generating no more than five hundred kilowatts of electricity; or ((6)) (ii) sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

(b) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating more than one hundred kilowatts but no more than five hundred kilowatts of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if installation of the machinery and equipment commences on or after January 1, 2020.

(c) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating no more than one hundred kilowatts of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if installation of the machinery and equipment commences on or after January 1, 2020.

~~((6))~~ (7) This section expires January 1, ~~((2020))~~ 2030.

**Sec. 20.** RCW 82.12.962 and 2018 c 164 s 7 are each amended to read as follows:

(1)(a) ~~((Except as provided in RCW 82.12.963,))~~ Consumers who have paid the tax imposed by RCW 82.12.020 on machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, are eligible for an exemption as provided in this section, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts of electricity.

(b) Beginning on July 1, 2011, through ~~((January 1, 2020))~~ December 31, 2019, the amount of the exemption under this subsection (1) is equal to seventy-five percent of the state and local sales tax paid. The consumer is eligible for an exemption under this subsection (1)(b) in the form of a remittance.

~~((2))~~ (c) Beginning January 1, 2020, through December 31, 2029, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (1)(c) in an amount equal to: (i) Fifty percent of the state and local use tax paid, if:

(A) The exempt purchase is for machinery and equipment or labor and services rendered in respect to installing such machinery and equipment in (a) of this subsection, excluding qualified purchases under (c)(i)(B) of this subsection, and the department of labor and industries certifies that the project includes: Procurement from and contracts with women, minority, or veteran-owned businesses; procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations; apprenticeship utilization; and preferred entry for workers living in the area where the project is being constructed. In the event that a project is built without one or more of these standards, and a project developer or its designated principal contractor demonstrates that it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with that standard; or

(B) The exempt purchase is for machinery and equipment that is used directly in the generation of electricity by a solar energy system capable of generating more than one hundred kilowatts but no more than five hundred kilowatts of electricity, or labor and services rendered in respect to installing such machinery and equipment, and the department of labor and industries certifies that the project has met the requirements of (c)(i)(A) of this subsection, and the purchaser has provided the following documentation:

(I) A copy of the contractor's certificate of registration in compliance with chapter 18.27 RCW;

(II) The contractor's current state unified business identifier number;

(III) A copy of the contractor's proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(IV) Documentation of the contractor's history of compliance with federal and state wage and hour laws and regulations;

(ii) Seventy-five percent of the state and local use tax paid, if the department of labor and industries certifies that the project complies with (c)(i)(A) and (B) of this subsection and compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries; or

(iii) One hundred percent of the state and local use tax paid, if the department of labor and industries certifies that the project is developed under a community workforce agreement or project labor agreement.

(d) In order to qualify for the remittance under (c) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

(e) Beginning January 1, 2020, and through December 31, 2029, the purchaser is entitled to an exemption under this subsection (1)(e) in an amount equal to one hundred percent of the state and local use tax paid, if the exempt purchase is for machinery and equipment that is used directly in the generation of electricity by a solar energy system that is capable of generating no more than one hundred kilowatts of electricity, or labor and services rendered in respect to installing such machinery and equipment, and the purchaser meets the following requirements:

(i) The purchaser has obtained a certificate of registration in compliance with chapter 18.27 RCW;

(ii) The purchaser has obtained a current state unified business identifier number;

(iii) The purchaser possesses proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(iv) The purchaser has a history of compliance with federal and state wage and hour laws and regulations.

(f) In order to qualify for the exemption under (e) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

(2) The department of labor and industries must initiate an emergency rule making on the effective date of this section to be completed by December 1, 2019, to:

(a) Define and set minimum requirements for all labor standards identified in subsection (1)(c) of this section; and

(b) Set requirements for all good faith efforts under subsection (1)(c)(i) and (ii) of this section, as well as documentation requirements and a certification process. Requirements for all good faith efforts must be designed to maximize the likelihood that the project is completed with said standards and could include: Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms; participating in community job fairs, conferences, and trade shows; and other measures. The certification process and timeline must be designed to prevent undue delay to project development.

(3)(a)(i) A person claiming an exemption in the form of a remittance under subsection (1)(b) and (c) of this section must pay the tax imposed by RCW 82.12.020 and all applicable local use taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The consumer may then apply to the department for remittance in a form and manner prescribed by the department. A consumer may not apply for a remittance under this section more frequently than once per quarter. The consumer must specify the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The consumer must retain, in adequate detail, records to enable the department to determine whether the consumer is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(ii) The application for remittance must include a copy of the certificate issued for the project by the department of labor and industries under subsection (1) of this section.

(b) The department must determine eligibility under this section based on the information provided by the consumer, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying consumers who submitted applications during the previous quarter.

~~((3))~~ (4) Purchases exempt under RCW 82.08.962 are also exempt from the tax imposed under RCW 82.12.020.

~~((4))~~ (5) The definitions in RCW 82.08.962 apply to this section.

~~((5))~~ (6) The exemption provided in subsection (1) of this section does not apply:

(a) To machinery and equipment used directly in the generation of electricity using solar energy and capable of generating no more than five hundred kilowatts of electricity, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after September 30, 2017, and before January 1, 2020; and

(b) To any other machinery and equipment described in subsection (1)(a) of this section, or to sales of

or charges made for labor and services rendered in respect to installing such machinery or equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after December 31, ~~((2019))~~ 2029.

~~((6))~~ (7)(a) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating more than one hundred kilowatts but no more than five hundred kilowatts of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if first use within the state of the machinery and equipment commences on or after January 1, 2020.

(b) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating no more than one hundred kilowatts of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if first use within the state of the machinery and equipment commences on or after January 1, 2020.

(8) This section expires January 1, ~~((2020))~~ 2030.

**Sec. 21.** RCW 80.04.250 and 2011 c 214 s 9 are each amended to read as follows:

(1) The provisions of this section are necessary to ensure that the commission has sufficient flexible authority to determine the value of utility property for rate making purposes and to implement the requirements and full intent of this act.

(2) The commission has power upon complaint or upon its own motion to ascertain and determine the fair value for rate making purposes of the property of any public service company used and useful for service in this state by or during the rate effective period and shall exercise such power whenever it deems such valuation or determination necessary or proper under any of the provisions of this title. ~~((In determining what property is used and useful for providing electric, gas, wastewater company services, or water service, the commission may include the reasonable costs of construction work in progress to the extent that the commission finds that inclusion is in the public interest.~~

~~((2))~~ The valuation may include consideration of any property of the public service company acquired or constructed by or during the rate effective period, including the reasonable costs of construction work in progress, to the extent that the commission finds that such an inclusion is in the public interest and will yield fair, just, reasonable, and sufficient rates.

(3) The commission may provide changes to rates under this section for up to forty-eight months after the rate effective date using any standard, formula, method, or theory of valuation reasonably calculated to arrive at fair, just, reasonable, and sufficient rates. The commission must establish an appropriate process to identify, review, and approve public service company property that becomes used and useful for service in this state after the rate effective date.

(4) The commission has the power to make revaluations of the property of any public service company from time to time.

~~((3))~~ (5) The commission shall, before any hearing is had, notify the complainants and the public service company concerned of the time and place of such hearing by giving at least thirty days' written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of ascertaining the value of the company's property, used and useful as aforesaid, which notice must be sufficient to authorize the commission to inquire into and pass upon the matters designated in this section.

(6) Nothing in this section limits the commission's authority to consider and implement performance and incentive-based regulation, multiyear rate plans, and other flexible regulatory mechanisms.

NEW SECTION. Sec. 22. A new section is added to chapter 80.28 RCW to read as follows:

(1) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with major projects in the electrical company's clean energy implementation plan pursuant to RCW 19.280.030(1)(1), or selected in the electrical company's solicitation of bids for delivering electric capacity, energy, capacity and energy, or conservation. The deferral in this subsection begins with the date on which the resource begins commercial operation or the effective date of the power purchase agreement and continues for a period not to exceed twenty-four months. However, if during such a period the electrical company files a general rate case or other proceeding for the recovery of such costs, deferral ends on the effective date of the final decision by the commission in such a proceeding. Creation of such a deferral account does not by itself determine the actual costs of the resource or power purchase agreement, whether recovery of any or all of these costs is appropriate, or other issues to be decided by the commission in a general rate case or other proceeding.

(2) The costs that an electrical company may account for and defer for later consideration by the commission pursuant to subsection (1) of this section include all operating and maintenance costs, depreciation, taxes, cost of capital associated with the applicable resource or the execution of a power purchase agreement. Such costs of capital include:

(a) The electrical company's authorized return on equity for any resource acquired or developed by the electrical company; or

(b) For the duration of a power purchase agreement, a rate of return of no less than the authorized cost of debt and no greater than the authorized rate of return of the electrical company, which would be multiplied by the operating expense incurred by the electrical company under the power purchase agreement.

Sec. 23. RCW 43.21F.090 and 1996 c 186 s 106 are each amended to read as follows:

~~(1) The department shall review the state energy strategy ((as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws of 1991-)) by December 31, 2020, and at least once every eight years thereafter, subject to funding provided for this purpose, for the purpose of aligning the state energy strategy with the requirements of RCW 43.21F.088 and chapters 19.285 and 19.--- RCW (the new chapter created in section 28 of this act), and the emission reduction targets recommended by the department of ecology under RCW 70.235.040. The department must establish an energy strategy advisory committee for each review to provide guidance to the department in conducting the review. The membership of the energy strategy advisory committee must consist of the following:~~

(a) One person recommended by investor-owned electric utilities;

(b) One person recommended by investor-owned natural gas utilities;

(c) One person employed by or recommended by a natural gas pipeline serving the state;

(d) One person recommended by suppliers of petroleum products;

(e) One person recommended by municipally owned electric utilities;

(f) One person recommended by public utility districts;

(g) One person recommended by rural electrical cooperatives;

(h) One person recommended by industrial energy users;

(i) One person recommended by commercial energy users;

(j) One person recommended by agricultural energy users;

(k) One person recommended by the association of Washington cities;

(l) One person recommended by the Washington association of counties;

(m) One person recommended by Washington Indian tribes;

(n) One person recommended by businesses in the clean energy industry;

(o) One person recommended by labor unions;

(p) Two persons recommended by civic organizations, one of which must be a representative of a civic organization that represents vulnerable populations;

(q) Two persons recommended by environmental organizations;

(r) One person representing independent power producers;

(s) The chair of the energy facility site evaluation council or the chair's designee;

(t) One of the representatives of the state of Washington to the Pacific Northwest electric power and conservation planning council selected by the governor;

(u) The chair of the utilities and transportation commission or the chair's designee;

(v) One member from each of the two largest caucuses of the house of representatives selected by the speaker of the house of representatives; and

(w) One member from each of the two largest caucuses of the senate selected by the president of the senate.

(2) The chair of the advisory committee must be appointed by the governor from citizen members. The director may establish technical advisory groups as necessary to assist in the development of the strategy. The director shall provide for extensive public involvement throughout the development of the strategy.

(3) Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. ~~((Any))~~ The energy strategy advisory committee established under this section ~~((shall))~~ must be dissolved within three months after their written report is conveyed.

**NEW SECTION. Sec. 24.** (1) By January 1, 2020, the department of commerce must convene an energy and climate policy advisory committee to develop recommendations to the legislature for the coordination of existing resources, or the establishment of new ones, for the purposes of examining the costs and benefits of energy-related policies, programs, functions, activities, and incentives on an on-going basis and conducting other energy-related studies and analyses as may be directed by the legislature.

(2) The advisory committee convened under this section must consist of, at minimum, representatives of each the state's public four-year institutions of higher education, the Pacific Northwest National Laboratory, and the Washington state institute for public policy.

(3) Subject to the availability of amounts appropriated for this specific purpose, and in compliance with RCW 43.01.036, the department of commerce must submit its recommendations in a report to the legislature by December 31, 2020.

(4) This section expires January 1, 2021.

**NEW SECTION. Sec. 25.** By December 31, 2020, the department of health must develop a cumulative impact analysis to designate the communities highly impacted by fossil fuel pollution and climate change in Washington. The cumulative impact analysis may integrate with and build upon other concurrent cross-agency efforts in developing a cumulative impact analysis and population tracking resources used by the department of health and analysis performed by the University of Washington department of environmental and occupational health sciences.

**NEW SECTION. Sec. 26.** (1) The legislature finds that based on current technology, there will likely need to be upgrades to electricity transmission and distribution infrastructure across the state to meet the goals specified in this act. These facilities require a significant planning horizon to deliver electricity generation sites to retail electric load. Pursuant to RCW 80.50.040, the energy facility site evaluation council chair shall convene a transmission corridors work group and report its findings to the governor and the appropriate committees of the legislature by December 31, 2022.

(2) The work group must include one representative from each of the following state agencies: The department of commerce, the utilities and transportation commission, the department of ecology, the department of fish and wildlife, the department of natural resources, the department of transportation, the department of archaeology and historic preservation, and the state military department. The work group shall also include two representatives designated by the association of Washington cities, one from central or eastern Washington and one from western Washington; two representatives designated by the Washington state association of counties, one from central or eastern Washington and one from western Washington; two members designated by sovereign tribal governments; one member representing affected utility industries; one member representing public utility districts; and two members representing statewide environmental organizations. The energy facility site evaluation council chair shall invite the Bonneville power administration and the United States department of defense to each appoint an ex officio work group member.

(3) The work group shall:

(a) Review the need for upgraded and new electricity transmission and distribution facilities to improve reliability, relieve congestion, and enhance the capability of the transmission and distribution facilities in the state to deliver electricity from electric generation, nonemitting electric generation, or renewable resources to retail electric load;

(b) Identify areas where transmission and distribution facilities may need to be enhanced or constructed; and

(c) Identify environmental review options that may be required to complete the designation of such corridors and recommend ways to expedite review of transmission projects without compromising required environmental protection.

(4) The energy facility site evaluation council may contract services to assist in the work group efforts.

(5) This section expires January 1, 2023.

NEW SECTION. **Sec. 27.** This chapter may be known and cited as the Washington clean energy transformation act.

NEW SECTION. **Sec. 28.** Sections 1 through 13 and 27 of this act constitute a new chapter in Title 19 RCW.

**Sec. 29.** RCW 19.285.030 and 2017 c 315 s 1 are each amended to read as follows:

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

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for qualifying utilities under its jurisdiction that are not investor-owned utilities; or (b) an independent auditor selected by a qualifying utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(3)(a) "Biomass energy" includes: (i) Organic by-products of pulping and the wood manufacturing process; (ii) animal manure; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) untreated wooden demolition or construction debris; (vi) food waste and food processing residuals; (vii) liquors derived from algae; (viii) dedicated energy crops; and (ix) yard waste.

(b) "Biomass energy" does not include: (i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth forests; or (iii) municipal solid waste.

(4) "Coal transition power" has the same meaning as defined in RCW 80.80.010.

(5) "Commission" means the Washington state utilities and transportation commission.

(6) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(7) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(8) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(9) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(10) "Department" means the department of commerce or its successor.

(11) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than five megawatts.

(12) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services;

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest where the additional generation does not result in new water diversions or impoundments;

(c) Hydroelectric generation from a project completed after March 31, 1999, where the generation facility is located in irrigation pipes, irrigation canals, water pipes whose primary purpose is for conveyance of water for municipal use, and wastewater pipes located in Washington where the generation does not result in new water diversions or impoundments;

(d) Qualified biomass energy;

(e) For a qualifying utility that serves customers in other states, electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located within a state in which the qualifying utility serves retail electrical customers; and (ii) the qualifying utility owns the facility in whole or in part or has a long-term contract with the facility of at least twelve months or more; ~~((f))~~

(f)(i) Incremental electricity produced as a result of a capital investment completed after January 1, 2010, that increases, relative to a baseline level of generation prior to the capital investment, the amount of electricity generated in a facility that generates qualified biomass energy as defined under subsection (18)(c)(ii) of this section and that commenced operation before March 31, 1999.

(ii) Beginning January 1, 2007, the facility must demonstrate its baseline level of generation over a three-year period prior to the capital investment in order to calculate the amount of incremental electricity produced.

(iii) The facility must demonstrate that the incremental electricity resulted from the capital investment, which does not include expenditures on operation and maintenance in the normal course of business, through direct or calculated measurement;

(g) That portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a qualifying utility's share of the electricity output from hydroelectric generation projects whose energy output is marketed by the Bonneville power

administration where the additional generation does not result in new water diversions or impoundments; or

(h) The environmental attributes, including renewable energy credits, from (g) of this subsection transferred to investor-owned utilities pursuant to the Bonneville power administration's residential exchange program.

(13) "Investor-owned utility" has the same meaning as defined in RCW 19.29A.010.

(14) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers.

(15)(a) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(b) "Nonpower attributes" does not include any aspects, claims, characteristics, and benefits associated with the on-site capture and destruction of methane or other greenhouse gases at a facility through a digester system, landfill gas collection system, or other mechanism, which may be separately marketable as greenhouse gas emission reduction credits, offsets, or similar tradable commodities. However, these separate avoided emissions may not result in or otherwise have the effect of attributing greenhouse gas emissions to the electricity.

(16) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest electric power planning and conservation act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(17) "Public facility" has the same meaning as defined in RCW 39.35C.010.

(18) "Qualified biomass energy" means electricity produced from a biomass energy facility that: (a) Commenced operation before March 31, 1999; (b) contributes to the qualifying utility's load; and (c) is owned either by: (i) A qualifying utility; or (ii) an industrial facility that is directly interconnected with electricity facilities that are owned by a qualifying utility and capable of carrying electricity at transmission voltage.

(19) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington. The number of customers served may be based on data reported by a utility in form 861, "annual electric utility report," filed with the energy information administration, United States department of energy.

(20) "Renewable energy credit" means a tradable certificate of proof of ~~((at least))~~ one megawatt-hour of an eligible renewable resource ~~((where the generation facility is~~

~~not powered by freshwater))~~). The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

(21) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel ~~((as defined in RCW 82.29A.135))~~ that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; or (i) biomass energy.

(22) "Rule" means rules adopted by an agency or other entity of Washington state government to carry out the intent and purposes of this chapter.

(23) "Year" means the twelve-month period commencing January 1st and ending December 31st.

**Sec. 30.** RCW 19.285.040 and 2017 c 315 s 2 are each amended to read as follows:

(1) Each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible.

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in the most recently published regional power plan as it existed on June 12, 2014, or a subsequent date as may be provided by the department or the commission by rule, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. Nothing in the rule adopted under this subsection precludes a qualifying utility from using its utility specific conservation measures, values, and assumptions in identifying its achievable cost-effective conservation potential. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.

(b) Beginning January 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period.

(c)(i) Except as provided in (c)(ii) and (iii) of this subsection, beginning on January 1, 2014, cost-effective conservation achieved by a qualifying utility in excess of its biennial acquisition target may be used to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty percent of any biennial target may be met with excess conservation savings.

(ii) Beginning January 1, 2014, a qualifying utility may use single large facility conservation savings in excess of its biennial target to meet up to an additional five percent of the immediately subsequent two biennial acquisition

targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined. For the purposes of this subsection (1)(c)(ii), "single large facility conservation savings" means cost-effective conservation savings achieved in a single biennial period at the premises of a single customer of a qualifying utility whose annual electricity consumption prior to the conservation savings exceeded five average megawatts.

(iii) Beginning January 1, 2012, and until December 31, 2017, a qualifying utility with an industrial facility located in a county with a population between ninety-five thousand and one hundred fifteen thousand that is directly interconnected with electricity facilities that are capable of carrying electricity at transmission voltage may use cost-effective conservation from that industrial facility in excess of its biennial acquisition target to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined.

(d) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output. The reduction in load due to high-efficiency cogeneration shall be: (i) Calculated as the ratio of the fuel chargeable to power heat rate of the cogeneration facility compared to the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine; and (ii) counted towards meeting the biennial conservation target in the same manner as other conservation savings.

(e) The commission may determine if a conservation program implemented by an investor-owned utility is cost-effective based on the commission's policies and practice.

(f) The commission may rely on its standard practice for review and approval of investor-owned utility conservation targets.

(2)(a) Except as provided in (j) of this subsection, each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or any combination of them, to meet the following annual targets:

(i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least nine percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least fifteen percent of its load by January 1, 2020, and each year thereafter.

(b) A qualifying utility may count distributed generation at double the facility's electrical output if the

utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

(c) In meeting the annual targets in (a) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.

(d) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than coal transition power or renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

~~(e) ((The requirements of this section may be met for any given year with renewable energy credits produced during that year, the preceding year, or the subsequent year. Each renewable energy credit may be used only once to meet the requirements of this section))~~ A qualifying utility may use renewable energy credits to meet the requirements of this section, subject to the limitations of this subsection.

(i) A renewable energy credit from electricity generated by a resource other than freshwater may be used to meet a requirement applicable to the year in which the credit was created, the year before the year in which the credit was created, or the year after the year in which the credit was created.

(ii) A renewable energy credit from electricity generated by freshwater:

(A) May only be used to meet a requirement applicable to the year in which the credit was created; and

(B) Must be acquired by the qualifying utility through ownership of the generation facility or through a transaction that conveyed both the electricity and the nonpower attributes of the electricity.

(iii) A renewable energy credit transferred to an investor-owned utility pursuant to the Bonneville power administration's residential exchange program may not be used by any utility other than the utility receiving the credit from the Bonneville power administration.

(iv) Each renewable energy credit may only be used once to meet the requirements of this section and must be retired using procedures of the renewable energy credit tracking system.

(f) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; or

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090.

(g) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit shall be considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

(h)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

(i) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

(j)(i) Beginning January 1, 2016, only a qualifying utility that owns or is directly interconnected to a qualified biomass energy facility may use qualified biomass energy to meet its compliance obligation under this subsection.

(ii) A qualifying utility may no longer use electricity and associated renewable energy credits from a qualified biomass energy facility if the associated industrial pulping or wood manufacturing facility ceases operation other than for purposes of maintenance or upgrade.

(k) An industrial facility that hosts a qualified biomass energy facility may only transfer or sell renewable energy credits associated with qualified biomass energy generated at its facility to the qualifying utility with which it is directly interconnected with facilities owned by such a qualifying utility and that are capable of carrying electricity at transmission voltage. The qualifying utility may only use an amount of renewable energy credits associated with qualified biomass energy that are equivalent to the proportionate amount of its annual targets under (a)(ii) and (iii) of this subsection that was created by the load of the industrial facility. A qualifying utility that owns a qualified biomass energy facility may not transfer or sell renewable energy credits associated with qualified biomass energy to another person, entity, or qualifying utility.

(l) Beginning January 1, 2020, a qualifying utility may use eligible renewable resources as identified under RCW 19.285.030(12) (g) and (h) to meet its compliance obligation under this subsection (2). A qualifying utility may not transfer or sell these eligible renewable resources to another utility for compliance purposes under this chapter.

(m) Beginning January 1, 2030, a qualifying utility is considered to be in compliance with an annual target in (a) of this subsection if the utility uses electricity from: (i) Renewable resources and renewable energy credits as defined in RCW 19.285.030; and (ii) nonemitting electric generation as defined in section 2 of this act, in an amount equal to one hundred percent of the utility's average annual retail electric load. Nothing in this subsection relieves the requirements of a qualifying utility to comply with subsection (1) of this section.

(3) Utilities that become qualifying utilities after December 31, 2006, shall meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006.

**NEW SECTION. Sec. 31.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 32.** 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.

Signed by Representatives Tarleton, Chair; Walen, Vice Chair; Chapman; Frame; Macri; Orwall; Springer and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Vick; Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member and Stokesbary.

Referred to Committee on Appropriations.

April 1, 2019

ESSB 5127 Prime Sponsor, Committee on Ways & Means: Increasing the traumatic brain injury fee. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter, it is immediately payable and is enforceable as a civil judgment under Title 6 RCW. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation for civil enforcement until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the court has entered into a new time payment or community restitution agreement with the person. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privileges.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation to a collections agency until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's delinquency, and the department shall suspend the person's driver's license or driving privileges.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of ~~((two))~~ five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

**Sec. 2.** RCW 74.31.060 and 2011 c 143 s 6 are each amended to read as follows:

The traumatic brain injury account is created in the state treasury. ~~((Two dollars of))~~ The fee imposed under RCW 46.63.110(7)(c) must be deposited into the account. Moneys in the account may be spent only after appropriation, and may be used only to support the activities in the statewide traumatic brain injury comprehensive plan, to provide a public awareness campaign and services relating to traumatic brain injury under RCW 74.31.040 and 74.31.050, for information and referral services, and for costs of required department staff who are providing support for the council under RCW 74.31.020 and 74.31.030. The

secretary of the department of social and health services has the authority to administer the funds. The department must make every effort to disburse the incremental revenue that is the result of the fee increased under RCW 46.63.110(7)(c) in a diverse manner to include rural areas of the state.

**Sec. 3.** RCW 74.31.020 and 2018 c 58 s 55 are each amended to read as follows:

(1) The Washington traumatic brain injury strategic partnership advisory council is established as an advisory council to the governor, the legislature, and the secretary of the department of social and health services.

(2) The council shall be composed of:

(a) The following members who shall be appointed by the governor:

(i) A representative from a Native American tribe located in Washington state;

(ii) ~~((A))~~ Two representatives from a nonprofit organization serving individuals with traumatic brain injury;

(iii) An individual with expertise in working with children with traumatic brain injuries;

(iv) A physician who has experience working with individuals with traumatic brain injuries;

(v) A neuropsychologist who has experience working with persons with traumatic brain injuries;

(vi) A social worker or clinical psychologist who has experience in working with persons who have sustained traumatic brain injuries;

(vii) A rehabilitation specialist, such as a speech pathologist, vocational rehabilitation counselor, occupational therapist, or physical therapist who has experience working with persons with traumatic brain injuries;

(viii) Two persons who are individuals with a traumatic brain injury;

(ix) Two persons who are family members of individuals with traumatic brain injuries; and

(x) Two members of the public who have experience with issues related to the causes of traumatic brain injuries; and

(b) The following agency members:

(i) The secretary or the secretary's designee, and representatives from the following: The division of behavioral health and recovery services, the aging and disability services administration, and the division of vocational rehabilitation;

(ii) The secretary of health or the secretary's designee;

(iii) The secretary of corrections or the secretary's designee;

(iv) The secretary of children, youth, and families or the secretary's designee;

(v) A representative of the department of commerce with expertise in housing;

(vi) A representative from the Washington state department of veterans affairs;

(vii) A representative from the national guard; and

(viii) The executive director of the Washington protection and advocacy system or the executive director's designee(~~and~~

~~(ix) The executive director of the state brain injury association or the executive director's designee.~~

~~In the event that any of the state agencies designated in this subsection (2)(b) is renamed, reorganized, or eliminated, the director or secretary of the department that assumes the responsibilities of each renamed, reorganized, or eliminated agency shall designate a substitute representative).~~

(3) Councilmembers shall not be compensated for serving on the council, but may be reimbursed for all reasonable expenses related to costs incurred in participating in meetings for the council.

(4) No member may serve more than two consecutive terms.

(5) The appointed members of the council shall, to the extent possible, represent rural and urban areas of the state.

(6) A chairperson shall be elected every two years by majority vote from among the councilmembers. The chairperson shall act as the presiding officer of the council.

(7) The duties of the council include:

(a) Collaborating with the department to develop and revise as needed a comprehensive statewide plan to address the needs of individuals with traumatic brain injuries;

(b) Providing recommendations to the department on criteria to be used to select programs facilitating support groups for individuals with traumatic brain injuries and their families under RCW 74.31.050;

(c) By January 15, 2013, and every two years thereafter, developing a report in collaboration with the department and submitting it to the legislature and the governor on the following:

(i) Identifying the activities of the council in the implementation of the comprehensive statewide plan;

(ii) Recommendations for the revisions to the comprehensive statewide plan;

(iii) Recommendations for using the traumatic brain injury account established under RCW 74.31.060 to form strategic partnerships and to foster the development of services and supports for individuals impacted by traumatic brain injuries; and

(iv) Recommendations for a council staffing plan for council support under RCW 74.31.030.

(8) The council may utilize the advice or services of a nationally recognized expert, or other individuals as the council deems appropriate, to assist the council in carrying out its duties under this section."

Correct the title.

Signed by Representatives Ormsby, Chair; Volz; Tharinger; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Ybarra; Macri; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair and Kraft.

MINORITY recommendation: Do not pass. Signed by Representative Chandler.

Referred to Committee on Rules for second reading.

April 2, 2019

SSB 5135 Prime Sponsor, Committee on Environment, Energy & Technology: Preventing toxic pollution that affects public health or the environment. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Consumer product" means any item, including any component parts and packaging, sold for residential or commercial use.

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

(3) "Director" means the director of the department.

(4) "Manufacturer" means any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a product or is an importer or domestic distributor of a product sold or offered for sale in or into the state.

(5) "Organohalogen" means a class of chemicals that includes any chemical containing one or more halogen elements bonded to carbon.

(6) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS chemicals" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(7) "Phenolic compounds" means alkylphenol ethoxylates and bisphenols.

(8) "Phthalates" means synthetic chemical esters of phthalic acid.

(9) "Polychlorinated biphenyls" or "PCBs" means chemical forms that consist of two benzene rings joined together and containing one to ten chlorine atoms attached to the benzene rings.

(10) "Priority chemical" means a chemical or chemical class used as, used in, or put in a consumer product including:

- (a) Perfluoroalkyl and polyfluoroalkyl substances;
- (b) Phthalates;
- (c) Organohalogen flame retardants;
- (d) Flame retardants, as identified by the department under chapter 70.240 RCW;
- (e) Phenolic compounds;
- (f) Polychlorinated biphenyls; or
- (g) A chemical identified by the department as a priority chemical under section 2 of this act.

(11) "Safer alternative" means an alternative that is less hazardous to humans or the environment than the existing chemical or chemical process. A safer alternative to a particular chemical may include a chemical substitute or a change in materials or design that eliminates the need for a chemical alternative.

(12) "Sensitive population" means a category of people that is identified by the department that may be or is disproportionately or more severely affected by priority chemicals, such as:

- (a) Men and women of childbearing age;
- (b) Infants and children;
- (c) Pregnant women;
- (d) Communities that are highly impacted by toxic chemicals;
- (e) Persons with occupational exposure; and
- (f) The elderly.

(13) "Sensitive species" means a species or grouping of animals that is identified by the department that may be or is disproportionately or more severely affected by priority chemicals, such as:

- (a) Southern resident killer whales;
- (b) Salmon; and
- (c) Forage fish.

NEW SECTION. **Sec. 2.** Every five years, and consistent with the timeline established in section 5 of this act, the department, in consultation with the department of

health, must report to the appropriate committees of the legislature its decision to designate at least five priority chemicals that meet at least one of the following:

(1) The chemical or a member of a class of chemicals are identified by the department as a:

- (a) High priority chemical of high concern for children under chapter 70.240 RCW; or
- (b) Persistent, bioaccumulative toxin under chapter 70.105 RCW;

(2) The chemical or members of a class of chemicals are regulated:

- (a) In consumer products under chapter 70.240, 70.76, 70.95G, 70.280, 70.285, 70.95M, or 70.75A RCW; or
- (b) As a hazardous substance under chapter 70.105 or 70.105D RCW; or

(3) The department determines the chemical or members of a class of chemicals are a concern for sensitive populations and sensitive species after considering the following factors:

- (a) A chemical's or members of a class of chemicals' hazard traits or environmental or toxicological endpoints;
- (b) A chemical's or members of a class of chemicals' aggregate effects;
- (c) A chemical's or members of a class of chemicals' cumulative effects with other chemicals with the same or similar hazard traits or environmental or toxicological endpoints;
- (d) A chemical's or members of a class of chemicals' environmental fate;

(e) The potential for a chemical or members of a class of chemicals to degrade, form reaction products, or metabolize into another chemical or a chemical that exhibits one or more hazard traits or environmental or toxicological endpoints, or both;

(f) The potential for the chemical or class of chemicals to contribute to or cause adverse health or environmental impacts;

(g) The chemical's or class of chemicals' potential impact on sensitive populations, sensitive species, or environmentally sensitive habitats;

(h) Potential exposures to the chemical or members of a class of chemicals based on:

(i) Reliable information regarding potential exposures to the chemical or members of a class of chemicals; and

(ii) Reliable information demonstrating occurrence, or potential occurrence, of multiple exposures to the chemical or members of a class of chemicals.

NEW SECTION. **Sec. 3.** (1) Every five years, and consistent with the timeline established in section 5 of this

act, the department, in consultation with the department of health, shall identify priority consumer products that are a significant source of or use of priority chemicals. The department must submit a report to the appropriate committees of the legislature at the time that it identifies a priority consumer product.

(2) When identifying priority consumer products under this section, the department must consider, at a minimum, the following criteria:

(a) The estimated volume of a priority chemical or priority chemicals added to, used in, or present in the consumer product;

(b) The estimated volume or number of units of the consumer product sold or present in the state;

(c) The potential for exposure to priority chemicals by sensitive populations or sensitive species when the consumer product is used, disposed of, or has decomposed;

(d) The potential for priority chemicals to be found in the outdoor environment, with priority given to surface water, groundwater, marine waters, sediments, and other ecologically sensitive areas, when the consumer product is used, disposed of, or has decomposed;

(e) If another state or nation has identified or taken regulatory action to restrict or otherwise regulate the priority chemical in the consumer product;

(f) The availability and feasibility of safer alternatives; and

(g) Whether the department has already identified the consumer product in a chemical action plan completed under chapter 70.105 RCW as a source of a priority chemical or other reports or information gathered under chapter 70.240, 70.76, 70.95G, 70.280, 70.285, 70.95M, or 70.75A RCW.

(3) The department is not required to give equal weight to each of the criteria in subsection (2)(a) through (g) of this section when identifying priority consumer products that use or are a significant source of priority chemicals.

(4) To assist with identifying priority consumer products under this section and making determinations as authorized under section 4 of this act, the department may request a manufacturer to submit a notice to the department that contains the information specified in RCW 70.240.040 (1) through (6) or other information relevant to subsection (2)(a) through (d) of this section. The manufacturer must provide the notice to the department no later than six months after receipt of such a demand by the department.

(5)(a) Except as provided in (b) of this subsection, the department may not identify the following as priority consumer products under this section:

(i) Food or beverages;

(ii) Tobacco products;

(iii) Drug or biological products regulated by the United States food and drug administration;

(iv) Finished products certified or regulated by the federal aviation administration or the department of defense, or both, when used in a manner that was certified or regulated by such agencies, including parts, materials, and processes when used to manufacture or maintain such regulated or certified finished products;

(v) Motorized vehicles, including on and off-highway vehicles, such as all-terrain vehicles, motorcycles, side-by-side vehicles, farm equipment, and personal assistive mobility devices; and

(vi) Chemical products used to produce an agricultural commodity, as defined in RCW 17.21.020.

(b) The department may identify the packaging of products listed in (a) of this subsection as priority consumer products.

**NEW SECTION. Sec. 4.** (1) Every five years, and consistent with the timeline established in section 5 of this act, the department, in consultation with the department of health, must determine regulatory actions to increase transparency and to reduce the use of priority chemicals in priority consumer products. The department must submit a report to the appropriate committees of the legislature at the time that it determines regulatory actions. The department may:

(a) Determine that no regulatory action is currently required;

(b) Require a manufacturer to provide notice of the use of a priority chemical or class of priority chemicals consistent with RCW 70.240.040; or

(c) Restrict or prohibit the manufacture, wholesale, distribution, sale, retail sale, or use, or any combination thereof, of a priority chemical or class of priority chemicals in a consumer product.

(2)(a) The department may order a manufacturer to submit information consistent with section 3(4) of this act.

(b) The department may require a manufacturer to provide:

(i) A list of products containing priority chemicals;

(ii) Product ingredients;

(iii) Information regarding exposure and chemical hazard; and

(iv) A description of the amount and the function of the high priority chemical in the product.

(3) The department may restrict or prohibit a priority chemical or members of a class of priority chemicals in a priority consumer product when it determines:

(a) Safer alternatives are feasible and available; and

(b)(i) The priority chemical or members of a class of priority chemicals is not functionally necessary in the priority consumer product;

(ii) Another state or nation has restricted the priority chemical or members of a class of priority chemicals in a product;

(iii) The restriction will reduce a significant source of or use of a priority chemical; or

(iv) The restriction is necessary to protect the health of sensitive populations or sensitive species.

(4) A restriction or prohibition on a priority chemical in a consumer product may include exemptions or exceptions, including exemptions to address existing stock of a product in commerce at the time that a restriction takes effect.

**NEW SECTION. Sec. 5.** (1)(a) By June 1, 2020, and consistent with section 3 of this act, the department shall identify priority consumer products that are a significant source of or use of priority chemicals specified in section 1(10) (a) through (f) of this act.

(b) By June 1, 2022, and consistent with section 4 of this act, the department must determine regulatory actions regarding the priority chemicals and priority consumer products identified in (a) of this subsection.

(c) By June 1, 2023, the department must adopt rules to implement regulatory actions determined under (b) of this subsection.

(2)(a) By June 1, 2024, and every five years thereafter, the department shall select at least five priority chemicals specified in section 1(10) (a) through (g) of this act that are identified consistent with section 2 of this act.

(b) By June 1, 2025, and every five years thereafter, the department must identify priority consumer products that contain any new priority chemicals after notifying the appropriate committees of the legislature, consistent with section 3 of this act.

(c) By June 1, 2027, and every five years thereafter, the department must determine regulatory actions for any priority chemicals in priority consumer products identified under (b) of this subsection, consistent with section 4 of this act.

(d) By June 1, 2028, and every five years thereafter, the department must adopt rules to implement regulatory actions identified under (c) of this subsection.

(3)(a) The designation of priority chemicals by the department does not take effect until the adjournment of the regular legislative session immediately following the identification of chemicals, in order to allow an opportunity for the legislature to add to, limit, or otherwise amend the list of priority chemicals to be considered by the department.

(b) The designation of priority consumer products by the department does not take effect until the adjournment of the regular legislative session immediately following the identification of priority consumer products, in order to allow an opportunity for the legislature to add to, limit, or otherwise amend the list of priority consumer products to be considered by the department.

(c) The determination of regulatory actions by the department does not take effect until the adjournment of the regular legislative session immediately following the determination by the department, in order to allow an opportunity for the legislature to add to, limit, or otherwise amend the regulatory determinations by the department.

(d) Nothing in this subsection (3) limits the authority of the department to:

(i) Begin to identify priority consumer products for a priority chemical prior to the effective date of the designation of a priority chemical;

(ii) Begin to consider possible regulatory actions prior to the effective date of the designation of a priority consumer product; or

(iii) Initiate a rule-making process prior to the effective date of a determination of a regulatory action.

(4)(a) When identifying priority chemicals and priority consumer products under this chapter, the department must notify the public of the selection, including the identification of the peer-reviewed science and other sources of information that the department relied upon, the basis for the selection, and a draft schedule for making determinations. The notice must be published in the Washington State Register. The department shall provide the public with an opportunity for review and comment on the regulatory determinations.

(b)(i) By June 1, 2020, the department must create a stakeholder advisory process to provide expertise, input, and a review of the department's rationale for identifying priority chemicals and priority consumer products and proposed regulatory determinations. The input received from a stakeholder process must be considered and addressed when adopting rules.

(ii) The stakeholder process must include, but is not limited to, representatives from: Large and small business sectors; community, environmental, and public health advocacy groups; local governments; affected and interested businesses; an expert in scientific data analysis; and public health agencies.

**NEW SECTION. Sec. 6.** (1) A manufacturer 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 shall give consideration to the request and if this action is not detrimental to the public interest and is otherwise within accord 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. Under the procedures established under RCW 43.21A.160, the director must keep confidential any records furnished by a manufacturer under this chapter that relate to proprietary manufacturing processes or chemical formulations used in products or processes.

(2) For records or other information furnished to the department by a federal agency on the condition that the

information be afforded the same confidentiality protections as under federal law, the director may determine that the information or records be available only for the confidential use of the director, the department, or the appropriate division of the department. All such records and information are exempt from public disclosure. The director is authorized to enter into an agreement with the federal agency furnishing the records or information to ensure the confidentiality of the records or information.

**NEW SECTION. Sec. 7.** (1) A manufacturer violating a requirement of this chapter, a rule adopted under this chapter, or an order issued under this chapter, is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense.

(2) Any penalty provided for in this section, and any order issued by the department under this chapter, may be appealed to the pollution control hearings board.

(3) All penalties collected under this chapter shall be deposited in the state toxics control account created in RCW 70.105D.070.

**NEW SECTION. Sec. 8.** (1) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

(2)(a) The department must adopt rules to implement the determinations of regulatory actions specified in section 4(1) (b) or (c) of this act. When proposing or adopting rules to implement regulatory determinations specified in this subsection, the department must identify the expected costs and benefits of the proposed or adopted rules to state agencies to administer and enforce the rules and to private persons or businesses, by category of type of person or business affected.

(b) A rule adopted to implement a regulatory determination involving a restriction on the manufacture, wholesale, distribution, sale, retail sale, or use of a priority consumer product containing a priority chemical may take effect no sooner than three hundred sixty-five days after the adoption of the rule.

(c) The department must prepare a small business economic impact statement consistent with the requirements of RCW 19.85.040 for each rule to implement a determination of a regulatory action specified in section 4(1) (b) or (c) of this act.

**Sec. 9.** RCW 70.240.040 and 2008 c 288 s 5 are each amended to read as follows:

~~((Beginning six months after the department has adopted rules under section 8(5) of this act,))~~ A manufacturer of a children's product or a consumer product containing a priority chemical subject to a rule adopted to implement a determination made consistent with section 4(1)(b) of this act, or a trade organization on behalf of its member

manufacturers, shall provide notice to the department that the manufacturer's product contains a high priority chemical or a priority chemical identified under chapter 70.--- RCW (the new chapter created in section 13 of this act). The notice must be filed annually with the department and must include the following information:

(1) The name of the chemical used or produced and its chemical abstracts service registry number;

(2) A brief description of the product or product component containing the substance;

(3) A description of the function of the chemical in the product;

(4) The amount of the chemical used in each unit of the product or product component. The amount may be reported in ranges, rather than the exact amount;

(5) The name and address of the manufacturer and the name, address, and phone number of a contact person for the manufacturer; and

(6) Any other information the manufacturer deems relevant to the appropriate use of the product.

**Sec. 10.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70.94 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, 70.94.431, 70.105.080, 70.107.050, section 7 of this act, 76.09.170, 77.55.291, 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, 70.94.211, 70.94.332, 70.105.095, section 7 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 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(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 70.95.205.

(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.

(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.

(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 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, 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. 11.** RCW 34.05.272 and 2014 c 22 s 1 are each amended to read as follows:

(1) This section applies only to the water quality and shorelands and environmental assistance programs within the department of ecology and to actions taken by the department of ecology under chapter 70.--- RCW (the new chapter created in section 13 of this act).

(2)(a) Before taking a significant agency action, the department of ecology must identify the sources of information reviewed and relied upon by the agency in the course of preparing to take significant agency action. Peer-reviewed literature, if applicable, must be identified, as well as any scientific literature or other sources of information used. The department of ecology shall make available on the agency's web site the index of records required under RCW 42.56.070 that are relied upon, or invoked, in support of a proposal for significant agency action.

(b) On the agency's web site, the department of ecology must identify and categorize each source of information that is relied upon in the form of a bibliography, citation list, or similar list of sources. The categories in (c) of this subsection do not imply or infer any hierarchy or level of quality.

(c) The bibliography, citation list, or similar list of sources must categorize the sources of information as belonging to one or more of the following categories:

(i) Independent peer review: Review is overseen by an independent third party;

(ii) Internal peer review: Review by staff internal to the department of ecology;

(iii) External peer review: Review by persons that are external to and selected by the department of ecology;

(iv) Open review: Documented open public review process that is not limited to invited organizations or individuals;

(v) Legal and policy document: Documents related to the legal framework for the significant agency action including but not limited to:

(A) Federal and state statutes;

(B) Court and hearings board decisions;

(C) Federal and state administrative rules and regulations; and

(D) Policy and regulatory documents adopted by local governments;

(vi) Data from primary research, monitoring activities, or other sources, but that has not been incorporated as part of documents reviewed under the processes described in (c)(i), (ii), (iii), and (iv) of this subsection;

(vii) Records of the best professional judgment of department of ecology employees or other individuals; or

(viii) Other: Sources of information that do not fit into one of the categories identified in this subsection ~~((+))~~ (2)(c).

(3) For the purposes of this section, "significant agency action" means an act of the department of ecology that:

(a) Results in the development of a significant legislative rule as defined in RCW 34.05.328; or

(b) Results in the development of technical guidance, technical assessments, or technical documents that are used to directly support implementation of a state rule or state statute.

(4) This section is not intended to affect agency action regarding individual permitting, compliance and enforcement decisions, or guidance provided by an agency to a local government on a case-by-case basis.

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. Sections 1 through 8 and 14 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 14. This act may be known and cited as the pollution prevention for healthy people and Puget Sound act."

Correct the title.

Signed by Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; Doglio; Fey; Mead; Peterson and Shewmake.

MINORITY recommendation: Do not pass. Signed by Representatives Boehnke; Dye, Assistant Ranking Minority Member Shea, Ranking Minority Member.

Referred to Committee on Appropriations.

April 3, 2019

SB 5145 Prime Sponsor, Senator Salomon: Concerning the use of hydraulic fracturing in the exploration for and production of oil and natural gas. Reported by Committee on Rural Development, Agriculture, & Natural Resources

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 78.52 RCW to read as follows:

(1) The use of hydraulic fracturing in the exploration for, and production of, oil and natural gas is prohibited. This

section does not prohibit the use of hydraulic fracturing for other purposes.

(2) For the purposes of this section, "hydraulic fracturing" means the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock for the purpose of the production or recovery of oil or natural gas."

Correct the title.

Signed by Representatives Blake, Chair; Shewmake, Vice Chair; Chapman; Fitzgibbon; Lekanoff; Pettigrew; Ramos and Springer.

MINORITY recommendation: Do not pass. Signed by Representatives Dent, Assistant Ranking Minority Member; Dye; Kretz; Orcutt; Schmick and Walsh.

Referred to Committee on Rules for second reading.

April 3, 2019

SB 5227 Prime Sponsor, Senator Kuderer: Concerning deadlines for receipt of voter registrations by election officials. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 29A.04 RCW to read as follows:

"Election official" when pertaining to voter registration includes any staff member of the office of the secretary of state or a staff member of the county auditor's office.

NEW SECTION. Sec. 2. A new section is added to chapter 29A.04 RCW to read as follows:

"By mail" means delivery of a completed original voter registration application by mail to a county auditor or the office of the secretary of state.

Sec. 3. RCW 29A.08.020 and 2013 c 11 s 12 are each amended to read as follows:

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

~~(1) "By mail" means delivery of a completed original voter registration application by mail to a county auditor or the office of the secretary of state.~~

~~(2) For)) Unless the context clearly requires otherwise, for voter registration applicants, ((date of~~

~~mailing" means the date of the postal cancellation on the voter registration application. This date will also be used as the date of application for the purpose of) the date the voter registration application is received by an election official will be used as the registration date for the purpose of registering and meeting the registration cutoff deadline. ((If the postal cancellation date is illegible then the date of receipt by the elections official is considered the date of application. If an application is received by a county auditor or the office of the secretary of state by the close of business on the fifth day after the cutoff date for voter registration and the postal cancellation date is illegible, the application will be considered to have arrived by the cutoff date for voter registration.))~~

**Sec. 4.** RCW 29A.08.140 and 2018 c 112 s 1 are each amended to read as follows:

(1) In order to vote in any primary, special election, or general election, a person who is not registered to vote in Washington must:

(a) Submit a registration application that is received by an election official no later than eight days before the day of the primary, special election, or general election. For purposes of this subsection (1)(a), "received" means: (i) Being physically received by an election official by the close of business of the required deadline; or (ii) for applications received online or electronically, by midnight, of the required deadline; or

(b) Register in person at the county auditor's office, the division of elections if in a separate city from the county auditor's office, a voting center, or other location designated by the county auditor in his or her county of residence no later than 8:00 p.m. on the day of the primary, special election, or general election.

(2) In order to change a residence address for voting in any primary, special election, or general election, a person who is already registered to vote in Washington may update his or her registration by:

(a) Submitting an address change using a registration application or making notification via any non-in-person method that is received by election officials no later than eight days before the day of the primary, special election, or general election; or

(b) Appearing in person, at the county auditor's office, the division of elections if in a separate city from the county auditor's office, a voting center, or other location designated by the county auditor in his or her county of residence, no later than 8:00 p.m. on the day of the primary, special election, or general election to be in effect for that primary, special election, or general election.

(c) A registered voter who fails to ~~((transfer))~~ update his or her residential address by this deadline may vote according to his or her previous registration address.

(3) To register or update a voting address in person at the county auditor's office, a voting center, or other location designated by the county auditor, a person must appear in person at the county auditor's office, a voting

center, or other location designated by the county auditor in the county in which the person resides at a time when the facility is open and complete the voter registration application by providing the information required by RCW 29A.08.010.

**Sec. 5.** RCW 29A.08.110 and 2018 c 112 s 2, 2018 c 110 s 101, and 2018 c 109 s 4 are each reenacted and amended to read as follows:

(1) For persons registering under RCW 29A.08.120, 29A.08.123, 29A.08.170, 29A.08.330, ((and)) 29A.08.340, 29A.08.362, and 29A.08.365, an application is considered complete only if it contains the information required by RCW 29A.08.010. The applicant is considered to be registered to vote as of the original date of ~~((mailing, date of delivery))~~ receipt, or when the person will be at least eighteen years old by the next election, whichever is applicable. As soon as practicable, the auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record in the state voter registration list. The secretary of state shall, pursuant to RCW 29A.04.611, establish procedures to enable new or updated voter registrations to be recorded on an expedited basis. Any mailing address provided shall be used only for mail delivery purposes, and not for precinct assignment or residency purposes. Within sixty days after the receipt of an application or transfer, the auditor shall send to the applicant, by first-class nonforwardable mail, an acknowledgment notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable.

(2) If an application is not complete, the auditor shall promptly mail a verification notice to the applicant. The verification notice shall require the applicant to provide the missing information. If the applicant provides the required information within forty-five days, the applicant shall be registered to vote as of the original date of application. The applicant shall not be placed on the official list of registered voters until the application is complete.

(3) Once a future voter is no longer in pending status, as described in RCW 29A.08.615, his or her application to sign up to register to vote is no longer pending and is subject to this section.

**Sec. 6.** RCW 29A.08.330 and 2018 c 109 s 18 are each amended to read as follows:

(1) The secretary of state shall prescribe the method of voter registration for each designated agency. The agency shall use either the state voter registration by mail form with a separate declination form for the applicant to indicate that he or she declines to register at this time, or the agency may use a separate form approved for use by the secretary of state.

(2) The person providing service at the agency shall offer voter registration services to every client whenever he

or she applies for service or assistance and with each renewal, recertification, or change of address. The person providing service shall give the applicant the same level of assistance with the voter registration application as is offered to fill out the agency's forms and documents, including information about age and citizenship requirements for voter registration.

(3) The person providing service at the agency shall determine if the prospective applicant wants to register to vote or update his or her voter registration by asking the following question:

"Do you want to register or sign up to vote or update your voter registration?"

If the applicant chooses to register, sign up, or update a registration, the service agent shall ask the following:

(a) "Are you a United States citizen?"

(b) "Are you at least eighteen years old or are you at least sixteen years old and will you vote only after you turn eighteen?"

If the applicant answers in the affirmative to both questions, the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to sign up to vote, register to vote, or update a voter registration. If the applicant answers in the negative to either question, the agent shall not provide the applicant with a voter registration application.

(4) If an agency uses a computerized application process, it may, in consultation with the secretary of state, develop methods to capture simultaneously the information required for voter registration during a person's computerized application process.

(5) Each designated agency shall transmit the applications to the secretary of state or appropriate county auditor within three business days and must be received by the election official by the required voter registration deadline.

(6) Information that is otherwise disclosable under this chapter cannot be disclosed on the future voter until the person reaches eighteen years of age, except for the purpose of processing and delivering ballots.

**Sec. 7.** RCW 29A.08.410 and 2018 c 112 s 3 and 2018 c 110 s 204 are each reenacted and amended to read as follows:

A registered voter who changes his or her residence from one address to another within the same county may transfer his or her registration to the new address in one of the following ways:

(1) Sending the county auditor a request stating both the voter's present address and the address from which the voter was last registered received by an election official eight days prior to a primary or election;

(2) Appearing in person before the county auditor, or at a voting center or other location designated by the county auditor, and making such a request up until 8:00 p.m. on the day of the primary or election;

(3) Telephoning or emailing the county auditor to transfer the registration by eight days prior to a primary or election;

(4) Submitting a voter registration application received by an election official by eight days prior to a primary or election;

(5) Submitting information to the department of licensing and received by an election official by eight days prior to a primary or election;

(6) Submitting ~~((information to))~~ voter registration information through the health benefit exchange and received by an election official by eight days prior to a primary or election; or

(7) Submitting information to an agency designated under RCW 29A.08.365 and received by an election official by eight days prior to a primary or election once automatic voter registration is implemented at the agency.

**Sec. 8.** RCW 29A.08.359 and 2018 c 110 s 104 are each amended to read as follows:

(1)(a) For persons age eighteen years and older registering under RCW 29A.08.355, an application is considered complete only if it contains the information required by RCW 29A.08.010 and other information as required by the secretary of state. The applicant is considered to be registered to vote as of the original date of issuance or renewal or date of change of address of an enhanced driver's license or identocard issued under RCW 46.20.202 or change of address for an existing enhanced driver's license or identocard pursuant to RCW 46.20.205. The information must be transmitted in an expedited manner and must be received by an election official by the required voter registration deadline. The auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record in the state voter registration list. Any mailing address provided shall be used only for mail delivery purposes, and not for precinct assignment or residency purposes. Within sixty days after the receipt of an application or transfer, the auditor shall send to the applicant, by first-class nonforwardable mail, an acknowledgment notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The United States postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable.

(b) An auditor may use other means to communicate with potential and registered voters such as, but not limited to, email, phone, or text messaging. The alternate form of communication must not be in lieu of the first-class mail requirements. The auditor shall act in compliance with all voter notification processes established in federal law.

(2) If an application is not complete, the auditor shall promptly mail a verification notice to the applicant. The verification notice must require the applicant to provide the missing information. If the applicant provides the required information within forty-five days, the applicant must be registered to vote. The applicant must not be placed on the official list of registered voters until the application is complete.

(3) If the prospective registration applicant declines to register to vote or the information provided by the department of licensing does not indicate citizenship, the information must not be included on the list of registered voters.

(4) The department of licensing is prohibited from sharing data files used by the secretary of state to certify voters registered through the automated process outlined in RCW 29A.08.355 with any federal agency, or state agency other than the secretary of state. Personal information supplied for the purposes of obtaining a driver's license or identicard is exempt from public inspection pursuant to RCW 42.56.230."

Correct the title.

Signed by Representatives Smith; Mosbrucker; Hudgins; Dolan; Appleton; Goehner, Assistant Ranking Minority Member; Walsh, Ranking Minority Member; Pellicciotti, Vice Chair Gregerson, Chair.

Referred to Committee on Rules for second reading.

April 2, 2019

ESSB 5258 Prime Sponsor, Committee on Labor & Commerce: Preventing the sexual harassment and sexual assault of certain isolated workers. Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 49.60 RCW to read as follows:

(1) Every hotel, motel, retail, or security guard entity, or property services contractor, who employs an employee, must:

(a) Adopt a sexual harassment policy;

(b) Provide mandatory training to the employer's managers, supervisors, and employees to:

(i) Prevent sexual assault and sexual harassment in the workplace;

(ii) Prevent sexual discrimination in the workplace; and

(iii) Educate the employer's workforce regarding protection for employees who report violations of a state or federal law, rule, or regulation;

(c) Provide a list of resources for the employer's employees to utilize. At a minimum, the resources must include contact information of the equal employment opportunity commission, the Washington state human rights commission, and local advocacy groups focused on preventing sexual harassment and sexual assault; and

(d) Provide a panic button to each employee that spends a majority of her or his working hours alone or whose primary work responsibility involves working without another coworker present. The department must publish advice and guidance for employers with fifty or fewer employees relating to this subsection (1)(d). This subsection (1)(d) does not apply to contracted security guard companies licensed under chapter 18.170 RCW.

(2)(a) A property services contractor shall submit the following to the department on a form or in a manner determined by the department:

(i) The date of adoption of the sexual harassment policy required in subsection (1)(a) of this section;

(ii) The number of managers, supervisors, and employees trained as required by subsection (1)(b) of this section; and

(iii) The physical address of the work location or locations at which janitorial services are provided by employees of the property services contractor, and for each location: (A) The total number of employees or contractors of the property services contractor who perform janitorial services; and (B) the total hours worked.

(b) The department must make aggregate data submitted as required in this subsection (2) available upon request.

(c) The department may adopt rules to implement this subsection (2).

(3) For the purposes of this section:

(a) "Department" means the department of labor and industries.

(b) "Employee" means an individual employed by an employer as a janitor, security guard, hotel or motel housekeeper, or room service attendant.

(c) "Employer" means any person, association, partnership, property services contractor, or public or private corporation, whether for-profit or not, who employs one or more persons.

(d) "Panic button" means an emergency contact device carried by an employee by which the employee may summon immediate on-scene assistance from another worker, a security guard, or a representative of the employer.

(e) "Property services contractor" means any person or entity that employs workers: (i) To perform labor for another person to provide commercial janitorial services; or (ii) on behalf of an employer to provide commercial

janitorial services. "Property services contractor" does not mean the employment security department or individuals who perform labor under an agreement for exchanging their own labor or services with each other, provided the work is performed on land owned or leased by the individuals.

(f) "Security guard" means an individual who is principally employed as, or typically referred to as, a security officer or guard, regardless of whether the individual is employed by a private security company or a single employer or whether the individual is required to be licensed under chapter 18.170 RCW.

(4)(a) Hotels and motels with sixty or more rooms must meet the requirements of this section by January 1, 2020.

(b) All other employers identified in subsection (1) of this section must meet the requirements of this section by January 1, 2021."

Correct the title.

Signed by Representatives Sells, Chair; Chapman, Vice Chair; Gregerson and Ormsby.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler, Assistant Ranking Minority Member and Hoff.

MINORITY recommendation: Without recommendation. Signed by Representative Mosbrucker, Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 3, 2019

2SSB 5287 Prime Sponsor, Committee on Ways & Means: Ensuring accurate redistricting. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 44.05 RCW to read as follows:

(1) After April 1st of each year ending in zero, and by July 1st of each year ending in zero, the department of corrections shall furnish to the redistricting commission the following information regarding the last known place of residence of each inmate incarcerated in a state adult correctional facility:

(a) A unique identifier, other than the inmate's department of corrections number; and

(b) Last known place of residence information sufficiently specific to determine the congressional and state legislative districts in which the inmate's last known place of residence is located.

(2) After April 1st of each year ending in zero, and by July 1st of each year ending in zero, the department of social and health services shall furnish to the redistricting commission the following information regarding the last known place of residence of each person committed to receive involuntary behavioral health treatment under chapter 71.05 RCW:

(a) A unique identifier, other than the person's patient identification number; and

(b) Last known place of residence information sufficiently specific to determine the congressional and state legislative districts in which the resident's last known place of residence is located.

(3) After April 1st of each year ending in zero, and by July 1st of each year ending in zero, the department of children, youth, and families shall furnish to the redistricting commission the following information regarding the last known place of residence of each person residing or placed in a juvenile justice facility:

(a) A unique identifier, other than the person's patient identification number; and

(b) Last known place of residence information sufficiently specific to determine the congressional and state legislative districts in which the resident's last known place of residence is located.

(4) The redistricting commission shall:

(a) Deem each inmate incarcerated in a state adult correctional facility and person residing or placed in a juvenile justice facility or committed to receive involuntary behavioral health treatment under chapter 71.05 RCW as residing at his or her last known place of residence, rather than at the institution of his or her incarceration, residence, or placement;

(b) Regardless of the form in which the information is furnished, refrain from publishing any information regarding a specific inmate's or resident's last known place of residence;

(c) Deem an inmate or resident in state custody in Washington whose last known place of residence is outside of Washington or whose last known place of residence cannot be determined to reside at the location of the facility in which the inmate or resident is incarcerated, placed, or committed; and

(d) Adjust race and ethnicity data in districts, wards, and precincts in a manner that reflects the inclusion of inmates and residents in the population count of the district, ward, or precinct of their last known place of residence.

(5) For purposes of this section:

(a) "Inmate incarcerated in a state adult correctional facility" includes an inmate who has been transferred to a facility outside of Washington to complete his or her term of incarceration.

(b) "Last known place of residence" means the address at which the inmate or resident was last domiciled

prior to his or her placement or current term of incarceration, as reported by the inmate or resident.

(c) "Person residing or placed in a juvenile justice facility" and "person committed to receive involuntary behavioral health treatment under chapter 71.05 RCW" include a person who has been transferred to a facility outside of Washington.

(d) "Resident" means persons residing or placed in a juvenile justice facility or committed to receive involuntary behavioral health treatment under chapter 71.05 RCW.

**Sec. 2.** RCW 44.05.090 and 1990 c 126 s 1 are each amended to read as follows:

In the redistricting plan:

(1) Districts shall have a population as nearly equal as is practicable, excluding nonresident military personnel, based on the population reported in the federal decennial census as adjusted by section 1 of this act.

(2) To the extent consistent with subsection (1) of this section the commission plan should, insofar as practical, accomplish the following:

(a) District lines should be drawn so as to coincide with the boundaries of local political subdivisions and areas recognized as communities of interest. The number of counties and municipalities divided among more than one district should be as small as possible;

(b) Districts should be composed of convenient, contiguous, and compact territory. Land areas may be deemed contiguous if they share a common land border or are connected by a ferry, highway, bridge, or tunnel. Areas separated by geographical boundaries or artificial barriers that prevent transportation within a district should not be deemed contiguous; and

(c) Whenever practicable, a precinct shall be wholly within a single legislative district.

(3) The commission's plan and any plan adopted by the supreme court under RCW 44.05.100(4) shall provide for forty-nine legislative districts.

(4) The house of representatives shall consist of ninety-eight members, two of whom shall be elected from and run at large within each legislative district. The senate shall consist of forty-nine members, one of whom shall be elected from each legislative district.

(5) The commission shall exercise its powers to provide fair and effective representation and to encourage electoral competition. The commission's plan shall not be drawn purposely to favor or discriminate against any political party or group.

**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, 2019."

Correct the title.

Signed by Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Appleton; Dolan; Hudgins and Smith.

MINORITY recommendation: Do not pass. Signed by Representatives Mosbrucker; Walsh, Ranking Minority Member Goehner, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 3, 2019

**ESB 5294** Prime Sponsor, Senator Hunt: Creating leave provisions for legislative service. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The Washington state legislature is purposefully designed to be a part-time legislature to provide people from all areas of life the opportunity to participate. All businesses and industries, in the private and public sector, benefit when the legislature is made up of the broadest possible representation.

(2) It is a significant public policy to encourage citizens to serve in the legislature. However, serving as a legislator is often demanding and time consuming, and most legislators have other employment to support themselves and their families.

(3) Other states have enacted legislation addressing the duties and responsibilities of legislators and prospective legislators in relation to their regular employment. The intent of this act is to align Washington law with that of other similar states with part-time legislatures. It is already a crime in Washington to intimidate a public servant in an attempt to influence the public servant's vote, opinion, decision, or other official action. It is the intent of this chapter to create a civil remedy to ensure that legislators are able to remain independent, and not face undue influence from their outside employers, by being able to take a leave of absence from outside employment to serve the public interest during regular and special legislative sessions.

**NEW SECTION. Sec. 2.** For the purposes of this chapter, "employer" means: (1) Any person or business entity that employs or exercises control over wages, hours, or working conditions of ten or more employees; (2) the state, state institutions, and state agencies; and (3) any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision.

**NEW SECTION. Sec. 3.** (1) Except as provided in subsection (4) of this section, an employer must grant a temporary leave of absence without loss of job status or seniority to an employee who is a member or a member-elect of the state legislature in order for that employee to serve as a member of the legislature during regular and special legislative sessions.

(2) The leave of absence under this chapter may be unpaid. An employer may allow an employee to use accrued paid leave to which the employee is entitled for any part of the leave provided under this chapter.

(3) An employee who seeks leave under this chapter must provide the employer with notice of the employee's intention to take leave:

(a) At least thirty days before a regular legislative session; and

(b) As soon as it is reasonably apparent that a special legislative session will be called.

(4) An employer is not required to grant a leave of absence if:

(a) The employee does not provide notice as required by subsection (3) of this section;

(b) The employee was employed by the employer for less than ninety days immediately before the first day of the leave of absence; or

(c) The employment is on a temporary basis.

**NEW SECTION. Sec. 4.** (1) No employer may discharge or threaten to discharge, intimidate, or coerce any employee if the employee seeks leave under this chapter.

(2) At the end of the leave of absence under this section, an employee must be restored to the same employment position the employee held immediately before the first day of the leave of absence without loss of seniority, the right to participate in insurance, or any other employment benefits, if the position still exists. If the position does not still exist, the employee must be restored to as similar a position as possible, without loss of seniority, the right to participate in insurance, or any other employment benefits.

(3) The protections of this section do not apply if:

(a) The employee does not return to employment within:

(i) Fifteen days after adjournment sine die of a regular legislative session; or

(ii) Five days after adjournment of a special legislative session; or

(b) The circumstances of the employer have so changed during the leave of absence as to make a return to employment impossible or unreasonable.

**NEW SECTION. Sec. 5.** (1) If an employer violates the provisions of this chapter, the employee may bring a civil

action, at his or her own expense, in superior court for damages and an order requiring the reinstatement of the employee. A prevailing employee is entitled to costs and reasonable attorneys' fees. Public resources may not be used, directly or indirectly, to bring or maintain a civil action under this section.

(2) The remedy provided in this section is in addition to any common law remedy or other remedy that may be available to the employee.

**NEW SECTION. Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 49 RCW."

Correct the title.

Signed by Representatives Hudgins; Dolan; Appleton; Pellicciotti, Vice Chair Gregerson, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Smith; Mosbrucker; Goehner, Assistant Ranking Minority Member Walsh, Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 2, 2019

**ESSB 5298** Prime Sponsor, Committee on Labor & Commerce: Regarding labeling of marijuana products. Reported by Committee on Commerce & Gaming

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature intends to allow additional information on the labels and labeling of marijuana products to assist consumers in making purchases of these products.

The legislature declares that labels and labeling should not make any disease claim indicating the product is intended for use in the diagnosis, treatment, cure, or prevention of any disease.

The legislature recognizes that it may be useful for a label or labeling to describe the intended role of a marijuana product that contains nutrients or other dietary ingredients, including herbs and other botanicals, to maintain a structure or function of the body, or characterize the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

**Sec. 2.** RCW 69.50.345 and 2018 c 43 s 2 are each amended to read as follows:

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

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

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

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

(2) Determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(a) Population distribution;

(b) Security and safety issues;

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

(d) The number of retail outlets holding medical marijuana endorsements necessary to meet the medical needs of qualifying patients. The state liquor and cannabis

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

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

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

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

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

(a) Security and safety issues;

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

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

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products, and their labeling requirements ~~(to include but not be limited to:~~

~~(a) The business or trade name and Washington state unified business identifier number of the licensees that produced and processed the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;~~

~~(b) Lot numbers of the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;~~

~~(c) THC concentration and CBD concentration of the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;~~

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

~~(e) Language required by RCW 69.04.480));~~

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

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

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

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

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

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

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

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

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

**Sec. 3.** RCW 69.50.346 and 2018 c 43 s 1 are each amended to read as follows:

(1) The label on a marijuana product container, including marijuana concentrates, useable marijuana, or marijuana-infused products, sold at retail

(+)) must include:

(a) The business or trade name and Washington state unified business identifier number of the marijuana producer and processor ((that produced and processed the marijuana as required pursuant to RCW 69.50.345(7); and

(-)):

(b) The lot numbers of the product;

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

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

(e) Language required by RCW 69.04.480; and

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

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

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

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

(b) In the context of describing the product's intended role in maintaining the structure or any function of the body, including the documented mechanism by which a product acts to maintain bodily structure or function, the label and labeling may include such terms as, but not limited to, "wellness," "well-being," "health," "maintain," "support," "assist," and "promote," and derivatives of any such terms.

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

(3) The labels and labeling may not be:

(a) False or misleading; or

(b) Especially appealing to children.

(4) The label is not required to include the business or trade name or Washington state unified business identifier number of, or any information about, the marijuana retailer selling the marijuana product.

(5) A marijuana product is not in violation of any Washington state law or rule of the Washington state liquor

and cannabis board solely because its label or labeling contains:

(a) Directions or recommended conditions of use;

(b) A claim describing the psychoactive effects of the marijuana product, provided that the claim is truthful and not misleading; or

(c) An otherwise legal claim related to the nonmarijuana ingredients.

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

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

**Sec. 4.** RCW 82.08.9998 and 2015 2nd sp.s. c 4 s 207 are each amended to read as follows:

(1) ~~((Beginning July 1, 2016,))~~ The tax levied by RCW 82.08.020 does not apply to:

(a) Sales of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health in rules adopted under RCW ~~((69.50.375 to be beneficial for medical use))~~ 69.50.375(4) in chapter 246-70 WAC as being a compliant marijuana product, by marijuana retailers with medical marijuana endorsements to qualifying patients or designated providers who have been issued recognition cards;

(b) Sales of products containing THC with a THC concentration of 0.3 percent or less to qualifying patients or designated providers who have been issued recognition cards by marijuana retailers with medical marijuana endorsements;

(c) Sales of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health under RCW 69.50.375 to have a low THC, high CBD ratio, and to be beneficial for medical use, by marijuana retailers with medical marijuana endorsements, to any person;

(d) Sales of topical, noningestible products containing THC with a THC concentration of 0.3 percent or less by health care professionals under RCW 69.51A.280;

(e)(i) Marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less produced by a cooperative and provided to its members; and

(ii) Any nonmonetary resources and labor contributed by an individual member of the cooperative in which the individual is a member. However, nothing in this subsection (1)(e) may be construed to exempt the individual members of a cooperative from the tax imposed in RCW

82.08.020 on any purchase of property or services contributed to the cooperative.

~~(2) ((From July 1, 2015, until July 1, 2016, the tax levied by RCW 82.08.020 does not apply to sales of marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by collective gardens under RCW 69.51A.085 to qualifying patients or designated providers, if such sales are in compliance with chapter 69.51A RCW.~~

~~(3))~~ Each seller making exempt sales under subsection (1) ~~((or (2)))~~ of this section must maintain information establishing eligibility for the exemption in the form and manner required by the department.

~~((4))~~ (3) The department must provide a separate tax reporting line for exemption amounts claimed under this section.

~~((5))~~ (4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Cooperative" means a cooperative authorized by and operating in compliance with RCW 69.51A.250.

(b) "Marijuana retailer with a medical marijuana endorsement" means a marijuana retailer permitted under RCW 69.50.375 to sell marijuana for medical use to qualifying patients and designated providers.

(c) "Products containing THC with a THC concentration of 0.3 percent or less" means all products containing THC with a THC concentration not exceeding 0.3 percent and that, when used as intended, are inhalable, ingestible, or absorbable.

(d) "THC concentration," "marijuana," "marijuana concentrates," "useable marijuana," "marijuana retailer," and "marijuana-infused products" have the same meanings as provided in RCW 69.50.101 and the terms "qualifying patients," "designated providers," and "recognition card" have the same meaning as provided in RCW 69.51A.010.

**Sec. 5.** RCW 82.12.9998 and 2015 2nd sp.s. c 4 s 208 are each amended to read as follows:

~~(1) ((From July 1, 2015, until July 1, 2016, the provisions of this chapter do not apply to the use of marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by a collective garden under RCW 69.51A.085, and the qualifying patients or designated providers participating in the collective garden, if such use is in compliance with chapter 69.51A RCW.~~

~~(2)~~ ~~Beginning July 1, 2016,))~~ The provisions of this chapter do not apply to:

(a) The use of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health in rules adopted under RCW ~~((69.50.375 to be beneficial for medical use))~~ 69.50.375(4)

in chapter 246-70 WAC as being a compliant marijuana product, by qualifying patients or designated providers who have been issued recognition cards and have obtained such products from a marijuana retailer with a medical marijuana endorsement.

(b) The use of products containing THC with a THC concentration of 0.3 percent or less by qualifying patients or designated providers who have been issued recognition cards and have obtained such products from a marijuana retailer with a medical marijuana endorsement.

(c)(i) Marijuana retailers with a medical marijuana endorsement with respect to:

(A) Marijuana concentrates, useable marijuana, or marijuana-infused products; or

(B) Products containing THC with a THC concentration of 0.3 percent or less;

(ii) The exemption in this subsection ~~((2))~~ (1)(c) applies only if such products are provided at no charge to a qualifying patient or designated provider who has been issued a recognition card. Each such retailer providing such products at no charge must maintain information establishing eligibility for this exemption in the form and manner required by the department.

(d) The use of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department of health under RCW 69.50.375 to have a low THC, high CBD ratio, and to be beneficial for medical use, purchased from marijuana retailers with a medical marijuana endorsement.

(e) Health care professionals with respect to the use of products containing THC with a THC concentration of 0.3 percent or less provided at no charge by the health care professionals under RCW 69.51A.280. Each health care professional providing such products at no charge must maintain information establishing eligibility for this exemption in the form and manner required by the department.

(f) The use of topical, noningestible products containing THC with a THC concentration of 0.3 percent or less by qualifying patients when purchased from or provided at no charge by a health care professional under RCW 69.51A.280.

(g) The use of:

(i) Marijuana, marijuana concentrates, useable marijuana, marijuana-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by a cooperative and its members, when produced by the cooperative; and

(ii) Any nonmonetary resources and labor by a cooperative when contributed by its members. However, nothing in this subsection ~~((2))~~ (1)(g) may be construed to exempt the individual members of a cooperative from the tax imposed in RCW 82.12.020 on the use of any property or services purchased by the member and contributed to the cooperative.

~~((3))~~ (2) The definitions in RCW 82.08.9998 apply to this section.

NEW SECTION. **Sec. 6.** This act takes effect January 1, 2020."

Correct the title.

Signed by Representatives Stanford, Chair; Reeves, Vice Chair; MacEwen, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Blake; Jenkin; Kirby; Kloba; Morgan; Vick and Young.

Referred to Committee on Rules for second reading.

April 2, 2019

ESSB 5332 Prime Sponsor, Committee on Law & Justice: Concerning vital statistics. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Tharinger; Thai; Stonier; Robinson; Riccelli; Jinkins; Davis; Caldier, Assistant Ranking Minority Member; Schmick, Ranking Minority Member; Macri, Vice Chair Cody, Chair.

MINORITY recommendation: Without recommendation. Signed by Representatives Chambers and Harris.

Referred to Committee on Appropriations.

April 3, 2019

2SSB 5376 Prime Sponsor, Committee on Ways & Means: Protecting consumer data. Reported by Committee on Innovation, Technology & Economic Development

MAJORITY recommendation: Do pass as amended.

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 Washington privacy act of 2019.

NEW SECTION. **Sec. 2.** LEGISLATIVE FINDINGS. (1) The legislature finds that:

(a) Washington explicitly recognizes its people's right to privacy under Article I, section 7 of the state Constitution. Nothing in this act diminishes this right.

(b) There is rapid growth in the volume and variety of personal data being generated, collected, stored, and analyzed. The protection of individual privacy and freedom in relation to the processing of personal data requires the

recognition of the principle that consumers retain ownership interest of their personal data, including personal data that undergoes processing or is in possession of another party. Consumers desire greater transparency and control over the collection, disclosure, and sharing of their personal data.

(c) Nothing in this act affects the consumer protections in chapter 19.86 RCW, the consumer protection act.

(d) Personal data should be collected with a clear purpose and with consumers' consent.

(2) Possession of personal data brings with it an obligation of care and to fulfill requirements under this act, no matter the source of data, or the size of the entity holding or processing personal data. To preserve trust and confidence that personal data will be protected appropriately, the legislature recognizes that with regard to processing of personal data, Washington consumers have the rights to:

(a) Confirm whether or not personal data is being processed by a controller;

(b) Obtain a copy of the personal data undergoing processing;

(c) Correct inaccurate personal data;

(d) Obtain deletion of personal data;

(e) Restrict processing of personal data;

(f) Be provided with any of the consumer's personal data that the consumer provided to a controller;

(g) Object to processing of personal data; and

(h) Not be subject to a decision based solely on profiling.

(3) The European Union recently updated its privacy law through the passage and implementation of the general data protection regulation, affording its residents the strongest privacy protections in the world.

(4) Washington residents have long enjoyed an expectation of privacy in their public movements. The development of new technology like facial recognition could, if deployed indiscriminately and without proper regulation, enable the constant surveillance of any individual. Washington residents should have the right to a reasonable expectation of privacy in their movements, and thus should be free from ubiquitous and surreptitious surveillance using facial recognition technology. Further, Washington residents have the right to information about the capabilities, possible bias, and limitations of facial recognition technology and that it should not be deployed by private sector organizations without proper public notice.

NEW SECTION. **Sec. 3. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affiliate" means a legal entity that controls, is controlled by, or is under common control with, another legal entity.

(2) "Business purpose" means the processing of a consumer's personal data with the consumer's consent for the controller's or its processor's operational purposes, provided that the processing of personal data must be reasonably necessary and proportionate to achieve the operational purposes for which the personal data was collected or processed or for another operational purpose that is compatible with the context in which the personal data was collected. Business purposes include:

(a) Detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity, prosecuting those responsible for that activity, and notifying consumers of illegal activity that impacts personal data;

(b) Identifying and repairing errors that impair existing or intended functionality;

(c) Short-term, transient use, provided the personal data is not disclosed to another third party and is not used to build a profile about a consumer or otherwise alter an individual consumer's experience outside the current interaction including, but not limited to, the contextual customization of ads shown as part of the same interaction;

(d) Maintaining or servicing accounts, providing customer service, processing or fulfilling orders and transactions, verifying customer information, processing payments, or providing financing;

(e) Undertaking internal research for technological development, if conducted with deidentified data; or

(f) Authenticating a consumer's identity at the request of the consumer or for compliance with this act.

(3) "Child" means any natural person under thirteen years of age.

(4) "Consent" means a clear affirmative act signifying a freely given, specific, informed, and unambiguous indication of a consumer's agreement to the processing of personal data relating to the consumer, such as by a written statement or other clear affirmative action.

(5) "Consumer" means a natural person who is a Washington resident acting only in an individual or household context. "Consumer" does not include a natural person acting in a commercial or employment context.

(6) "Controller" means the natural or legal person which, alone or jointly with others, determines the purposes and means of the processing of personal data.

(7)(a) "Data broker" means a business, or unit or units of a business, separately or together, that knowingly collects and sells or licenses to third parties the brokered personal information of a consumer with whom the business does not have a direct relationship.

(b) Providing publicly available information through real-time or near real-time alert services for health or safety purposes, and the collection and sale or licensing of brokered

personal information incidental to conducting those activities, does not qualify the business as a data broker.

(c) Providing 411 directory assistance or directory information services, including name, address, and telephone number, on behalf of or as a function of a telecommunications carrier, does not qualify the business as a data broker.

(8) "Deidentified data" means data from which direct and known indirect identifiers have been removed or manipulated to break the linkage to a known natural person and to which one or more enforceable controls to prevent reidentification has been applied. Enforceable controls to prohibit or to prevent reidentification may include legal, administrative, technical, or contractual controls.

(9) "Developer" means a person who creates or modifies the set of instructions or programs instructing a computer or device to perform tasks.

(10) "Direct identifier" means data that identifies a natural person directly without additional information or by linking to publicly available information. "Direct identifier" includes, but is not limited to, name, address, biometric data, social security number, or any government-issued identification number.

(11) "Direct marketing" means communication with a consumer for advertising purposes or to market goods or services.

(12) "Facial recognition" means technology that maps a person's unique facial features for purposes of identifying or verifying the person, or to discern the person's demographic information, such as gender, race, age, nationality, or sexual orientation, or emotional state or mood. "Facial recognition" includes facial verification, facial identification, and facial characterization, and generates facial recognition data that is subject to this act. "Facial recognition" does not include facial detection, whereby facial mapping is done solely for the purpose of distinguishing the presence from the absence of a human face without storing facial recognition data upon completion.

(13) "Identified or identifiable natural person" means a person who can be readily identified, directly or indirectly, in particular by reference to an identifier, including, but not limited to, a name, an online identifier, an identification number, biometric data, or specific geolocation data.

(14) "Indirect identifier" means data that identifies a natural person indirectly or helps connect pieces of data until a natural person can be singled out. "Indirect identifier" includes, but is not limited to, gender, date of birth, or internet protocol address.

(15) "Legal effects" means, without limitation, denial of consequential services or support, such as financial and lending services, housing, insurance, education enrollment, criminal justice, employment opportunities, health care services, and other similarly significant effects.

(16) "Personal data" means any information that is linked or reasonably linkable to an identified or identifiable

natural person. "Personal data" includes reidentified data and does not include deidentified data.

(17) "Process" or "processing" means any collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

(18) "Processor" means a natural or legal person that processes personal data on behalf of the controller.

(19) "Profiling" means any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyze or predict aspects concerning that natural person's economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

(20) "Privacy harm" means harm that results when personal data is processed, shared, disclosed, or sold in unknown, unexpected, or impermissible ways. "Privacy harm" is not limited to harm that results in a provable monetary loss or other tangible harm.

(21) "Publicly available information" means information that is lawfully made available from federal, state, or local government records.

(22) "Restriction of processing" means the marking of stored personal data so that its processing is limited.

(23)(a) "Sale," "sell," or "sold" means the exchange or disclosure of personal data for consideration by the controller to another party. A sale must be consistent with consumer consent and the purposes for which the sold personal data was collected.

(b) "Sale" does not include the following: (i) The disclosure of personal data to a processor who processes the personal data on behalf of the controller; (ii) the disclosure of personal data to a third party with whom the consumer has a direct contractual relationship for purposes of providing a product or service requested by the consumer or otherwise in a manner that is consistent with a consumer's reasonable expectations considering the context in which the consumer provided the personal data to the controller; (iii) the disclosure or transfer of personal data to an affiliate of the controller, if consumers are notified of the transfer of their data and of their rights under this chapter; or (iv) the disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the controller's assets, if consumers are notified of the transfer of their data and of their rights under this chapter.

(24) "Sensitive data" means (a) personal data revealing racial or ethnic origin, citizenship, immigration status, religious beliefs, mental or physical health condition or diagnosis, or sex life or sexual orientation; (b) genetic or biometric data; or (c) the personal data of a known child.

(25) "Targeted advertising" means displaying to a consumer selected advertisements based on the consumer's personal data obtained or inferred over time from the consumer's activities across nonaffiliated web sites,

applications, or online services to predict user preferences or interests. "Targeted advertising" does not include advertising to a consumer based upon the consumer's visits to a web site, application, or online service that a reasonable consumer would believe to be associated with the publisher where the ad is placed based on common branding, trademarks, or other indicia of common ownership, or in response to the consumer's request for information or feedback.

(26) "Third party" means a natural or legal person, public authority, agency, or body other than the consumer, controller, or an affiliate of the processor of the controller.

(27) "Verified request" means the process through which a consumer may submit a request to exercise a right or rights set forth in this chapter, and by which a controller can verify the legitimacy of the request and identity of the consumer making the request using reasonable means.

NEW SECTION. **Sec. 4. JURISDICTIONAL SCOPE.** (1) This chapter applies to legal entities that conduct business in Washington or produce products or services that are intentionally targeted to residents of Washington.

(2) This chapter does not apply to:

- (a) State or local government;
- (b) Municipal corporations; and

(c) Institutions of higher education, as defined in RCW 28B.10.016, and private, not-for-profit institutions of higher education.

(3) This chapter does not apply to the processing of personal data by a natural person in the course of a purely personal or household activity.

(4) This chapter does not apply to the following information:

(a) Protected health information for purposes of the federal health insurance portability and accountability act of 1996, the federal health information technology for economic and clinical health act, and related regulations;

(b) Health care information for purposes of chapter 70.02 RCW;

(c) Patient identifying information for purposes of 42 C.F.R. Part 2, established pursuant to 42 U.S.C. Sec. 290 dd-2;

(d) Identifiable private information for purposes of the federal policy for the protection of human subjects, 45 C.F.R. Part 46, or identifiable private information that is otherwise information collected as part of human subjects research pursuant to the good clinical practice guidelines issued by the international council for harmonisation, or protection of human subjects under 21 C.F.R. Parts 50 and 56;

(e) Information and documents created specifically for, and collected and maintained by:

(i) A quality improvement committee for purposes of RCW 43.70.510, 70.230.080, or 70.41.200;

(ii) A peer review committee for purposes of RCW 4.24.250;

(iii) A quality assurance committee for purposes of RCW 74.42.640 or 18.20.390; or

(iv) A hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections for purposes of RCW 43.70.056, a notification of an incident for purposes of RCW 70.56.040(5), or reports regarding adverse events for purposes of RCW 70.56.020(2)(b);

(f) Information and documents created for purposes of the federal health care quality improvement act of 1986 and related regulations;

(g) Patient safety work product information for purposes of 42 C.F.R. Part 3, established pursuant to 42 U.S.C. Sec. 299b-21-26;

(h) Information collected, used, or disclosed pursuant to chapter 43.71 RCW, if collection, use, or disclosure is in compliance with that law;

(i) Personal data provided to, from, or held by a consumer reporting agency as defined by 15 U.S.C. Sec. 1681a(f), but solely to the extent that such data is to be reported in, or used to generate, a consumer report, as defined by 15 U.S.C. Sec. 1681a(d), and only if the collection, processing, sale, or disclosure of such data is in compliance with the federal fair credit reporting act (15 U.S.C. Sec. 1681 et seq.);

(j) Personal data regulated by the children's online privacy protection act, 15 U.S.C. Secs. 6501 through 6506, if collected, processed, and maintained in compliance with that law;

(k) Personal data collected, processed, sold, or disclosed pursuant to the federal Gramm Leach Bliley act (P.L. 106-102), and implementing regulations, if the collection, processing, sale, or disclosure is in compliance with that law;

(l) Personal data collected, processed, sold, or disclosed pursuant to the federal driver's privacy protection act of 1994 (18 U.S.C. Sec. 2721 et seq.), if the collection, processing, sale, or disclosure is in compliance with that law; or

(m) Personal data regulated by the federal family educational rights and privacy act, 20 U.S.C. 1232g, and its implementing regulations;

(n) Information about employees or employment status collected, processed, or used by an employer pursuant to and solely for the purposes of an employer-employee relationship.

NEW SECTION. **Sec. 5. RESPONSIBILITY ACCORDING TO ROLE.** (1) Controllers are responsible for meeting the obligations established under this chapter.

(2) Processors are responsible under this chapter for adhering to the instructions of the controller and assisting the controller to meet its obligations under this chapter.

(3) Processing by a processor is governed by a contract between the controller and the processor that is binding on the processor and that sets out the processing instructions to which the processor is bound.

(4) Third parties are responsible for assisting controllers and processors in meeting their obligations under this chapter with regard to personal data third parties receive from controllers or processors. Third parties must comply with consumer requests made known to them by a controller.

(5) Controllers, processors, and third parties must adhere to the consent of a consumer with regard to the consumer's personal data.

**NEW SECTION. Sec. 6. CONSUMER RIGHTS.**

(1) A consumer retains ownership interest in the consumer's personal data processed by a controller, a processor, or a third party and may exercise any of the consumer rights set forth in section 2 of this act by submitting to a controller a verified request that specifies which rights the consumer wishes to exercise. Controllers may not require consumers to create an account in order to make a verified request.

(2) Where a controller has reasonable doubts concerning the identity of the consumer making a request under this section, the controller may request the provision of additional reasonable information necessary to confirm the identity of the consumer.

(3) Upon receiving a verified request from a consumer, a controller must:

(a) Confirm whether or not the consumer's personal data is being processed by the controller, including whether such personal data is sold to data brokers or others, and, where the consumer's personal data is being processed by the controller, provide access to such personal data;

(b) Inform the consumer about third-party recipients or categories of third-party recipients of the consumer's personal data, including third parties that received the data through a sale;

(c) Provide in a commonly used electronic format a copy of the consumer's personal data that is undergoing processing;

(d) Provide in a structured, commonly used, and machine-readable format a copy of the consumer's personal data that the consumer has provided to the controller if the processing of the consumer's personal data:

(i)(A) Requires consent under section 9(3) of this act;

(B) Is necessary for the performance of a contract to which the consumer is a party; or

(C) Is done in order to take steps at the request of the consumer prior to entering into a contract; and

(ii) Is carried out by automated means;

(e) Correct the consumer's inaccurate personal data, or complete the consumer's incomplete personal data, including by means of providing a supplementary statement where appropriate;

(f) Delete the consumer's personal data, if one of the following grounds applies:

(i) The personal data is no longer necessary in relation to the purposes for which it was collected or processed;

(ii) The consumer withdraws consent for processing that requires consent under section 9(3) of this act, and there are no business purposes for processing;

(iii) Processing is for direct marketing or targeted advertising purposes;

(iv) The personal data has been unlawfully processed; or

(v) The personal data must be deleted to comply with a legal obligation under local, state, or federal law to which the controller is subject;

(g) Take reasonable steps to inform other controllers or processors of which the controller is aware, and which are processing the consumer's personal data they received from the controller, that the consumer has requested deletion of any copies of or links to the consumer's personal data. Controllers and processors that receive notification of the consumer's deletion request must comply with that request;

(h) Restrict processing of the consumer's personal data if the purpose for which the personal data is being processed is inconsistent with a purpose for which the personal data was collected, inconsistent with a purpose disclosed to the consumer at the time of collection or authorization, or inconsistent with exercising the right of free speech. Where personal data is subject to a restriction of processing under this subsection, with the exception of storage, the personal data may only be processed with the consumer's consent or for purposes set forth in section 11 of this act, in which case the controller may not sell or otherwise disclose any personal data being processed pursuant to the claimed purposes. A controller must inform and gain consent from the consumer before any restriction of processing is lifted;

(i) Stop processing personal data of the consumer who objects to such processing, including the selling of the consumer's personal data to third parties for purposes of direct marketing or targeted advertising, without regard to the source of data. The controller must take reasonable steps to communicate a consumer's objection to processing to third parties to whom the controller sold the consumer's personal data. Third parties must comply with the consumer's request made known to them by the controller;

(j) Take reasonable steps to communicate a consumer's objection to processing to third parties to whom the controller disclosed, including through sale, the consumer's personal data and who must comply with objection requests communicated by the controller.

(4)(a) A controller must take action on a consumer's request without undue delay and within thirty days of receiving the request. The request fulfillment period may be extended by sixty additional days where reasonably necessary, taking into account the complexity of the request.

(b) Within thirty days of receiving a consumer request, a controller must inform the consumer about:

(i) Any fulfillment period extension, together with the reasons for the delay; or

(ii) The reasons for not taking action on the consumer's request, including a statement regarding any exemptions under section 11 of this act, and information about the process for internal review of the decision by the controller.

(5) A controller must communicate any correction, deletion, or restriction of processing carried out pursuant to a verified consumer request to each third party to whom the controller knows the consumer's personal data has been disclosed within one year preceding the verified request, including third parties that received the data through a sale. Third parties must comply with the consumer's requests made known to them by the controller.

(6) Information provided under this section must be provided by the controller free of charge to the consumer. Where requests from a consumer are manifestly unfounded or excessive, the controller may refuse to act on the request. The controller bears the burden of demonstrating the manifestly unfounded or excessive character of the request.

(7) Requests for personal data under this section must be without prejudice to the other rights granted in this chapter.

(8) The rights provided in this section must not adversely affect the rights of others.

(9) All policies adopted and used by a controller to comply with this section must be publicly available on the controller's web site and included in the controller's online privacy policy.

**NEW SECTION. Sec. 7. TRANSPARENCY.** (1) Controllers must be transparent and accountable for their processing of personal data by making available in a form that is reasonably accessible to consumers a clear, meaningful privacy notice that includes:

(a) The categories of personal data collected by the controller;

(b) The categories of personal data that the controller shares with third parties;

(c) The purposes for which the categories of personal data are used by the controller and disclosed to third parties, if any;

(d) The categories of third parties, if any, with whom the controller shares personal data;

(e) Information about the rights guaranteed to the consumers in section 2 of this act;

(f) The process by which a consumer may request to exercise the rights under section 6 of this act, including a process by which a consumer may appeal a controller's action with regard to the consumer's request; and

(g) A statement that the controller processes personal data of a consumer only pursuant to the consumer's consent and solely for the purposes disclosed to the consumer under this section.

(2) If a controller sells personal data to data brokers, it must disclose such sales, and the manner in which a consumer may object to such sales, in a clear and conspicuous manner.

**NEW SECTION. Sec. 8. COMPLIANCE.** (1) Controllers must develop, implement, and make publicly available an annual plan for complying with the obligations under this chapter.

(2) A controller that has developed and implemented a compliance plan for the European general data protection regulation 2016/679 may use that plan for purposes of subsection (1) of this section.

(3) Controllers may report metrics on their public web site to demonstrate and corroborate their compliance with this chapter.

**NEW SECTION. Sec. 9. RISK ASSESSMENTS.** (1) Controllers must produce a risk assessment of each of their processing activities involving personal data and an additional risk assessment any time there is a change in processing that materially increases the risk to consumers. The risk assessments must take into account the:

(a) Type of personal data to be processed by the controller;

(b) Extent to which the personal data is sensitive data or otherwise sensitive in nature; and

(c) Context in which the personal data is to be processed.

(2) Risk assessments conducted under subsection (1) of this section must:

(a) Identify and weigh the benefits that may flow directly and indirectly from the processing to the controller, consumer, other stakeholders, and the public, against the potential risks to the rights of the consumer associated with the processing, as mitigated by safeguards that can be employed by the controller to reduce risks; and

(b) Factor in the use of deidentified data and the reasonable expectations of consumers, as well as the context of the processing and the relationship between the controller and the consumer whose personal data will be processed.

(3) If the risk assessment conducted under subsection (1) of this section determines that the potential risks of privacy harm to consumers are substantial and outweigh the interests of the controller, consumer, other stakeholders, and the public in processing the personal data

of the consumer, the controller may only engage in such processing with the consent of the consumer. To the extent the controller seeks consumer consent for processing, consent must be as easy to withdraw as to give.

(4) Processing personal data for a business purpose must be described in the risk assessment, but is presumed permissible unless: (a) It involves the processing of sensitive data; (b) the risk of processing cannot be reduced through the use of appropriate administrative and technical safeguards; (c) consent was not given; or (d) processing is inconsistent with consent given.

(5) The controller must make the risk assessment available to the attorney general upon request. Risk assessments provided to the attorney general are confidential and exempt from public inspection and copying under chapter 42.56 RCW.

**NEW SECTION. Sec. 10. DEIDENTIFIED DATA.** A controller or processor that uses, sells, or shares deidentified data shall:

(1) Make a public commitment to not reidentify deidentified data;

(2) Provide by contract that third parties must not reidentify deidentified data received from a controller or a processor;

(3) Exercise reasonable oversight to monitor compliance with any contractual commitments to which deidentified data is subject; and

(4) Take appropriate steps to address any breaches of contractual commitments to which deidentified data is subject.

**NEW SECTION. Sec. 11. EXEMPTIONS.** (1) The obligations imposed on controllers or processors under this chapter do not restrict a controller's or processor's ability to:

(a) Comply with federal, state, or local laws, rules, or regulations;

(b) Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, local, or other governmental authorities;

(c) Establish, exercise, or defend legal claims;

(d) Temporarily prevent, detect, or respond to security incidents;

(e) Protect against malicious, deceptive, fraudulent, or illegal activity, or identify, investigate, or prosecute those responsible for that illegal activity;

(f) Perform a contract to which the consumer is a party or in order to take steps at the request of the consumer prior to entering into a contract;

(g) Process personal data of a consumer for one or more specific purposes where the consumer has given and not withdrawn their consent to the processing for those purposes; or

(h) Assist another controller, processor, or third party with any of the obligations under this subsection.

(2) The office of privacy and data protection created in RCW 43.105.369 may grant controllers one-year waivers to permit processing that is necessary:

(a) For reasons of public health interest, where the processing: (i) Is subject to suitable and specific measures to safeguard consumer rights; and (ii) is under the responsibility of a professional subject to confidentiality obligations under federal, state, or local law;

(b) For archiving purposes in the public interest, scientific or historical research purposes, or statistical purposes, where the deletion of personal data is likely to render impossible or seriously impair the achievement of the objectives of the processing;

(c) To safeguard intellectual property rights; or

(d) To protect the vital interests of the consumer or of another natural person.

(3) A controller may not sell any personal data processed under subsections (1) and (2) of this section.

(4) The obligations imposed on controllers or processors under this chapter do not apply where compliance by the controller or processor with this chapter would violate an evidentiary privilege under Washington law and do not prevent a controller or processor from providing personal data concerning a consumer to a person covered by an evidentiary privilege under Washington law as part of a privileged communication.

(5) This chapter does not require a controller or processor to do the following:

(a) Reidentify deidentified data; or

(b) Retain, link, or combine personal data concerning a consumer that it would not otherwise retain, link, or combine in the ordinary course of business.

**NEW SECTION. Sec. 12. FACIAL RECOGNITION.** (1) Prior to using facial recognition technology, controllers and processors must verify, through independent third-party testing or auditing, that no statistically significant variation occurs in the accuracy of the facial recognition technology on the basis of race, skin tone, ethnicity, gender, or age of the individuals portrayed in testing images.

(2) Controllers shall not use facial recognition for profiling or to make decisions that produce legal effects concerning consumers including, but not limited to, denial of consequential service or support, such as financial and lending services, housing, insurance, education enrollment, criminal justice, employment opportunities, and health care services.

(3) Processors that provide facial recognition services must provide documentation that includes general information that explains the capabilities and limitations of

the technology in terms that reasonable customers and consumers can understand.

(4) Processors that provide facial recognition services must prohibit, in the contract required by section 5 of this act, the use of such facial recognition services by controllers to unlawfully discriminate under federal or state law against individual consumers or groups of consumers.

(5) Controllers must obtain consent from consumers prior to collecting or processing any data resulting from the use of facial recognition technology in physical premises open to the public. The placement of conspicuous notice in physical premises that conveys that facial recognition services are being used does not constitute a consumer's clear and affirmative consent to the use of facial recognition services when that consumer enters a premises that have such a notice. Active, informed consumer consent is required before any data resulting from the use of facial recognition may be processed.

(6) Providers of commercial facial recognition services that make their technology available as an online service for developers and customers to use in their own scenarios must make available an application programming interface or other technical capability, chosen by the provider, to enable third parties that are legitimately engaged in independent testing to conduct reasonable tests of those facial recognition services for accuracy and unfair bias. Providers must track and make reasonable efforts to correct instances of bias identified by this independent testing.

(7) Controllers, processors, and providers of facial recognition services must notify consumers if an automated decision system makes decisions that produce legal effects, or affect the constitutional or legal rights, duties, or privileges of any Washington resident.

(8) Nothing in this section restricts a controller's or processor's ability to prevent, detect, or respond to security incidents, or to protect against theft, fraud, or other malicious or deceptive activities.

**NEW SECTION. Sec. 13. LIABILITY.** Where more than one controller or processor, or both a controller and a processor, involved in the same processing, is in violation of this chapter, the liability must be allocated among the parties according to principles of comparative fault, unless liability is otherwise allocated by contract among the parties.

**NEW SECTION. Sec. 14. ENFORCEMENT.** The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

**Sec. 15.** RCW 43.105.369 and 2016 c 195 s 2 are each amended to read as follows:

(1) The office of privacy and data protection is created within the office of the state chief information officer. The purpose of the office of privacy and data protection is to serve as a central point of contact for state agencies on policy matters involving data privacy and data protection.

(2) The director shall appoint the chief privacy officer, who is the director of the office of privacy and data protection.

(3) The primary duties of the office of privacy and data protection with respect to state agencies are:

(a) To conduct an annual privacy review;

(b) To conduct an annual privacy training for state agencies and employees;

(c) To articulate privacy principles and best practices;

(d) To coordinate data protection in cooperation with the agency; and

(e) To participate with the office of the state chief information officer in the review of major state agency projects involving personally identifiable information.

(4) The office of privacy and data protection must serve as a resource to local governments and the public on data privacy and protection concerns by:

(a) Developing and promoting the dissemination of best practices for the collection and storage of personally identifiable information, including establishing and conducting a training program or programs for local governments; and

(b) Educating consumers about the use of personally identifiable information on mobile and digital networks and measures that can help protect this information.

(5) By December 1, 2016, and every four years thereafter, the office of privacy and data protection must prepare and submit to the legislature a report evaluating its performance. The office of privacy and data protection must establish performance measures in its 2016 report to the legislature and, in each report thereafter, demonstrate the extent to which performance results have been achieved. These performance measures must include, but are not limited to, the following:

(a) The number of state agencies and employees who have participated in the annual privacy training;

(b) A report on the extent of the office of privacy and data protection's coordination with international and national experts in the fields of data privacy, data protection, and access equity;

(c) A report on the implementation of data protection measures by state agencies attributable in whole or in part to the office of privacy and data protection's coordination of efforts; and

(d) A report on consumer education efforts, including but not limited to the number of consumers educated through public outreach efforts, as indicated by how frequently educational documents were accessed, the office of privacy and data protection's participation in outreach events, and inquiries received back from consumers via telephone or other media.

(6) Within one year of June 9, 2016, the office of privacy and data protection must submit to the joint legislative audit and review committee for review and comment the performance measures developed under subsection (5) of this section and a data collection plan.

(7) The office of privacy and data protection shall submit a report to the legislature on the: (a) Extent to which telecommunications providers in the state are deploying advanced telecommunications capability; and (b) existence of any inequality in access to advanced telecommunications infrastructure experienced by residents of tribal lands, rural areas, and economically distressed communities. The report may be submitted at a time within the discretion of the office of privacy and data protection, at least once every four years, and only to the extent the office of privacy and data protection is able to gather and present the information within existing resources.

(8) The office of privacy and data protection must conduct an analysis on the public and private sector use of facial recognition. By September 30, 2020, the office of privacy and data protection must submit a report of its findings and recommendations for use or limits to use of facial recognition technology to the appropriate committees of the legislature.

(9) The office of privacy and data protection must conduct a study on whether the federal health insurance portability and accountability act of 1996, the federal health information technology for economic and clinical health act, and related regulations adequately protect personal health information and prevent it from being bought, sold, or traded on a commercial basis. By December 31, 2020, the office of privacy and data protection must submit a report of its findings to the appropriate committees of the legislature.

(10) The office of privacy and data protection must convene a work group to study the best practices for ensuring consumers understand their privacy rights prior to agreeing to terms of service, terms of agreement, and other similar documents. The work group should consider the efficacy of summaries, abstracts, and other explanatory measures. By July 31, 2021, the office of privacy and data protection must submit a report of its findings and recommendations to the appropriate committees of the legislature.

(11) The office of privacy and data protection, in consultation with the attorney general, must by rule clarify definitions of this chapter as necessary. The office of privacy and data protection may create rules for granting waivers for purposes of section 11(2) of this act.

**NEW SECTION. Sec. 16.** A new section is added to chapter 9.73 RCW to read as follows:

(1) For purposes of this section, "facial recognition" has the same meaning as in section 3 of this act.

(2) State and local government agencies may not use facial recognition technology to engage in surveillance in public places, unless such a use is in support of law enforcement activities and either: (a) A court issued a warrant targeting an individual and based on probable cause to permit the use of facial recognition technology for that specific, individualized surveillance during a specified limited time frame; or (b) there is an emergency involving imminent danger or risk of death or serious injury to a person, in which case facial recognition may be used for the limited duration of the emergency.

(3) All use of facial recognition must be in compliance with Article I, section 7 of the state Constitution.

**NEW SECTION. Sec. 17. PREEMPTION.** This chapter supersedes and preempts laws, ordinances, regulations, or the equivalent adopted by any local entity regarding the processing of personal data by controllers or processors.

**NEW SECTION. Sec. 18.** Sections 1 through 14 and 17 of this act constitute a new chapter in Title 19 RCW.

**NEW SECTION. Sec. 19.** This act is subject to appropriations in the omnibus appropriations act.

**NEW SECTION. Sec. 20.** If any provision of this act is found to be in conflict with federal or state law or regulations, the conflicting provision of this act is declared to be inoperative.

**NEW SECTION. Sec. 21.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 22.** This act takes effect July 30, 2020, except for section 15 which takes effect ninety days after final adjournment of the legislative session in which this act is enacted."

Correct the title.

Signed by Representatives Hudgins, Chair; Kloba, Vice Chair; Slatter; Tarleton and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Smith, Ranking Minority Member; Boehnke, Assistant Ranking Minority Member; Morris and Van Werven.

Referred to Committee on Appropriations.

April 2, 2019

SSB 5380 Prime Sponsor, Committee on Health & Long Term Care: Concerning opioid use disorder treatment, prevention, and related services. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature declares that opioid use disorder is a public health crisis. State agencies must increase access to evidence-based opioid use disorder treatment services, promote coordination of services within the substance use disorder treatment and recovery support system, strengthen partnerships between opioid use disorder treatment providers and their allied community partners, expand the use of the Washington state prescription drug monitoring program, and support comprehensive school and community-based substance use prevention services.

This act leverages the direction provided by the Washington state interagency opioid working plan in order to address the opioid epidemic challenging communities throughout the state.

Agencies administering state purchased health care programs, as defined in RCW 41.05.011, shall coordinate activities to implement the provisions of this act and the Washington state interagency opioid working plan, explore opportunities to address the opioid epidemic, and provide status updates as directed by the joint legislative executive committee on health care oversight to promote legislative and executive coordination.

Sec. 2. 2005 c 70 s 1 (uncodified) is amended to read as follows:

The legislature finds that drug use among pregnant ~~((women))~~ individuals is a significant and growing concern statewide. ~~((The legislature further finds that methadone, although an effective alternative to other substance use treatments, can result in babies who are exposed to methadone while in utero being born addicted and facing the painful effects of withdrawal.))~~ Evidence-informed group prenatal care reduces preterm birth for infants, and increases maternal social cohesion and support during pregnancy and postpartum, which is good for maternal mental health.

It is the intent of the legislature to notify all pregnant ~~((mothers))~~ individuals who are receiving ~~((methadone treatment))~~ medication for the treatment of opioid use disorder of the risks and benefits ~~((methadone))~~ such medication could have on their baby during pregnancy through birth and to inform them of the potential need for the newborn baby to be ~~((taken care of))~~ treated in a hospital setting or in a specialized supportive environment designed

specifically to address ~~((newborn addiction problems))~~ and manage neonatal opioid or other drug withdrawal syndromes.

NEW SECTION. Sec. 3. A new section is added to chapter 18.22 RCW to read as follows:

By January 1, 2020, the board must adopt or amend its rules to require podiatric physicians who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the podiatric physician must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 4. A new section is added to chapter 18.32 RCW to read as follows:

By January 1, 2020, the commission must adopt or amend its rules to require dentists who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the dentist must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 5. A new section is added to chapter 18.57 RCW to read as follows:

By January 1, 2020, the board must adopt or amend its rules to require osteopathic physicians who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the osteopathic physician must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 6. A new section is added to chapter 18.57A RCW to read as follows:

By January 1, 2020, the board must adopt or amend its rules to require osteopathic physicians' assistants who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the osteopathic physician's assistant must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 7. A new section is added to chapter 18.64 RCW to read as follows:

A pharmacist may partially fill a prescription for a schedule II controlled substance, if the partial fill is requested by the patient or the prescribing practitioner and the total quantity dispensed in all partial fillings does not exceed the quantity prescribed.

NEW SECTION. Sec. 8. A new section is added to chapter 18.71 RCW to read as follows:

By January 1, 2020, the commission must adopt or amend its rules to require physicians who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the physician must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 9. A new section is added to chapter 18.71A RCW to read as follows:

By January 1, 2020, the commission must adopt or amend its rules to require physician assistants who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the physician assistant must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 10. A new section is added to chapter 18.79 RCW to read as follows:

By January 1, 2020, the commission must adopt or amend its rules to require advanced registered nurse practitioners who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the advanced registered nurse practitioner must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

NEW SECTION. Sec. 11. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department must create a statement warning individuals about the risks of opioid use and abuse and provide information about safe disposal of opioids. The department must provide the warning on its web site.

(2) The department must review the science, data, and best practices around the use of opioids and their associated risks. As evidence and best practices evolve, the department must update its warning to reflect these changes.

(3) The department must update its patient education materials to reflect the patient's right to refuse an opioid prescription or order.

NEW SECTION. Sec. 12. A new section is added to chapter 43.70 RCW to read as follows:

The secretary shall be responsible for coordinating the statewide response to the opioid epidemic and executing the state opioid response plan, in partnership with the health care authority. The department and the health care authority must collaborate with each of the agencies and organizations identified in the state opioid response plan.

Sec. 13. RCW 69.41.055 and 2016 c 148 s 15 are each amended to read as follows:

(1) Information concerning an original prescription or information concerning a prescription refill for a legend drug may be electronically communicated between an authorized practitioner and a pharmacy of the patient's choice with no intervening person having access to the prescription drug order pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription or order for a legend drug;

~~(b) ((The system used for transmitting electronically communicated prescription information and the system used for receiving electronically communicated prescription information must be approved by the commission. This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The commission shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the commission;~~

~~(e))~~ An explicit opportunity for practitioners must be made to indicate their preference on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted. This section does not limit the ability of practitioners and pharmacists to permit substitution by default under a prior-consent authorization;

~~((d))~~ (c) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

~~((e))~~ (d) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records~~((The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures));~~ and

~~((f))~~ (e) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.

(2) The electronic or digital signature of the prescribing practitioner's agent on behalf of the prescribing practitioner for a resident in a long-term care facility or hospice program, pursuant to a valid order and authorization under RCW 18.64.550, constitutes a valid electronic

communication of prescription information. Such an authorized signature and transmission by an agent in a long-term care facility or hospice program does not constitute an intervening person having access to the prescription drug order.

(3) The commission may adopt rules implementing this section.

**Sec. 14.** RCW 69.41.095 and 2015 c 205 s 2 are each amended to read as follows:

(1)(a) A practitioner may prescribe, dispense, distribute, and deliver an opioid overdose reversal medication: (i) Directly to a person at risk of experiencing an opioid-related overdose; or (ii) by prescription, collaborative drug therapy agreement, standing order, or protocol to a first responder, family member, or other person or entity in a position to assist a person at risk of experiencing an opioid-related overdose. Any such prescription, standing order, or protocol (~~(order)~~) is issued for a legitimate medical purpose in the usual course of professional practice.

(b) At the time of prescribing, dispensing, distributing, or delivering the opioid overdose reversal medication, the practitioner shall inform the recipient that as soon as possible after administration of the opioid overdose reversal medication, the person at risk of experiencing an opioid-related overdose should be transported to a hospital or a first responder should be summoned.

(2) A pharmacist may dispense an opioid overdose reversal medication pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued in accordance with subsection (1)(a) of this section and may administer an opioid overdose reversal medication to a person at risk of experiencing an opioid-related overdose. At the time of dispensing an opioid overdose reversal medication, a pharmacist shall provide written instructions on the proper response to an opioid-related overdose, including instructions for seeking immediate medical attention. The instructions to seek immediate (~~(medication)~~) medical attention must be conspicuously displayed.

(3) Any person or entity may lawfully possess, store, deliver, distribute, or administer an opioid overdose reversal medication pursuant to a prescription (~~(or)~~), collaborative drug therapy agreement, standing order, or protocol issued by a practitioner in accordance with subsection (1) of this section.

(4) The following individuals, if acting in good faith and with reasonable care, are not subject to criminal or civil liability or disciplinary action under chapter 18.130 RCW for any actions authorized by this section or the outcomes of any actions authorized by this section:

(a) A practitioner who prescribes, dispenses, distributes, or delivers an opioid overdose reversal medication pursuant to subsection (1) of this section;

(b) A pharmacist who dispenses an opioid overdose reversal medication pursuant to subsection (2) or (5)(a) of this section;

(c) A person who possesses, stores, distributes, or administers an opioid overdose reversal medication pursuant to subsection (3) of this section.

(5) The secretary or the secretary's designee may issue a standing order prescribing opioid overdose reversal medications to any person at risk of experiencing an opioid-related overdose or any person or entity in a position to assist a person at risk of experiencing an opioid-related overdose. The standing order may be limited to specific areas in the state or issued statewide.

(a) A pharmacist shall dispense an opioid overdose reversal medication pursuant to a standing order issued in accordance with this subsection, consistent with the pharmacist's responsibilities to dispense prescribed legend drugs, and may administer an opioid overdose reversal medication to a person at risk of experiencing an opioid-related overdose. At the time of dispensing an opioid overdose reversal medication, a pharmacist shall provide written instructions on the proper response to an opioid-related overdose, including instructions for seeking immediate medical attention. The instructions to seek immediate medical attention must be conspicuously displayed.

(b) Any person or entity may lawfully possess, store, deliver, distribute, or administer an opioid overdose reversal medication pursuant to a standing order issued in accordance with this subsection (5). The department, in coordination with the appropriate entity or entities, shall ensure availability of a training module that provides training regarding the identification of a person suffering from an opioid-related overdose and the use of opioid overdose reversal medications. The training must be available electronically and in a variety of media from the department.

(c) This subsection (5) does not create a private cause of action. Notwithstanding any other provision of law, neither the state nor the secretary nor the secretary's designee has any civil liability for issuing standing orders or for any other actions taken pursuant to this chapter or for the outcomes of issuing standing orders or any other actions taken pursuant to this chapter. Neither the secretary nor the secretary's designee is subject to any criminal liability or professional disciplinary action for issuing standing orders or for any other actions taken pursuant to this chapter.

(d) For purposes of this subsection (5), "standing order" means an order prescribing medication by the secretary or the secretary's designee. Such standing order can only be issued by a practitioner as defined in this chapter.

(6) 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 shall ensure that directions for use are provided.

(7) For purposes of this section, the following terms have the following meanings unless the context clearly requires otherwise:

(a) "First responder" means: (i) A career or volunteer firefighter, law enforcement officer, paramedic as defined in RCW 18.71.200, or first responder or emergency medical technician as defined in RCW 18.73.030; and (ii) an entity that employs or supervises an individual listed in (a)(i) of this subsection, including a volunteer fire department.

(b) "Opioid overdose reversal medication" means any drug used to reverse an opioid overdose that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors. It does not include intentional administration via the intravenous route.

(c) "Opioid-related overdose" means a condition including, but not limited to, (~~extreme physical illness,~~) decreased level of consciousness, nonresponsiveness, respiratory depression, coma, or death that: (i) Results from the consumption or use of an opioid or another substance with which an opioid was combined; or (ii) a lay person would reasonably believe to be an opioid-related overdose requiring medical assistance.

(d) "Practitioner" means a health care practitioner who is authorized under RCW 69.41.030 to prescribe legend drugs.

(e) "Standing order" or "protocol" means written or electronically recorded instructions, prepared by a prescriber, for distribution and administration of a drug by designated and trained staff or volunteers of an organization or entity, as well as other actions and interventions to be used upon the occurrence of clearly defined clinical events in order to improve patients' timely access to treatment.

**Sec. 15.** RCW 69.50.312 and 2013 c 276 s 4 and 2013 c 19 s 105 are each reenacted and amended to read as follows:

(1) Information concerning a prescription for a controlled substance included in Schedules II through V, or information concerning a refill authorization for a controlled substance included in Schedules III through V(~~(f)~~), may be electronically communicated to a pharmacy of the patient's choice pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription for a legend drug;

(b) The system used for transmitting electronically communicated prescription information must (~~be approved by the commission and in accordance~~) comply with federal rules for electronically communicated prescriptions for controlled substance(~~(f)~~) included in Schedules II through V, as set forth in Title 21 C.F.R. Parts 1300, 1304, 1306, and 1311(~~(- This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The commission shall maintain and~~

~~provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the commission~~);

(c) An explicit opportunity for practitioners must be made to indicate their preference on whether a therapeutically equivalent generic drug may be substituted;

(d) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records(~~(- The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures~~)); and

(f) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.

(2) The commission may adopt rules implementing this section.

**Sec. 16.** RCW 69.50.312 and 2013 c 276 s 4 and 2013 c 19 s 105 are each reenacted and amended to read as follows:

(1) Information concerning a prescription for a controlled substance included in Schedules II through V, or information concerning a refill authorization for a controlled substance included in Schedules III through V(~~(f)~~ ~~may~~), must be electronically communicated to a pharmacy of the patient's choice pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription for a legend drug;

(b) (~~The system used for transmitting electronically communicated prescription information must be approved by the commission and in accordance with federal rules for electronically communicated prescriptions for controlled substance[s] included in Schedules II through V, as set forth in Title 21 C.F.R. Parts 1300, 1304, 1306, and 1311. This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The commission shall maintain and provide, upon request, a list of systems used for electronically~~

~~communicating prescription information currently approved by the commission;~~

~~(c) An explicit opportunity for practitioners must be made to indicate their preference on whether a therapeutically equivalent generic drug may be substituted;~~

~~(d)) Prescription drug orders ((are confidential health information, and)) may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;~~

~~((e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records. The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures; and~~

~~(f)) (c) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.~~

~~(2) ((The commission may adopt rules implementing this section.)) The following are exempt from subsection (1) of this section:~~

~~(a) Prescriptions issued by veterinarians, as that practice is defined in RCW 18.92.010;~~

~~(b) Prescriptions issued for a patient of a long-term care facility as defined in RCW 18.64.011, or a hospice program as defined in RCW 18.64.011;~~

~~(c) When the electronic system used for the communication of prescription information is unavailable due to a temporary technological or electronic failure;~~

~~(d) Prescriptions issued that are intended for prescription fulfillment and dispensing outside Washington state;~~

~~(e) When the prescriber and pharmacist are employed by the same entity, or employed by entities under common ownership or control;~~

~~(f) Prescriptions issued for a drug that the United States food and drug administration or the United States drug enforcement administration requires to contain certain elements that are not able to be accomplished electronically;~~

~~(g) Any controlled substance prescription that requires compounding as defined in RCW 18.64.011;~~

~~(h) Prescriptions issued for the dispensing of a nonpatient specific prescription under a standing order, approved protocol for drug therapy, collaborative drug therapy agreement, in response to a public health emergency,~~

or other circumstances allowed by statute or rule where a practitioner may issue a nonpatient specific prescription;

(i) Prescriptions issued under a drug research protocol;

(j) Prescriptions issued by a practitioner with the capability of electronic communication of prescription information under this section, when the practitioner reasonably determines it is impractical for the patient to obtain the electronically communicated prescription in a timely manner, and such delay would adversely impact the patient's medical condition; or

(k) Prescriptions issued by a prescriber who has received a waiver from the department.

(3) The department must develop a waiver process for the requirements of subsection (1) of this section for practitioners due to economic hardship, technological limitations that are not reasonably in the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner. The waiver must be limited to one year or less, or for any other specified time frame set by the department.

(4) A pharmacist who receives a written, oral, or faxed prescription is not required to verify that the prescription properly meets any exemptions under this section. Pharmacists may continue to dispense and deliver medications from otherwise valid written, oral, or faxed prescriptions.

(5) An individual who violates this section commits a civil violation. Disciplinary authorities may impose a fine of two hundred fifty dollars per violation, not to exceed five thousand dollars per calendar year. Fines imposed under this section must be allocated to the health professions account.

(6) Systems used for the electronic communication of prescription information must:

(a) Comply with federal laws and rules for electronically communicated prescriptions for controlled substances included in Schedules II through V, as required by Title 21 C.F.R. parts 1300, 1304, 1306, and 1311;

(b) Meet the national council for prescription drug prescriber/pharmacist interface SCRIPT standard as determined by the department in rule;

(c) Have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records;

(d) Provide an explicit opportunity for practitioners to indicate their preference on whether a therapeutically equivalent generic drug may be substituted; and

(e) Include the capability to input and track partial fills of a controlled substance prescription in accordance with section 7 of this act.

NEW SECTION. Sec. 17. A new section is added to chapter 69.50 RCW to read as follows:

(1) Any practitioner who writes the first prescription for an opioid during the course of treatment to any patient must, under professional rules, discuss the following with the patient:

(a) The risks of opioids, including risk of dependence and overdose;

(b) Pain management alternatives to opioids, including nonopioid pharmacological treatments, and nonpharmacological treatments available to the patient, at the discretion of the practitioner and based on the medical condition of the patient; and

(c) A written copy of the warning language provided by the department under section 11 of this act.

(2) If the patient is under eighteen years old or is not competent, the discussion required by subsection (1) of this section must include the patient's parent, guardian, or the person identified in RCW 7.70.065, unless otherwise provided by law.

(3) The practitioner shall document completion of the requirements in subsection (1) of this section in the patient's health care record.

(4) To fulfill the requirements of subsection (1) of this section, a practitioner may designate any individual who holds a credential issued by a disciplining authority under RCW 18.130.040 to conduct the discussion.

(5) Violation of this section constitutes unprofessional conduct under chapter 18.130 RCW.

(6) This section does not apply to:

(a) Opioid prescriptions issued for the treatment of pain associated with terminal cancer or other terminal diseases, or for palliative, hospice, or other end-of-life care of where the practitioner determines the health, well-being, or care of the patient would be compromised by the requirements of this section and documents such basis for the determination in the patient's health care record; or

(b) Administration of an opioid in an inpatient or outpatient treatment setting.

(7) This section does not apply to practitioners licensed under chapter 18.92 RCW.

(8) The department shall review this section by March 31, 2026, and report to the appropriate committees of the legislature on whether this section should be retained, repealed, or amended.

**Sec. 18.** RCW 70.41.480 and 2015 c 234 s 1 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.

~~((3))~~ (4) The delivery of a single dose of medication for immediate administration to the patient is not subject to the requirements of this section.

~~((4))~~ (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) For purposes of this section:

(a) "Emergency medication" means any medication commonly prescribed to emergency ~~((room))~~ 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) "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~~((24))~~ (29).

(d) "Nurse" means a registered nurse as defined in RCW 18.79.020.

**Sec. 19.** RCW 70.168.090 and 2010 c 52 s 5 are each amended to read as follows:

(1)~~(a)~~ By July 1991, the department shall establish a statewide data registry to collect and analyze data on the incidence, severity, and causes of trauma, including traumatic brain injury. The department shall collect additional data on traumatic brain injury should additional data requirements be enacted by the legislature. The registry shall be used to improve the availability and delivery of prehospital and hospital trauma care services. Specific data elements of the registry shall be defined by rule by the department. To the extent possible, the department shall coordinate data collection from hospitals for the trauma registry with the health care data system authorized in chapter 70.170 RCW. Every hospital, facility, or health care provider authorized to provide level I, II, III, IV, or V trauma care services, level I, II, or III pediatric trauma care services,

level I, level I-pediatric, II, or III trauma-related rehabilitative services, and prehospital trauma-related services in the state shall furnish data to the registry. All other hospitals and prehospital providers shall furnish trauma data as required by the department by rule.

(b) The department may respond to requests for data and other information from the registry for special studies and analysis consistent with requirements for confidentiality of patient and quality assurance records. The department may require requestors to pay any or all of the reasonable costs associated with such requests that might be approved.

(2) The department must establish a statewide electronic emergency medical services data system and adopt rules requiring licensed ambulance and aid services to report and furnish patient encounter data to the electronic emergency medical services data system. The data system must be used to improve the availability and delivery of prehospital emergency medical services. The department must establish in rule the specific data elements of the data system and secure transport methods for data. The data collected must include data on suspected drug overdoses for the purposes of including, but not limited to, identifying individuals to engage substance use disorder peer professionals, patient navigators, outreach workers, and other professionals as appropriate to prevent further overdoses and to induct into treatment and provide other needed supports as may be available.

(3) In each emergency medical services and trauma care planning and service region, a regional emergency medical services and trauma care systems quality assurance program shall be established by those facilities authorized to provide levels I, II, and III trauma care services. The systems quality assurance program shall evaluate trauma care delivery, patient care outcomes, and compliance with the requirements of this chapter. The systems quality assurance program may also evaluate emergency cardiac and stroke care delivery. The emergency medical services medical program director and all other health care providers and facilities who provide trauma and emergency cardiac and stroke care services within the region shall be invited to participate in the regional emergency medical services and trauma care quality assurance program.

~~((3))~~ (4) Data elements related to the identification of individual patient's, provider's and facility's care outcomes shall be confidential, shall be exempt from RCW 42.56.030 through 42.56.570 and 42.17.350 through 42.17.450, and shall not be subject to discovery by subpoena or admissible as evidence.

~~((4))~~ (5) Patient care quality assurance proceedings, records, and reports developed pursuant to this section are confidential, exempt from chapter 42.56 RCW, and are not subject to discovery by subpoena or admissible as evidence~~((:))~~ in any civil action, except, after in camera review, pursuant to a court order which provides for the protection of sensitive information of interested parties including the department: (a) In actions arising out of the department's designation of a hospital or health care facility pursuant to RCW 70.168.070; (b) in actions arising out of the department's revocation or suspension of designation

status of a hospital or health care facility under RCW 70.168.070; (c) in actions arising out of the department's licensing or verification of an ambulance or aid service pursuant to RCW 18.73.030 or 70.168.080; (d) in actions arising out of the certification of a medical program director pursuant to RCW 18.71.212; or ((e)) (e) in actions arising out of the restriction or revocation of the clinical or staff privileges of a health care provider as defined in RCW 7.70.020 (1) and (2), subject to any further restrictions on disclosure in RCW 4.24.250 that may apply. Information that identifies individual patients shall not be publicly disclosed without the patient's consent.

**Sec. 20.** RCW 70.225.010 and 2007 c 259 s 42 are each amended to read as follows:

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

(1) "Controlled substance" has the meaning provided in RCW 69.50.101.

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

(3) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(4) "Dispenser" means a practitioner or pharmacy that delivers a Schedule II, III, IV, or V controlled substance to the ultimate user, but does not include:

(a) A practitioner or other authorized person who administers, as defined in RCW 69.41.010, a controlled substance; or

(b) A licensed wholesale distributor or manufacturer, as defined in chapter 18.64 RCW, of a controlled substance.

(5) "Prescriber" means any person authorized to order or prescribe legend drugs or schedule II, III, IV, or V controlled substances to the ultimate user.

(6) "Requestor" means any person or entity requesting, accessing, or receiving information from the prescription monitoring program under RCW 70.225.040 (3), (4), or (5).

**Sec. 21.** RCW 70.225.020 and 2013 c 36 s 2 and 2013 C 19 S 126 are each reenacted and amended to read as follows:

(1) The department shall establish and maintain a prescription monitoring program to monitor the prescribing and dispensing of all Schedules II, III, IV, and V controlled substances and any additional drugs identified by the pharmacy quality assurance commission as demonstrating a potential for abuse by all professionals licensed to prescribe or dispense such substances in this state. The program shall be designed to improve health care quality and effectiveness by reducing abuse of controlled substances, reducing duplicative prescribing and overprescribing of controlled substances, and improving controlled substance prescribing

practices with the intent of eventually establishing an electronic database available in real time to dispensers and prescribers of controlled substances. As much as possible, the department should establish a common database with other states. This program's management and operations shall be funded entirely from the funds in the account established under RCW 74.09.215. Nothing in this chapter prohibits voluntary contributions from private individuals and business entities as defined under Title 23, 23B, 24, or 25 RCW to assist in funding the prescription monitoring program.

(2) Except as provided in subsection (4) of this section, each dispenser shall submit to the department by electronic means information regarding each prescription dispensed for a drug included under subsection (1) of this section. Drug prescriptions for more than one day use should be reported. The information submitted for each prescription shall include, but not be limited to:

(a) Patient identifier;

(b) Drug dispensed;

(c) Date of dispensing;

(d) Quantity dispensed;

(e) Prescriber; and

(f) Dispenser.

(3)(a) Until January 1, 2021, each dispenser shall submit the information in accordance with transmission methods established by the department, not later than one business day from the date of dispensing or at the interval required by the department in rule, whichever is sooner.

(b) Beginning January 1, 2021, each dispenser must submit the information as soon as readily available, but no later than one business day from the date of distributing, and in accordance with transmission methods established by the department.

(4) The data submission requirements of subsections (1) through (3) of this section do not apply to:

(a) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW; or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses;

(b) Pharmacies operated by the department of corrections for the purpose of providing medications to offenders in department of corrections institutions who are receiving pharmaceutical services from a department of corrections pharmacy, except that the department of corrections must submit data related to each offender's current prescriptions for controlled substances upon the offender's release from a department of corrections institution; or

(c) Veterinarians licensed under chapter 18.92 RCW. The department, in collaboration with the veterinary board of governors, shall establish alternative data reporting

requirements for veterinarians that allow veterinarians to report:

- (i) By either electronic or nonelectronic methods;
  - (ii) Only those data elements that are relevant to veterinary practices and necessary to accomplish the public protection goals of this chapter; and
  - (iii) No more frequently than once every three months and no less frequently than once every six months.
- (5) The department shall continue to seek federal grants to support the activities described in chapter 259, Laws of 2007. The department may not require a practitioner or a pharmacist to pay a fee or tax specifically dedicated to the operation and management of the system.

**NEW SECTION. Sec. 22.** A new section is added to chapter 70.225 RCW to read as follows:

(1) In order to expand integration of prescription monitoring program data into certified electronic health record technologies, the department must collaborate with health professional and facility associations, vendors, and others to:

- (a) Conduct an assessment of the current status of integration;
- (b) Provide recommendations for improving integration among small and rural health care facilities, offices, and clinics;
- (c) Establish a program to provide financial assistance to small and rural health care facilities and clinics with integration as funding is available, especially under federal programs;
- (d) Conduct security assessments of other commonly used platforms for integrating prescription monitoring program data with certified electronic health records for possible use in Washington; and
- (e) Assess improvements to the prescription monitoring program to establish a modality to identify patients that do not wish to receive opioid medications in a manner that allows an ordering or prescribing physician to be able to use the prescription monitoring program to identify patients who do not wish to receive opioids or patients that have had an opioid-related overdose.

(2)(a) By January 1, 2021, a facility, entity, office, or provider group identified in RCW 70.225.040 with ten or more providers that is not a critical access hospital as defined in RCW 74.60.010 that uses a federally certified electronic health records system must demonstrate that the facility's or entity's federally certified electronic health record is able to fully integrate data to and from the prescription monitoring program using a mechanism approved by the department under subsection (3) of this section.

(b) The department must develop a waiver process for the requirements of (a) of this subsection for facilities, entities, offices, or provider groups due to economic hardship, technological limitations that are not reasonably in

the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner. The waiver must be limited to one year or less, or for any other specified time frame set by the department.

(3) Electronic health record system vendors who are fully integrated with the prescription monitoring program in Washington state may not charge an ongoing fee or a fee based on the number of transactions or providers. Total costs of connection must not impose unreasonable costs on any facility, entity, office, or provider group using the electronic health record and must be consistent with current industry pricing structures. For the purposes of this subsection, "fully integrated" means that the electronic health records system must:

- (a) Send information to the prescription monitoring program without provider intervention using a mechanism approved by the department;
- (b) Make current information from the prescription monitoring program available to a provider within the workflow of the electronic health records system; and
- (c) Make information available in a way that is unlikely to interfere with, prevent, or materially discourage access, exchange, or use of electronic health information, in accordance with the information blocking provisions of the federal twenty-first century cures act, P.L. 114-255.

**Sec. 23.** RCW 70.225.040 and 2017 c 297 s 9 are each amended to read as follows:

(1) ~~((Prescription))~~ All information submitted to the ((department must be)) prescription monitoring program is confidential, ((in compliance with chapter 70.02 RCW and)) exempt from public inspection, copying, and disclosure under chapter 42.56 RCW, not subject to subpoena or discovery in any civil action, and protected under federal health care information privacy requirements ((and not subject to disclosure)), except as provided in subsections (3)((, (4), and (5))) through (6) of this section. Such confidentiality and exemption from disclosure continues whenever information from the prescription monitoring program is provided to a requestor under subsection (3), (4), (5), or (6) of this section except when used in proceedings specifically authorized in subsection (3), (4), or (5) of this section.

(2) The department must maintain procedures to ensure that the privacy and confidentiality of ~~((patients and patient))~~ all information collected, recorded, transmitted, and maintained including, but not limited to, the prescriber, requestor, dispenser, patient, and persons who received prescriptions from dispensers, is not disclosed to persons except as in subsections (3)((, (4), and (5))) through (6) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

- (a) Persons authorized to prescribe or dispense controlled substances or legend drugs, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) A health professional licensing, certification, or regulatory agency or entity in this or another jurisdiction. Consistent with current practice, the data provided may be used in legal proceedings concerning the license;

(d) Appropriate law enforcement or prosecutorial officials, including local, state, and federal officials and officials of federally recognized tribes, who are engaged in a bona fide specific investigation involving a designated person;

~~(e) ((Authorized practitioners of the department of social and health services and the health care authority regarding medicaid program recipients;~~

~~((f)) The director or the director's designee within the health care authority regarding medicaid ((clients for the purposes of quality improvement, patient safety, and care coordination. The information may not be used for contracting or value-based purchasing decisions)) recipients and members of the health care authority self-funded or self-insured health plans;~~

~~((g)) (f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;~~

~~((h)) (g) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;~~

~~((i)) (h) Other entities under grand jury subpoena or court order;~~

~~((j)) (i) Personnel of the department for purposes of:~~

~~(i) Assessing prescribing and treatment practices(~~including controlled substances related to mortality and morbidity~~) and morbidity and mortality related to use of controlled substances and developing and implementing initiatives to protect the public health including, but not limited to, initiatives to address opioid use disorder;~~

~~(ii) Providing quality improvement feedback to ((providers)) prescribers, including comparison of their respective data to aggregate data for ((providers)) prescribers with the same type of license and same specialty; and~~

~~(iii) Administration and enforcement of this chapter or chapter 69.50 RCW;~~

~~((k)) (j) Personnel of a test site that meet the standards under RCW 70.225.070 pursuant to an agreement between the test site and a person identified in (a) of this subsection to provide assistance in determining which medications are being used by an identified patient who is under the care of that person;~~

~~((l)) (k) A health care facility or entity for the purpose of providing medical or pharmaceutical care to the patients of the facility or entity, or for quality improvement purposes if((:~~

~~((m)) the facility or entity is licensed by the department or is licensed or certified under chapter 71.24, 71.34, or 71.05 RCW or is an entity deemed for purposes of chapter 71.24 RCW to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body, or is operated by the federal government or a federally recognized Indian tribe; ((and~~

~~((n)) The facility or entity is a trading partner with the state's health information exchange;~~

~~((o)) (l) A health care provider group of five or more ((providers)) prescribers or dispensers for purposes of providing medical or pharmaceutical care to the patients of the provider group, or for quality improvement purposes if((:~~

~~((p)) all the ((providers)) prescribers or dispensers in the provider group are licensed by the department or the provider group is operated by the federal government or a federally recognized Indian tribe; ((and~~

~~((q)) The provider group is a trading partner with the state's health information exchange;~~

~~((r)) (m) The local health officer of a local health jurisdiction for the purposes of patient follow-up and care coordination following a controlled substance overdose event. For the purposes of this subsection "local health officer" has the same meaning as in RCW 70.05.010; and~~

~~((s)) (n) The coordinated care electronic tracking program developed in response to section 213, chapter 7, Laws of 2012 2nd sp. sess., commonly referred to as the seven best practices in emergency medicine, for the purposes of providing:~~

~~(i) Prescription monitoring program data to emergency department personnel when the patient registers in the emergency department; and~~

~~(ii) Notice to local health officers who have made opioid-related overdose a notifiable condition under RCW 70.05.070 as authorized by rules adopted under RCW 43.20.050, providers, appropriate care coordination staff, and prescribers listed in the patient's prescription monitoring program record that the patient has experienced a controlled substance overdose event. The department shall determine the content and format of the notice in consultation with the Washington state hospital association, Washington state medical association, and Washington state health care authority, and the notice may be modified as necessary to reflect current needs and best practices.~~

~~(4) The department shall, on at least a quarterly basis, and pursuant to a schedule determined by the department, provide a facility or entity identified under subsection (3)((f)) (k) of this section or a provider group identified under subsection (3)((m)) (l) of this section with facility or entity and individual prescriber information if the facility, entity, or provider group:~~

~~(a) Uses the information only for internal quality improvement and individual prescriber quality improvement feedback purposes and does not use the information as the sole basis for any medical staff sanction or adverse employment action; and~~

(b) Provides to the department a standardized list of current prescribers of the facility, entity, or provider group. The specific facility, entity, or provider group information provided pursuant to this subsection and the requirements under this subsection must be determined by the department in consultation with the Washington state hospital association, Washington state medical association, and Washington state health care authority, and may be modified as necessary to reflect current needs and best practices.

(5)(a) The department may publish or provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used directly or indirectly to identify individual patients, requestors, dispensers, prescribers, and persons who received prescriptions from dispensers. Direct and indirect patient identifiers may be provided for research that has been approved by the Washington state institutional review board and by the department through a data-sharing agreement.

(b)(i) The department may provide dispenser and prescriber data and data that includes indirect patient identifiers to the Washington state hospital association for use solely in connection with its coordinated quality improvement program maintained under RCW 43.70.510 after entering into a data use agreement as specified in RCW 43.70.052(8) with the association. The department may provide dispenser and prescriber data and data that includes indirect patient identifiers to the Washington state medical association for use solely in connection with its coordinated quality improvement program maintained under RCW 43.70.510 after entering into a data use agreement with the association.

(ii) The department may provide data including direct and indirect patient identifiers to the department of social and health services office of research and data analysis, the department of labor and industries, and the health care authority for research that has been approved by the Washington state institutional review board and, with a data-sharing agreement approved by the department, for public health purposes to improve the prevention or treatment of substance use disorders.

(iii) The department may provide a prescriber feedback report to the largest health professional association representing each of the prescribing professions. The health professional associations must distribute the feedback report to prescribers engaged in the professions represented by the associations for quality improvement purposes, so long as the reports contain no direct patient identifiers that could be used to identify individual patients, dispensers, and persons who received prescriptions from dispensers, and the association enters into a written data-sharing agreement with the department. However, reports may include indirect patient identifiers as agreed to by the department and the association in a written data-sharing agreement.

(c) For the purposes of this subsection((c));

(i) "Indirect patient identifiers" means data that may include: Hospital or provider identifiers, a five-digit zip code, county, state, and country of resident; dates that include month and year; age in years; and race and ethnicity; but does not include the patient's first name; middle name;

last name; social security number; control or medical record number; zip code plus four digits; dates that include day, month, and year; or admission and discharge date in combination; and

(ii) "Prescribing professions" include:

(A) Allopathic physicians and physician assistants;

(B) Osteopathic physicians and physician assistants;

(C) Podiatric physicians;

(D) Dentists; and

(E) Advanced registered nurse practitioners.

(6) The department may enter into agreements to exchange prescription monitoring program data with established prescription monitoring programs in other jurisdictions. Under these agreements, the department may share prescription monitoring system data containing direct and indirect patient identifiers with other jurisdictions through a clearinghouse or prescription monitoring program data exchange that meets federal health care information privacy requirements. Data the department receives from other jurisdictions must be retained, used, protected, and destroyed as provided by the agreements to the extent consistent with the laws in this state.

(7) Persons authorized in subsections (3)((, (4), and (5))) through (6) of this section to receive data in the prescription monitoring program from the department, acting in good faith, are immune from any civil, criminal, disciplinary, or administrative liability that might otherwise be incurred or imposed for acting under this chapter.

**Sec. 24.** RCW 71.24.011 and 1982 c 204 s 1 are each amended to read as follows:

This chapter may be known and cited as the community ~~((mental))~~ behavioral health services act.

**NEW SECTION. Sec. 25.** A new section is added to chapter 71.24 RCW to read as follows:

(1) Recognizing that treatment strategies and modalities for the treatment of individuals with opioid use disorder and their newborns continue to evolve, and that improved health outcomes are seen when birth parents and their infants are allowed to room together, the authority must provide recommendations to the office of financial management by October 1, 2019, to better support the care of individuals who have recently delivered and their newborns.

(2) These recommendations must support:

(a) Successful transition from the early postpartum and newborn period for the birth parent and infant to the next level of care;

(b) Reducing the risk of parental infant separation; and

(c) Increasing the chance of uninterrupted recovery of the parent and foster the development of positive parenting practices.

(3) The authority's recommendations must include:

(a) How these interventions could be supported in hospitals, birthing centers, or other appropriate sites of care and descriptions as to current barriers in providing these interventions;

(b) Estimates of the costs needed to support this enhanced set of services; and

(c) Mechanisms for funding the services.

**Sec. 26.** RCW 71.24.560 and 2017 c 297 s 11 are each amended to read as follows:

(1) All approved opioid treatment programs that provide services to ~~((women))~~ individuals who are pregnant are required to disseminate up-to-date and accurate health education information to all their pregnant ~~((clients))~~ individuals concerning the ~~((possible addiction and health risks that their treatment may have on their baby))~~ effects of opioid use and opioid use disorder medication may have on their baby, including the development of dependence and subsequent withdrawal. All pregnant ~~((clients))~~ individuals must also be advised of the risks to both themselves and their ~~((baby))~~ babies associated with ~~((not remaining on the))~~ discontinuing an opioid treatment program. The information must be provided to these ~~((clients))~~ individuals both verbally and in writing. The health education information provided to the pregnant ~~((clients))~~ individuals must include referral options for ~~((the substance exposed baby))~~ a baby who has been exposed to opioids in utero.

(2) The department shall adopt rules that require all opioid treatment programs to educate all pregnant ~~((women))~~ individuals in their program on the benefits and risks of medication-assisted treatment to ~~((their))~~ a developing fetus before they are ~~((provided))~~ prescribed these medications, as part of their treatment. The department shall also adopt rules requiring all opioid treatment programs to educate individuals who become pregnant about the risks to both the expecting parent and the fetus of not treating opioid use disorder. The department shall meet the requirements under this subsection within the appropriations provided for opioid treatment programs. The department, working with treatment providers and medical experts, shall develop and disseminate the educational materials to all certified opioid treatment programs.

(3) For pregnant individuals who participate in medicaid, the authority, through its managed care organizations, must ensure that pregnant individuals receive outreach related to opioid use disorder when identified as a person at risk.

**Sec. 27.** RCW 71.24.580 and 2018 c 205 s 2 and 2018 c 201 s 4044 are each reenacted and amended to read as follows:

(1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance use disorder treatment and treatment support services for offenders with a substance use disorder that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; (b) the provision of substance use disorder treatment services and treatment support services for nonviolent offenders within a drug court program; and (c) the administrative and overhead costs associated with the operation of a drug court. Amounts provided in this subsection must be used for treatment and recovery support services for criminally involved offenders and authorization of these services shall not be subject to determinations of medical necessity. During the 2017-2019 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the criminal justice treatment account to the state general fund. It is the intent of the legislature to continue in the 2019-2021 biennium the policy of transferring to the state general fund such amounts as reflect the excess fund balance of the account. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means services that are critical to a participant's successful completion of his or her substance use disorder treatment program, including but not limited to the recovery support and other programmatic elements outlined in RCW 2.30.030 authorizing therapeutic courts; and

(b) "Treatment support" includes transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) Funds transferred to the account pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

(4)(a) For the fiscal year beginning July 1, 2005, and each subsequent fiscal year, the state treasurer shall transfer eight million two hundred fifty thousand dollars from the general fund to the criminal justice treatment account, divided into four equal quarterly payments. For the fiscal year beginning July 1, 2006, and each subsequent fiscal year, the amount transferred shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.

(b) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in (a) of this subsection to the department for the purposes of subsection (5) of this section.

(5) Moneys appropriated to the authority from the criminal justice treatment account shall be distributed as specified in this subsection. The authority may retain up to three percent of the amount appropriated under subsection (4)(b) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the authority from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The authority, in consultation with the department of corrections, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance use disorder treatment providers, and any other person deemed by the authority to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the authority from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The authority shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, and substance use disorder treatment providers. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a plan, approved by the county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The submitted plan should incorporate current evidence-based practices in substance use disorder treatment. The funds shall be used solely to provide approved alcohol and substance ~~((abuse))~~ use disorder treatment pursuant to RCW 71.24.560 and treatment support services. No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) If a region or county uses criminal justice treatment account funds to support a therapeutic court, the therapeutic court must allow the use of all medications approved by the federal food and drug administration for the treatment of opioid use disorder as deemed medically appropriate for a participant by a medical professional. If appropriate medication-assisted treatment resources are not available or accessible within the jurisdiction, the health care authority's designee for assistance must assist the court with acquiring the resource.

(10) Counties must meet the criteria established in RCW 2.30.030(3).

**Sec. 28.** RCW 71.24.585 and 2017 c 297 s 12 are each amended to read as follows:

~~((The state of Washington declares that there is no fundamental right to medication-assisted treatment for opioid use disorder.)) (1)(a) The state of Washington ((further)) declares that ((while medications used in the treatment of opioid use disorder are addictive substances, that they nevertheless have several legal, important, and justified uses and that one of their appropriate and legal uses is, in conjunction with other required therapeutic procedures, in the treatment of persons with opioid use disorder. The state of Washington recognizes as evidence based for the management of opioid use disorder the medications approved by the federal food and drug administration for the treatment of opioid use disorder. Medication-assisted treatment should only be used for participants who are deemed appropriate to need this level of intervention. Providers must inform patients of all treatment options available. The provider and the patient shall consider alternative treatment options, like abstinence, when developing the treatment plan. If medications are prescribed, follow up must be included in the treatment plan in order to work towards the goal of abstinence.)) substance use disorders are medical conditions. Substance use disorders should be treated in a manner similar to other medical conditions by using interventions that are supported by evidence. There is a large body of evidence that medications approved by the federal food and drug administration for the treatment of opioid use disorder are highly effective for reducing deaths from opioid overdose and increasing medical outcomes in treatment. It is also recognized that many individuals have multiple substance use disorders, as well as histories of trauma, developmental disabilities, or mental health conditions. As such, all individuals experiencing opioid use disorder should be offered evidence-supported treatments to include federal food and drug administration approved medications for the treatment of opioid use disorders and behavioral counseling and social supports to address them. For behavioral health agencies, an effective plan of treatment for most persons with opioid use disorder integrates access to medications and psychosocial counseling and should be consistent with the American society of addiction medicine patient placement criteria. It is the intent of the legislature that through a strong collaborative care approach, involving the team of providers, the person with opioid use disorder should be provided with a well-coordinated plan of interventions based on evidence~~

while preserving the patient voice in treatment. Providers must inform patients with opioid use disorder or substance use disorder of options to access federal food and drug administration approved medications for the treatment of opioid use disorder or substance use disorder. Because some such medications are controlled substances in chapter 69.50 RCW, the state of Washington maintains the legal obligation and right to regulate the ((clinical)) uses of these medications in the treatment of opioid use disorder.

((Further,)) (b) Given the state of Washington recognizes substance use disorders as chronic medical conditions, the authority must work with other state agencies and stakeholders to develop value-based payment strategies to better support the ongoing care of persons with opioid and other substance use disorders.

(c) The department of corrections shall develop policies to prioritize services based on available grant funding and funds appropriated specifically for opioid use disorder treatment.

(2) The authority must promote the use of medication therapies and other evidence-based strategies to address the opioid epidemic in Washington state. Additionally, by January 1, 2020, the authority must prioritize state resources for the provision of treatment and recovery support services to inpatient and outpatient treatment settings that allow patients to start or maintain their use of medications for opioid use disorder while engaging in services.

(3) The state declares that the main goals of ((opiate substitution treatment is total abstinence from substance use for the individuals who participate in the treatment program, but recognizes the additional goals of reduced morbidity, and restoration of the ability to lead a productive and fulfilling life. The state recognizes that a small percentage of persons who participate in opioid treatment programs require treatment for an extended period of time. Opioid treatment programs shall provide a comprehensive transition program to eliminate substance use, including opioid use of program participants)) treatment for persons with opioid use disorder are the cessation of unprescribed opioid use, reduced morbidity, and restoration of the ability to lead a productive and fulfilling life.

(4) To achieve the goals in subsection (3) of this section, to promote public health and safety, and to promote the efficient and economic use of funding for the medicaid program under Title XIX of the social security act, the authority may seek, receive, and expend alternative sources of funding to support all aspects of the state's response to the opioid crisis.

(5) The authority must partner with the department of social and health services, the department of corrections, the department of health, the department of children, youth, and families, and any other agencies or entities the authority deems appropriate to develop a statewide approach to leveraging medicaid funding to treat opioid use disorder and provide emergency overdose treatment. Such alternative sources of funding may include, but are not limited to:

(a) Seeking a section 1115 demonstration waiver from the federal centers for medicare and medicaid services to fund opioid treatment medications for persons eligible for medicaid at or during the time of incarceration and juvenile detention facilities. The authority's application for any such waiver must comply with all applicable federal requirements for obtaining such waiver; and

(b) Soliciting and receiving private funds, grants, and donations from any willing person or entity.

(6)(a) The authority may replicate effective approaches such as opioid hub and spoke treatment networks to broaden outreach and patient navigation with allied opioid use disorder community partners, including but not limited to: Federally accredited opioid treatment programs, substance use disorder treatment facilities, jails, syringe exchange programs, community mental health centers, and primary care clinics.

(b) To carry out this subsection (6), the authority shall work with the department of health to promote coordination between medication-assisted treatment prescribers, federally accredited opioid treatment programs, substance use disorder treatment facilities, and state-certified substance use disorder treatment agencies to:

(i) Increase patient choice in receiving medication and counseling;

(ii) Strengthen relationships between opioid use disorder providers;

(iii) Acknowledge and address the challenges presented for individuals needing treatment for multiple substance use disorders simultaneously; and

(iv) Study and review effective methods to identify and reach out to individuals with opioid use disorder who are at high risk of overdose and not involved in traditional systems of care, such as homeless individuals using syringe service programs, and connect such individuals to appropriate treatment.

(c) Given the unique role opioid treatment programs serve in the continuum of care for persons with opioid use disorders, the authority must work with stakeholders to develop a set of recommendations to the governor and the legislature that:

(i) Propose, in addition to those required by federal law, a standard set of services needed to support the complex treatment needs of persons with opioid use disorder treated in opioid treatment programs;

(ii) Outline the components of and strategies needed to develop opioid treatment program centers of excellence that provide fully integrated care for persons with opioid use disorder; and

(iii) Estimate the costs needed to support these models and recommendations for funding strategies that must be included in the report.

(7) State agencies shall review and promote positive outcomes associated with the accountable communities of health funded opioid projects and local law enforcement and

human services opioid collaborations as set forth in the Washington state interagency opioid working plan.

(8) The authority must partner with the department and other state agencies to replicate effective approaches for linking individuals who have had a nonfatal overdose with treatment opportunities, with a goal to connect certified peer counselors with individuals who have had a nonfatal overdose.

(9) To achieve the goals of subsection (3) of this section, state agencies must work together to increase outreach and education about opioid overdoses to non-English-speaking communities by developing a plan to conduct outreach and education to non-English-speaking communities. The department must submit a report on the outreach and education plan with recommendations for implementation to the appropriate legislative committees by July 1, 2020.

NEW SECTION. Sec. 29. A new section is added to chapter 71.24 RCW to read as follows:

(1) Subject to funds appropriated by the legislature, the authority shall implement a pilot project for law enforcement assisted diversion which shall adhere to law enforcement assisted diversion core principles recognized by the law enforcement assisted diversion national support bureau, the efficacy of which have been demonstrated in peer-reviewed research studies.

(2) Under the pilot project, the authority must partner with the law enforcement assisted diversion national support bureau to award a contract, subject to appropriation, for two or more geographic areas in the state of Washington for law enforcement assisted diversion. Cities, counties, and tribes may compete for participation in a pilot project.

(3) The pilot projects must provide for comprehensive technical assistance from law enforcement assisted diversion implementation experts to develop and implement a law enforcement assisted diversion program in the pilot project's geographic areas in a way that ensures fidelity to the research-based law enforcement assisted diversion model.

(4) The key elements of a law enforcement assisted diversion pilot project must include:

(a) Long-term case management for individuals with substance use disorders;

(b) Facilitation and coordination with community resources focusing on overdose prevention;

(c) Facilitation and coordination with community resources focused on the prevention of infectious disease transmission;

(d) Facilitation and coordination with community resources providing physical and behavioral health services;

(e) Facilitation and coordination with community resources providing medications for the treatment of substance use disorders;

(f) Facilitation and coordination with community resources focusing on housing, employment, and public assistance;

(g) Twenty-four hours per day and seven days per week response to law enforcement for arrest diversions; and

(h) Prosecutorial support for diversion services.

**Sec. 30.** RCW 71.24.590 and 2018 c 201 s 4045 are each amended to read as follows:

(1) When making a decision on an application for licensing or certification of a program, the department shall:

(a) Consult with the county legislative authorities in the area in which an applicant proposes to locate a program and the city legislative authority in any city in which an applicant proposes to locate a program;

(b) License or certify only programs that will be sited in accordance with the appropriate county or city land use ordinances. Counties and cities may require conditional use permits with reasonable conditions for the siting of programs. Pursuant to RCW 36.70A.200, no local comprehensive plan or development regulation may preclude the siting of essential public facilities;

(c) Not discriminate in its licensing or certification decision on the basis of the corporate structure of the applicant;

(d) Consider the size of the population in need of treatment in the area in which the program would be located and license or certify only applicants whose programs meet the necessary treatment needs of that population;

(e) Consider the availability of other certified opioid treatment programs near the area in which the applicant proposes to locate the program;

(f) Consider the transportation systems that would provide service to the program and whether the systems will provide reasonable opportunities to access the program for persons in need of treatment;

(g) Consider whether the applicant has, or has demonstrated in the past, the capability to provide the appropriate services to assist the persons who utilize the program in meeting goals established by the legislature in RCW 71.24.585. The department shall prioritize licensing or certification to applicants who have demonstrated such capability and are able to measure their success in meeting such outcomes;

(h) Hold one public hearing in the community in which the facility is proposed to be located. The hearing shall be held at a time and location that are most likely to permit the largest number of interested persons to attend and present testimony. The department shall notify all appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing.

(2) A county may impose a maximum capacity for a program of not less than three hundred fifty participants if

necessary to address specific local conditions cited by the county.

(3) A program applying for licensing or certification from the department and a program applying for a contract from a state agency that has been denied the licensing or certification or contract shall be provided with a written notice specifying the rationale and reasons for the denial.

(4) Opioid treatment programs may order, possess, dispense, and administer medications approved by the United States food and drug administration for the treatment of opioid use disorder, alcohol use disorder, tobacco use disorder, and reversal of opioid overdose. For an opioid treatment program to order, possess, and dispense any other legend drug, including controlled substances, the opioid treatment program must obtain additional licensure as required by the department, except for patient-owned medications.

(5) Opioid treatment programs may accept, possess, and administer patient-owned medications.

(6) Registered nurses and licensed practical nurses may dispense up to a thirty-one day supply of medications approved by the United States food and drug administration for the treatment of opioid use disorder to patients of the opioid treatment program, under an order or prescription and in compliance with 42 C.F.R. Sec. 8.12.

(7) For the purpose of this chapter, "opioid treatment program" means a program that:

(a) ~~((Dispensing a))~~ Engages in the treatment of opioid use disorder with medications approved by the ((federal)) United States food and drug administration for the treatment of opioid use disorder and ((dispensing medication for the)) reversal of opioid overdose; and

(b) ~~((Providing))~~ Provides a comprehensive range of medical and rehabilitative services.

**Sec. 31.** RCW 71.24.595 and 2018 c 201 s 4046 are each amended to read as follows:

(1) To achieve more medication options, the authority must work with the department and the authority's medicaid managed care organizations, to eliminate barriers and promote access to effective medications known to address opioid use disorders at state-certified opioid treatment programs. Medications include, but are not limited to: Methadone, buprenorphine, and naltrexone. The authority must encourage the distribution of naloxone to patients who are at risk of an opioid overdose.

(2) The department, in consultation with opioid treatment program service providers and counties and cities, shall establish statewide treatment standards for licensed or certified opioid treatment programs. The department shall enforce these treatment standards. The treatment standards shall include, but not be limited to, reasonable provisions for all appropriate and necessary medical procedures, counseling requirements, urinalysis, and other suitable tests as needed to ensure compliance with this chapter.

~~((2))~~ (3) The department, in consultation with opioid treatment programs and counties, shall establish statewide operating standards for certified opioid treatment programs. The department shall enforce these operating standards. The operating standards shall include, but not be limited to, reasonable provisions necessary to enable the department and counties to monitor certified or licensed opioid treatment programs for compliance with this chapter and the treatment standards authorized by this chapter and to minimize the impact of the opioid treatment programs upon the business and residential neighborhoods in which the program is located.

~~((3))~~ (4) The department shall analyze and evaluate the data submitted by each treatment program and take corrective action where necessary to ensure compliance with the goals and standards enumerated under this chapter. Opioid treatment programs are subject to the oversight required for other substance use disorder treatment programs, as described in this chapter.

**NEW SECTION. Sec. 32.** A new section is added to chapter 71.24 RCW to read as follows:

By October 1, 2019, the authority must work with the department, the accountable communities of health, and community stakeholders to develop a plan for the coordinated purchasing and distribution of opioid overdose reversal medication across the state of Washington. The plan must be developed in consultation with the University of Washington's alcohol and drug abuse institute and community agencies participating in the federal demonstration grant titled Washington state project to prevent prescription drug or opioid overdose.

**NEW SECTION. Sec. 33.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The department, in coordination with the authority, must develop a strategy to rapidly deploy a response team to a local community identified as having a high number of fentanyl-related or other drug overdoses by the local emergency management system, hospital emergency department, local health jurisdiction, law enforcement agency, or surveillance data. The response team must provide technical assistance and other support to the local health jurisdiction, health care clinics, hospital emergency departments, substance use disorder treatment providers, and other community-based organizations, and are expected to increase the local capacity to provide medication-assisted treatment and overdose education.

(2) The department and the authority must reduce barriers and promote medication treatment therapies for opioid use disorder in emergency departments and same-day referrals to opioid treatment programs, substance use disorder treatment facilities, and community-based medication treatment prescribers for individuals experiencing an overdose.

**NEW SECTION. Sec. 34.** A new section is added to chapter 71.24 RCW to read as follows:

(1) Subject to funds appropriated by the legislature, or approval of a section 1115 demonstration waiver from the federal centers for medicare and medicaid services, to fund opioid treatment medications for persons eligible for medicaid at or during the time of incarceration and juvenile detention facilities, the authority shall establish a methodology for distributing funds to city and county jails to provide medication for the treatment of opioid use disorder to individuals in the custody of the facility in any status. The authority must prioritize funding for the services required in (a) of this subsection. To the extent that funding is provided, city and county jails must:

(a) Provide medication for the treatment of opioid use disorder to individuals in the custody of the facility, in any status, who were receiving medication for the treatment of opioid use disorder through a legally authorized medical program or by a valid prescription immediately before incarceration; and

(b) Provide medication for the treatment of opioid use disorder to incarcerated individuals not less than thirty days before release when treatment is determined to be medically appropriate by a health care practitioner.

(2) City and county jails must make reasonable efforts to directly connect incarcerated individuals receiving medication for the treatment of opioid use disorder to an appropriate provider or treatment site in the geographic region in which the individual will reside before release. If a connection is not possible, the facility must document its efforts in the individual's record.

**NEW SECTION. Sec. 35.** A new section is added to chapter 74.09 RCW to read as follows:

(1) In order to support prevention of potential opioid use disorders, the authority must develop and recommend for coverage nonpharmacologic treatments for acute, subacute, and chronic noncancer pain and must report to the governor and the appropriate committees of the legislature, including any requests for funding necessary to implement the recommendations under this section. The recommendations must contain the following elements:

(a) A list of which nonpharmacologic treatments will be covered;

(b) Recommendations as to the duration, amount, and type of treatment eligible for coverage;

(c) Guidance on the type of providers eligible to provide these treatments; and

(d) Recommendations regarding the need to add any provider types to the list of currently eligible medicaid provider types.

(2) The authority must ensure only treatments that are evidence-based for the treatment of the specific acute, subacute, and chronic pain conditions will be eligible for coverage recommendations.

**NEW SECTION. Sec. 36.** A new section is added to chapter 41.05 RCW to read as follows:

A health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2020, shall provide coverage of at least one prescription drug, without prior authorization, within the drug class of substance use disorder—opioid partial agonists as established in the preferred drug list applicable to the medical assistance programs established in chapter 74.09 RCW.

**NEW SECTION. Sec. 37.** 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, 2020, a health carrier shall provide coverage of at least one prescription drug, without prior authorization, within the drug class of substance use disorder—opioid partial agonists as established in the preferred drug list applicable to the medical assistance programs established in chapter 74.09 RCW.

**NEW SECTION. Sec. 38.** A new section is added to chapter 74.09 RCW to read as follows:

Upon initiation or renewal of a contract with the authority to administer a medicaid managed care plan, a managed health care system shall provide coverage of at least one prescription drug, without prior authorization, within the drug class of substance use disorder—opioid partial agonists as established in the preferred drug list applicable to the medical assistance programs established in this chapter.

**NEW SECTION. Sec. 39.** (1) Section 15 of this act expires January 1, 2021.

(2) Section 16 of this act takes effect January 1, 2021.

**NEW SECTION. Sec. 40.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers; Davis; Harris; Jinkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

Referred to Committee on Appropriations.

April 2, 2019

**ESSB 5383**

Prime Sponsor, Committee on Housing Stability & Affordability: Concerning tiny

houses. Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** Tiny houses have become a trend across the nation to address the shortage of affordable housing. As tiny houses become more acceptable, the legislature finds that it is important to create space in the code for the regulation of tiny house siting. Individual cities and counties may allow tiny houses with wheels to be collected together as tiny house villages using the binding site plan method articulated in chapter 58.17 RCW.

The legislature recognizes that the International Code Council in 2018 has issued tiny house building code standards in Appendix Q of the International Residential Code, which can provide a basis for the standards requested within this act.

**Sec. 2.** RCW 58.17.040 and 2004 c 239 s 1 are each amended to read as follows:

The provisions of this chapter shall not apply to:

(1) Cemeteries and other burial plots while used for that purpose;

(2) Divisions of land into lots or tracts each of which is one-one hundred twenty-eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land, unless the governing authority of the city, town, or county in which the land is situated shall have adopted a subdivision ordinance requiring plat approval of such divisions: PROVIDED, That for purposes of computing the size of any lot under this item which borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the center line of the road or street and the side lot lines of the lot running perpendicular to such center line;

(3) Divisions made by testamentary provisions, or the laws of descent;

(4) Divisions of land into lots or tracts classified for industrial or commercial use when the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations;

(5) A division for the purpose of lease when no residential structure other than mobile homes, tiny houses or tiny houses with wheels as defined in section 5 of this act, or travel trailers are permitted to be placed upon the land when the city, town, or county has approved a binding site plan for the use of the land in accordance with local regulations;

(6) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site,

or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;

(7) Divisions of land into lots or tracts if: (a) Such division is the result of subjecting a portion of a parcel or tract of land to either chapter 64.32 or 64.34 RCW subsequent to the recording of a binding site plan for all such land; (b) the improvements constructed or to be constructed thereon are required by the provisions of the binding site plan to be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest; (c) a city, town, or county has approved the binding site plan for all such land; (d) such approved binding site plan is recorded in the county or counties in which such land is located; and (e) the binding site plan contains thereon the following statement: "All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the city, town, or county having jurisdiction over the development of such land, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all now or hereafter having any interest in the land described herein." The binding site plan may, but need not, depict or describe the boundaries of the lots or tracts resulting from subjecting a portion of the land to either chapter 64.32 or 64.34 RCW. A site plan shall be deemed to have been approved if the site plan was approved by a city, town, or county: (i) In connection with the final approval of a subdivision plat or planned unit development with respect to all of such land; or (ii) in connection with the issuance of building permits or final certificates of occupancy with respect to all of such land; or (iii) if not approved pursuant to (i) and (ii) of this subsection (7)(e), then pursuant to such other procedures as such city, town, or county may have established for the approval of a binding site plan;

(8) A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures; and

(9) A division of land into lots or tracts of less than three acres that is recorded in accordance with chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. For purposes of this subsection, "electric utility facilities" means unstaffed facilities, except for the presence of security

personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity including, but not limited to, electric power substations. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of cities, towns, counties, and municipal corporations. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers. New customers are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed.

**Sec. 3.** RCW 35.21.684 and 2009 c 79 s 1 are each amended to read as follows:

(1) A city or town may not adopt an ordinance that has the effect, directly or indirectly, of discriminating against consumers' choices in the placement or use of a home in such a manner that is not equally applicable to all homes. Homes built to 42 U.S.C. Sec. 5401-5403 standards (as amended in 2000) must be regulated for the purposes of siting in the same manner as site built homes, factory built homes, or homes built to any other state construction or local design standard. However, except as provided in subsection (2) of this section, any city or town may require that:

(a) A manufactured home be a new manufactured home;

(b) The manufactured home be set upon a permanent foundation, as specified by the manufacturer, and that the space from the bottom of the home to the ground be enclosed by concrete or an approved concrete product which can be either load bearing or decorative;

(c) The manufactured home comply with all local design standards applicable to all other homes within the neighborhood in which the manufactured home is to be located;

(d) The home is thermally equivalent to the state energy code; and

(e) The manufactured home otherwise meets all other requirements for a designated manufactured home as defined in RCW 35.63.160.

A city with a population of one hundred thirty-five thousand or more may choose to designate its building official as the person responsible for issuing all permits, including department of labor and industries permits issued under chapter 43.22 RCW in accordance with an interlocal agreement under chapter 39.34 RCW, for alterations, remodeling, or expansion of manufactured housing located within the city limits under this section.

(2) A city or town may not adopt an ordinance that has the effect, directly or indirectly, of restricting the location of manufactured/mobile homes in manufactured/mobile home communities that were legally in existence before June 12, 2008, based exclusively on the age or dimensions of the manufactured/mobile home. This does not preclude a city or town from restricting the location

of a manufactured/mobile home in manufactured/mobile home communities for any other reason including, but not limited to, failure to comply with fire, safety, or other local ordinances or state laws related to manufactured/mobile homes.

(3) Except as provided under subsection (4) of this section, a city or town may not adopt an ordinance that has the effect, directly or indirectly, of preventing the entry or requiring the removal of a recreational vehicle or tiny house with wheels as defined in section 5 of this act used as a primary residence in manufactured/mobile home communities.

(4) Subsection (3) of this section does not apply to any local ordinance or state law that:

(a) Imposes fire, safety, or other regulations related to recreational vehicles;

(b) Requires utility hookups in manufactured/mobile home communities to meet state or federal building code standards for manufactured/mobile home communities; or

(c) Includes both of the following provisions:

(i) A recreational vehicle or tiny house with wheels as defined in section 5 of this act must contain at least one internal toilet and at least one internal shower; and

(ii) If the requirement in (c)(i) of this subsection is not met, a manufactured/mobile home community must provide toilets and showers.

(5) For the purposes of this section, "manufactured/mobile home community" has the same meaning as in RCW 59.20.030.

(6) This section does not override any legally recorded covenants or deed restrictions of record.

(7) This section does not affect the authority granted under chapter 43.22 RCW.

**Sec. 4.** RCW 43.22.450 and 2001 c 335 s 8 are each amended to read as follows:

Whenever used in RCW 43.22.450 through 43.22.490:

(1) "Department" means the Washington state department of labor and industries;

(2) "Approved" means approved by the department;

(3) "Factory built housing" means any structure, including a factory built tiny house with or without a chassis (wheels), designed primarily for human occupancy other than a manufactured or mobile home the structure or any room of which is either entirely or substantially prefabricated or assembled at a place other than a building site;

(4) "Install" means the assembly of factory built housing or factory built commercial structures at a building site;

(5) "Building site" means any tract, parcel or subdivision of land upon which factory built housing or a factory built commercial structure is installed or is to be installed;

(6) "Local enforcement agency" means any agency of the governing body of any city or county which enforces laws or ordinances governing the construction of buildings;

(7) "Commercial structure" means a structure designed or used for human habitation, or human occupancy for industrial, educational, assembly, professional or commercial purposes.

**NEW SECTION. Sec. 5.** A new section is added to chapter 35.21 RCW to read as follows:

(1) A city or town may adopt an ordinance to regulate the creation of tiny house communities.

(2) The owner of the land upon which the community is built shall make reasonable accommodation for utility hookups for the provision of water, power, and sewerage services and comply with all other duties in chapter 59.20 RCW.

(3) Tenants of tiny house communities are entitled to all rights and subject to all duties and penalties required under chapter 59.20 RCW.

(4) For purposes of this section:

(a) "Tiny house" and "tiny house with wheels" means a dwelling to be used as permanent housing with permanent provisions for living, sleeping, eating, cooking, and sanitation built in accordance with the state building code.

(b) "Tiny house communities" means real property rented or held out for rent to others for the placement of tiny houses with wheels or tiny houses utilizing the binding site plan process in RCW 58.17.035.

**Sec. 6.** RCW 19.27.035 and 2018 c 207 s 2 are each amended to read as follows:

The building code council shall:

(1)(a) By July 1, 2019, adopt a revised process for the review of proposed statewide amendments to the codes enumerated in RCW 19.27.031; and

~~((2))~~ (b) Adopt a process for the review of proposed or enacted local amendments to the codes enumerated in RCW 19.27.031 as amended and adopted by the state building code council.

(2) By December 31, 2019, adopt building code standards specific for tiny houses.

**Sec. 7.** RCW 35.21.278 and 2012 c 218 s 1 are each amended to read as follows:

(1) Without regard to competitive bidding laws for public works, a county, city, town, school district,

metropolitan park district, park and recreation district, port district, or park and recreation service area may contract with a chamber of commerce, a service organization, a community, youth, or athletic association, or other similar association located and providing service in the immediate neighborhood, for drawing design plans, making improvements to a park, school playground, public square, or port habitat site, installing equipment or artworks, or providing maintenance services for a facility or facilities as a community or neighborhood project, or environmental stewardship project, and may reimburse the contracting association its expense. The contracting association may use volunteers in the project and provide the volunteers with clothing or tools; meals or refreshments; accident/injury insurance coverage; and reimbursement of their expenses. The consideration to be received by the public entity through the value of the improvements, artworks, equipment, or maintenance shall have a value at least equal to three times that of the payment to the contracting association. All payments made by a public entity under the authority of this section for all such contracts in any one year shall not exceed twenty-five thousand dollars or two dollars per resident within the boundaries of the public entity, whichever is greater.

(2) A county, city, town, school district, metropolitan park district, park and recreation district, or park and recreation service area may ratify an agreement, which qualifies under subsection (1) of this section and was made before June 9, 1988.

(3) Without regard to competitive bidding laws for public works, a school district, institution of higher education, or other governmental entity that includes training programs for students may contract with a community service organization, nonprofit organization, or other similar entity, to build tiny houses for low-income housing, if the students participating in the building of the tiny houses are in:

(a) Training in a community and technical college construction or construction management program;

(b) A career and technical education program;

(c) A state recognized apprenticeship preparation program; or

(d) Training under a construction career exploration program for high school students administered by a nonprofit organization."

Correct the title.

Signed by Representatives Senn; Goehner; Appleton; Griffey, Assistant Ranking Minority Member; Kraft, Ranking Minority Member; Peterson, Vice Chair Pollet, Chair.

Referred to Committee on Rules for second reading.

April 2, 2019

E2SSB 5438

Prime Sponsor, Committee on Ways & Means: Establishing the office of

agricultural and seasonal workforce services within the employment security department. Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby; Gregerson; Chapman, Vice Chair Sells, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Hoff; Chandler, Assistant Ranking Minority Member Mosbrucker, Ranking Minority Member.

Referred to Committee on Appropriations.

April 2, 2019

E2SSB 5483 Prime Sponsor, Committee on Ways & Means: Improving services for individuals with developmental disabilities. Reported by Committee on Human Services & Early Learning

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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

(1) The office of the developmental disabilities ombuds is a private, independent office that protects the interests of persons with developmental disabilities in Washington state. It is the duty of the developmental disabilities ombuds to monitor procedures and services provided to people with developmental disabilities; review state-licensed facilities and residences where services are provided; resolve complaints about services; and issue reports on the services provided.

(2) The office of the developmental disabilities ombuds has identified a systemic issue of adults with developmental disabilities in hospitals without any medical need because there is no alternative setting available to discharge the individual.

(3) Many of the individuals that are unable to discharge from the hospital are clients of the developmental disabilities administration of the department of social and health services. In some cases, these clients were receiving residential services and went to the hospital for a medical condition, but when the client was ready for discharge, their residential services provider had terminated services. Other clients were dropped off at the hospital by their residential service provider because the residential service provider could no longer manage the client's care.

(4) It is not in the public or the clients' interests for hospitals to be used for clients that do not have medical needs. Further, changes should be made to the developmental disabilities administration's service delivery

system to ensure clients have access to services that keep them in the community and prevent inappropriate hospital stays.

NEW SECTION. Sec. 2. A new section is added to chapter 71A.12 RCW to read as follows:

(1) Within existing resources, the department shall track and monitor the following items and make the deidentified information available to the office of the developmental disabilities ombuds created in RCW 43.382.005, the legislature, the Washington state hospital association, and the public upon request:

(a) Information about clients receiving services from a provider that are admitted to a hospital. This includes:

(i) The number of clients that are admitted to a hospital without a medical need;

(ii) The number of clients that are admitted to a hospital with a medical need, but are unable to discharge once the medical need is met;

(iii) Each client's length of hospital stay for nonmedical purposes;

(iv) The reason each client was unable to be discharged from a hospital once the client's medical need was met;

(v) The location, including the type of provider, where each client was before being admitted to a hospital; and

(vi) The location where each client is discharged.

(b) Information about clients that are admitted to a hospital once their provider terminates services. This includes:

(i) The number of clients that are admitted to a hospital without a medical need;

(ii) The number of clients that are admitted to a hospital with a medical need, but are unable to discharge once the medical need is met;

(iii) Each client's length of hospital stay for nonmedical purposes;

(iv) The reason each client was unable to be discharged from a hospital once the client's medical need was met;

(v) For each client, the reason the provider terminated services;

(vi) The location, including the type of provider, where each client was before being admitted to a hospital; and

(vii) The location where each client is discharged.

(2) A provider must notify the department when a client is admitted to a hospital without a medical need, or with a medical need but is unable to discharge once the

medical need is met, so that the department may track and collect data as required under subsection (1) of this section.

(3) A provider must notify the department before terminating services on the basis that the provider is unable to manage the client's care. Prior to a provider terminating services to a client because the provider is unable to manage the client's care, and subject to the availability of amounts appropriated for this specific purpose, the department shall offer crisis stabilization services to support the provider and the client in the client's current setting. The department is not required to provide crisis stabilization services to clients who are hospitalized.

(4) In the event that the provider is unable to manage the client's care after crisis stabilization services are offered, the provider may terminate services and, subject to the availability of amounts appropriated for this specific purpose, the department shall:

(a) Transition the client to another provider that meets the client's needs and preferences; or

(b) Transition the client to a residential habilitation center for short-term crisis stabilization services if that setting meets the client's needs and preferences until an alternative provider is determined.

(5) The department shall be responsible for frequently and appropriately communicating with a hospital that is caring for a client without a medical need, and providing frequent updates on transitioning the client to a more appropriate setting.

(6) Subject to the availability of amounts appropriated for this specific purpose, the health care authority shall hire or contract with specialists in developmental disabilities to participate in behavioral health crisis teams. One of the specialists required under this subsection must be located east of the crest of the Cascade mountain range. The specialists required under this subsection must work with hospitals to create response and diversion services.

(7) This section may not be construed to create a private right of action.

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

(a) "Administration" means the developmental disabilities administration of the department of social and health services.

(b) "Crisis stabilization services" has the same meaning as defined in RCW 71A.10.020.

(c) "Hospital" means a facility licensed under chapter 70.41 or 71.12 RCW.

(d) "Provider" means a certified residential services and support program that contracts with the administration to provide services to administration clients. "Provider" also includes the state-operated living alternatives program operated by the administration."

Correct the title.

Signed by Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Eslick, Assistant Ranking Minority Member; Corry; Goodman; Griffey; Kilduff; Klippert; Lovick and Ortiz-Self.

MINORITY recommendation: Without recommendation. Signed by Representative McCaslin, Assistant Ranking Minority Member.

Referred to Committee on Appropriations.

April 2, 2019

ESSB 5485 Prime Sponsor, Committee on Health & Long Term Care: Licensing of music therapists. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to:

(1) Recognize that music therapy affects public health, safety, and welfare and that the practice of music therapy should be subject to regulation;

(2) Assure the highest degree of professional conduct on the part of music therapists;

(3) Guarantee the availability of music therapy services provided by a qualified professional to persons in need of those services; and

(4) Protect the public from the practice of music therapy by unqualified individuals.

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

(1) "Advisory committee" means the music therapy advisory committee.

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

(3) "Music therapist" means a person certified to practice music therapy pursuant to this chapter.

(4) "Music therapy" means the clinical and evidence-based use of music interventions to accomplish individualized goals for people of all ages and ability levels within a therapeutic relationship by a music therapist. Music therapists develop music therapy treatment plans specific to the needs and strengths of the client who may be seen individually or in groups. Music therapy treatment plans are individualized for each client. The goals, objectives, and potential strategies of the music therapy services are appropriate for the client and setting. The music therapy interventions may include music improvisation, receptive music listening, song writing, lyric discussion, music and

imagery, singing, music performance, learning through music, music combined with other arts, music-assisted relaxation, music-based patient education, electronic music technology, adapted music intervention and movement to music. The practice of music therapy does not include the screening, diagnosis or assessment of any physical, mental, or communication disorder. Music therapy may include:

(a) Accepting referrals for music therapy services from medical, developmental, mental health, or education professionals, family members, clients, caregivers, or others involved and authorized with provision of client services. Before providing music therapy services to a client for an identified clinical or developmental need, the music therapist must review with the health care provider or providers involved in the client's diagnosis, treatment needs, and treatment plan. Before providing music therapy services to a student for an identified educational need, the licensee must review the student's diagnosis, treatment needs, and treatment plan with the individual family service plan team or individualized education program team. During the provision of music therapy services to a client, the music therapist collaborates with the client's treatment team, including a physician, psychologist, licensed clinical social worker, or other mental health professional. During the provision of music therapy services to a client with a communication disorder, the licensee must collaborate and review the music therapy treatment plan with the client's audiologist or speech-language pathologist;

(b) Conducting a music therapy assessment of a client to determine if treatment is indicated. If treatment is indicated, the music therapist collects systematic, comprehensive, and accurate information to determine the appropriateness and type of music therapy services to provide for the client;

(c) Developing an individualized music therapy treatment plan for the client that is based upon the results of the music therapy assessment. The music therapy treatment plan includes individualized goals and objectives that focus on the assessed needs and strengths of the client and specifies music therapy approaches and interventions to be used to address these goals and objectives;

(d) Implementing an individualized music therapy treatment plan that is consistent with any other developmental, rehabilitative, habilitative, medical, mental health, preventive, wellness care, or educational services being provided to the client;

(e) Evaluating the client's response to music therapy and the music therapy treatment plan, documenting change and progress and suggesting modifications, as appropriate;

(f) Developing a plan for determining when the provision of music therapy services is no longer needed in collaboration with the client, physician, or other provider of health care or education of the client, family members of the client, or any other appropriate person upon whom the client relies for support;

(g) Minimizing any barriers to ensure that the client receives music therapy services in the least restrictive environment;

(h) Collaborating with and educating the client and the family, caregiver of the client, or any other appropriate person regarding the needs of the client that are being addressed in music therapy and the manner in which the music therapy treatment addresses those needs; and

(i) Using appropriate knowledge and skills, such as research, reasoning, and problem solving to determine appropriate actions in the context of each specific clinical setting.

(5) "Secretary" means the secretary of health or his or her designee.

**NEW SECTION. Sec. 3.** (1) A music therapy advisory committee is created within the department. The committee consists of five members as follows: Three who practice as music therapists in Washington state, one member who is a licensed health care provider but not a music therapist, and one member who is or has been in a therapeutic relationship with a music therapist.

(2) The secretary shall appoint all members of the advisory committee. All members must be familiar with the practice of music therapy and able to provide the secretary with expertise and assistance in carrying out his or her duties pursuant to this chapter.

(3) Members terms are for four years.

(4) Members serve without compensation.

(5) Members may serve consecutive terms at the will of the secretary. The director must fill vacancies in the same manner as the regular appointments.

**NEW SECTION. Sec. 4.** (1) The advisory committee shall meet at least once per year or as otherwise called by the secretary.

(2) The secretary shall consult with the advisory committee prior to setting or changing fees under this chapter.

(3) The advisory committee may facilitate the development of materials that the secretary may use to educate the public concerning music therapist licensure, the benefits of music therapy, and use of music therapy by individuals and in facilities or institutional settings.

(4) The advisory committee may act as a facilitator of state-wide dissemination of information between music therapists, the American music therapy association or any successor organization, the certification board for music therapists or any successor organization, and the secretary.

(5) The advisory committee shall provide analysis of disciplinary actions taken, appeals and denials, or revocation of certificates at least once per year.

(6) The secretary shall seek the advice of the advisory committee for issues related to music therapy.

**NEW SECTION. Sec. 5.** Beginning January 1, 2021, a person without a certificate as a music therapist may not use the title "music therapist" or similar title or practice music therapy. Nothing in this chapter may be construed to prohibit or restrict the practice, services, or activities of the following, if that person does not represent himself or herself as a music therapist:

(1) Any person licensed, certified, or regulated under the laws of Washington state in another profession or occupation or personnel supervised by a licensed professional in this state performing work, including the use of music, incidental to the practice of his or her licensed, certified, or regulated profession or occupation;

(2) Any person whose training and national certification attests to the individual's preparation and ability to practice his or her certified profession or occupation;

(3) Any practice of music therapy as an integral part of a program of study for students enrolled in an accredited music therapy program; or

(4) Any person who practices music therapy under the supervision of a certified music therapist.

**NEW SECTION. Sec. 6.** Beginning January 1, 2021, the secretary shall issue a certificate to an applicant upon his or her satisfaction that the applicant has satisfied the requirements of this section and paid the required certification fee. The applicant must provide satisfactory evidence to the secretary that:

(1)(a) The applicant is at least eighteen years of age;

(b) The applicant holds a bachelor's degree or higher in music therapy, or its equivalent, from a program approved by the secretary based upon nationally recognized standards;

(c) The applicant completed a minimum of one thousand two hundred hours of clinical training, with at least one hundred eighty hours in preinternship experiences and at least nine hundred hours in internship experiences, provided that the internship is approved by an academic institution that has a program approved under (b) of this subsection, the secretary using nationally recognized standards, or both;

(d) If the applicant is credentialed as a music therapist in another state or jurisdiction, the applicant is in good standing based on a review of the applicant's music therapy licensure history in other jurisdictions, including a review of any alleged misconduct or neglect in the practice of music therapy on the part of the applicant; and

(e) The applicant passed an examination approved by the secretary. The secretary may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by the applicant in meeting the certification requirements; or

(2) The applicant is credentialed and in good standing as a music therapist in another jurisdiction where the qualifications required are equal to or greater than those required in this chapter at the date of application.

**NEW SECTION. Sec. 7.** (1) Every certificate issued under this chapter must be renewed biennially. To renew a certificate, an applicant must pay a renewal fee and not be in violation of any requirements of this chapter. Each music therapist is responsible for timely renewal of his or her certificate.

(2) A music therapist must inform the secretary of any changes to his or her address.

(3) Failure to renew a certificate results in forfeiture of the certificate. Certificates that have been forfeited may be restored within one year of the expiration date upon payment of renewal and restoration fees. Failure to restore a forfeited certificate within one year of the date of its expiration results in the automatic termination of the certificate, and the secretary may require the individual to reapply for certification as a new applicant.

(4) Upon written request of a music therapist, the secretary may make a certificate inactive subject to an inactive status fee established by the secretary. The music therapist, upon request and payment of the inactive certificate fee, may continue on inactive status for a period up to two years. An inactive certificate may be reactivated by making a written request to the secretary and by fulfilling requirements established by the secretary.

**NEW SECTION. Sec. 8.** (1) The secretary shall establish and adopt rules governing the administration of this chapter in accordance with chapter 34.05 RCW. The rules must include procedures for expediting the issuance of a certificate to military personnel.

(2) The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of a certificate, and the discipline of persons certified under this chapter. The secretary is the disciplining authority under this chapter.

**NEW SECTION. Sec. 9.** This chapter does not require a health carrier, as defined in RCW 48.43.005, to contract with a person certified as a music therapist under this chapter.

**Sec. 10.** RCW 18.130.040 and 2017 c 336 s 18 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

- (iii) Ocularists licensed under chapter 18.55 RCW;
- (iv) Massage therapists and businesses licensed under chapter 18.108 RCW;
- (v) Dental hygienists licensed under chapter 18.29 RCW;
- (vi) East Asian medicine practitioners licensed under chapter 18.06 RCW;
- (vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;
- (viii) Respiratory care practitioners licensed under chapter 18.89 RCW;
- (ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;
- (x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;
- (xi) Persons registered as nursing pool operators under chapter 18.52C RCW;
- (xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;
- (xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;
- (xiv) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;
- (xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;
- (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;
- (xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;
- (xviii) Surgical technologists registered under chapter 18.215 RCW;
- (xix) Recreational therapists under chapter 18.230 RCW;
- (xx) Animal massage therapists certified under chapter 18.240 RCW;
- (xxi) Athletic trainers licensed under chapter 18.250 RCW;
- (xxii) Home care aides certified under chapter 18.88B RCW;
- (xxiii) Genetic counselors licensed under chapter 18.290 RCW;
- (xxiv) Reflexologists certified under chapter 18.108 RCW;

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; ~~((and))~~

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW; and

(xxvii) Music therapists certified under chapter 18.-- RCW (the new chapter created in section 12 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

**Sec. 11.** RCW 18.120.020 and 2017 c 336 s 19 are each amended to read as follows:

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

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dental anesthesia assistants under chapter 18.350 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ophthalmologists under chapter 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW;

respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; massage therapists under chapter 18.108 RCW; East Asian medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; nursing assistants registered or certified under chapter 18.88A RCW; reflexologists certified under chapter 18.108 RCW; medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and licensed behavior analysts, licensed assistant behavior analysts, ~~(and)~~ certified behavior technicians under chapter 18.380 RCW; and music therapists certified under chapter 18.--- RCW (the new chapter created in section 12 of this act).

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(9) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

**NEW SECTION. Sec. 12.** Sections 1 through 9 of this act constitute a new chapter in Title 18 RCW."

Correct the title.

Signed by Representatives Thai; Stonier; Robinson; Riccelli; Jinkins; Harris; Davis; Chambers; Caldier, Assistant Ranking Minority Member; Schmick, Ranking Minority Member; Macri, Vice Chair; Cody, Chair and Tharinger.

Referred to Committee on Rules for second reading.

April 2, 2019

**ESSB 5526** Prime Sponsor, Committee on Health & Long Term Care: Increasing the availability of quality, affordable health coverage in the individual market. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

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) 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.

(2)(a) Beginning January 1, 2021, any health carrier offering a qualified health plan on the exchange must offer one silver standardized health plan and one gold standardized health plan on the exchange. If a health carrier offers a bronze health plan on the exchange, it must offer one bronze standardized health plan on the exchange.

(b)(i) A health plan offering a standardized health plan under this section may also offer nonstandardized health plans on the exchange.

(ii) The exchange and 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.

(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.

**NEW SECTION. Sec. 2.** A new section is added to chapter 42.56 RCW to read as follows:

Any data submitted by health carriers to the health benefit exchange for purposes of establishing standardized benefit plans under section 1 of this act are confidential and exempt from disclosure under this chapter.

**NEW SECTION. Sec. 3.** A new section is added to chapter 41.05 RCW to read as follows:

(1) The authority, in consultation with the health benefit exchange, must contract with one or more health carriers to offer silver and gold qualified health plans on the Washington health benefit exchange for plan years beginning in 2021. 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 section 1 of this act;

(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 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;

(ii) Meet national accreditation standards; and

(iii) Align with published criteria published by the authority;

(g) The qualified health plan's medical loss ratio must meet or exceed ninety percent, as determined by the insurance commissioner in the rate review process; and

(h) The qualified health plan's fee-for-service rates for providers and facilities may not exceed the medicare rates for the same or similar covered services in the same or similar geographic area. For reimbursement methodologies other than fee-for-service, the aggregate amount the qualified health plan pays to providers and facilities may not exceed the equivalent of the aggregate amount the qualified health plan would have reimbursed providers and facilities using fee-for-service medicare rates.

(2) The director, after consultation with the exchange, shall conduct procurement negotiations with health carriers and selectively contract with a health carrier or carriers to offer a qualified health plan or plans that offer the optimal combination of choice, affordability, quality, and service. A health carrier contracting with the authority under this section may offer a qualified health plan or plans in a single county or multiple counties. The goal of the procurement conducted under this section is to have health carriers contracting with the authority under this section offering at least one qualified health plan in every county in the state.

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

**NEW SECTION. Sec. 4.** (1) The Washington health benefit exchange, in consultation with the health care authority and the insurance commissioner, must develop a plan to implement and fund premium subsidies for individuals whose modified adjusted gross incomes are less than five hundred percent of the federal poverty level and who are purchasing individual market coverage on the exchange. The goal of the plan is to enable participating

individuals to spend no more than ten percent of their modified adjusted gross incomes on premiums. The plan must also include an assessment of providing cost-sharing reductions to plan participants.

(2) The Washington health benefit exchange must submit the plan, along with proposed implementing legislation, to the appropriate committees of the legislature by November 15, 2020.

(3) This section expires January 1, 2021.

**NEW SECTION. Sec. 5.** A new section is added to chapter 48.43 RCW to read as follows:

The commissioner shall submit an annual report to the appropriate committees of the legislature on the number of health plans available per county in the individual market.

**NEW SECTION. Sec. 6.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Cody, Chair; Macri, Vice Chair; Davis; Jenkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member and Chambers.

MINORITY recommendation: Without recommendation. Signed by Representative Harris.

Referred to Committee on Appropriations.

April 3, 2019

**SSB 5552**

Prime Sponsor, Committee on Agriculture, Water, Natural Resources & Parks: Concerning the protection of all pollinators, including honey bees. Reported by Committee on Rural Development, Agriculture, & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Walsh; Springer; Schmick; Ramos; Pettigrew; Orcutt; Lekanoff; Kretz; Fitzgibbon; Dye; Chapman; Dent, Assistant Ranking Minority Member; Shewmake, Vice Chair Blake, Chair.

Referred to Committee on Appropriations.

April 3, 2019

SSB 5597 Prime Sponsor, Committee on Agriculture, Water, Natural Resources & Parks: Creating a work group on aerial herbicide applications in forestlands. Reported by Committee on Rural Development, Agriculture, & Natural Resources

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1)(a) The legislature finds that forest managers, state agencies, and the broader community share an interest in minimizing human and environmental exposure to herbicides. Forestland owners have made significant gains in the protection of riparian and wetland areas along the state's waterways, as well as protecting the health and safety of the public and forest workers, through a combination of scientific advancements, ongoing education and training, improved technologies, and proper monitoring and regulation under the forests and fish statute and the associated forest practices rules.

(b) The legislature further finds that while the use of herbicides is an important tool to the timber industry, the use of chemicals should be integrated within a broader pest management approach. The legislature finds that the research, development, and feasibility of nontraditional control methods, along with methods already in use, could result in a more integrated pest management approach for forest management.

(2) This section expires December 31, 2020.

NEW SECTION. Sec. 2. (1) A legislative work group on the aerial application of herbicides on state and private forestlands is established to review all existing best management practices and, if necessary, develop recommendations for improving the best management practices for aerial application of herbicides on state and private forestlands, including the criteria to be used in evaluating best management practices.

(2) The work group shall:

(a) Review the roles of all management and regulatory agencies in approving herbicides for use and application on forestlands in Washington and review existing state and federal programs, policies, and regulations concerning aerial application of herbicides on forestlands;

(b) Review current herbicide application technology in the state and throughout the nation to increase herbicide application accuracy and other best management practices to minimize drift and exposure of humans, fish, and wildlife as well impact on drinking water, surface waters, and wetland areas;

(c) Review research, reports, and data from government agencies, research institutions, nongovernmental organizations, and landowners regarding

the most frequently used herbicides in forest practices, to inform the development and update of strategies related to herbicides management on forestlands; and

(d) Develop recommendations, if appropriate, for managing working forestlands through an integrated pest management approach that combines traditional chemical and other vegetative control methods as well as other silvicultural practices to protect resource values from pests, while minimizing the effect on nontarget species as well as ensuring the protection of public safety and human health, while still offering effective control that is economically feasible on a commercial forestry scale. Recommendations must consider the toxicity, mobility, and bioaccumulation of any proposed alternatives as compared to traditional operations.

(3)(a) The work group is composed of:

(i) One member and one alternate from each of the two largest caucuses in the senate, who must be appointed by the majority leader and minority leader of the senate;

(ii) One member and one alternate from each of the two largest caucuses in the house of representatives, who must be appointed by the speaker and minority leader of the house of representatives;

(iii) One senior level management representative from each of the following agencies:

(A) The department of agriculture;

(B) The department of health;

(C) The department of natural resources;

(D) The department of fish and wildlife; and

(E) The department of ecology;

(iv) One representative of Washington State University pesticide safety education program;

(v) One representative from the Pacific Northwest agricultural safety and health center at the University of Washington; and

(vi) Representatives from the following groups, appointed by the consensus of the cochairs:

(A) Two industrial forestland owners with one from the west of the crest of the Cascade mountains and one from east of the crest of the Cascade mountains;

(B) One representative of small forestland owners;

(C) One representative of large-scale organic farming;

(D) One representative of aerial applicators;

(E) Three representatives of environmental or community interests;

(F) One representative with expertise in noxious weed control; and

(G) One representative with pesticide registrant expertise in forest herbicides.

(b) Representatives of Washington tribes that are involved in timber production must be invited to participate on the work group.

(c) If a member has not been designated for a position set forth in this section, that position may not be counted for purposes of determining a quorum.

(4)(a) One cochair of the work group must be a member of the majority caucus of one chamber of the legislature, and one cochair must be a member of the minority caucus of the other chamber of the legislature, as those caucuses existed as of the effective date of this section.

(b) The work group shall choose the cochairs from among its legislative membership. The legislator representing the majority caucus in the senate and the legislator representing the minority caucus in the house of representatives shall convene the initial meeting of the work group.

(5) The first meeting of the work group must take place by June 30, 2019.

(6) Staff support for the legislative members of the work group must be provided by the departments of natural resources and agriculture.

(7) Nonlegislative members of the work group 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 other reimbursement for nonlegislative members is subject to the limitations of class one groups under RCW 43.03.220.

(8) The work group shall provide a report that includes any findings, recommendations, and draft legislation, to the governor and the legislature consistent with RCW 43.01.036, by November 10, 2019.

(9) This section expires December 31, 2020.

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

Correct the title.

Signed by Representatives Blake, Chair; Shewmake, Vice Chair; Dent, Assistant Ranking Minority Member; Chapman; Dye; Fitzgibbon; Kretz; Lekanoff; Orcutt; Pettigrew; Ramos; Schmick; Springer and Walsh.

Referred to Committee on Rules for second reading.

April 2, 2019

2SSB 5602 Prime Sponsor, Committee on Ways & Means: Eliminating barriers to reproductive health care for all. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds and declares:

(1) It is the public policy of this state to provide the maximum access to reproductive health care and reproductive health care coverage for all people in Washington state.

(2) In 2018, the legislature passed Substitute Senate Bill No. 6219. Along with reproductive health care coverage requirements, the bill mandated a literature review of barriers to reproductive health care. As documented by the report submitted to the legislature on January 1, 2019, young people, immigrants, people living in rural communities, transgender and gender nonconforming people, and people of color still face significant barriers to getting the reproductive health care they need.

(3) Immigrants in Washington state are a vital contributor to the culture, economy, and life of the people of Washington. Yet federal law prohibits some immigrants, who would otherwise be eligible for medical coverage, from receiving the health benefits and timely access to health care provided through federally funded coverage programs.

(4) This lack of coverage negatively affects the reproductive health, family planning, and reproductive autonomy of excluded immigrants living in Washington state.

(5) Washingtonians who are transgender and gender nonconforming have important reproductive health care needs as well. These needs go unmet when, in the process of seeking care, transgender and gender nonconforming people are stigmatized or are denied critical health services because of their gender identity or expression.

(6) The literature review mandated by Substitute Senate Bill No. 6219 found that, "[a]ccording to 2015 U.S. Transgender Survey data, thirty-two percent of transgender respondents in Washington State reported that in the previous year they did not see a doctor when needed because they could not afford it."

(7) Existing state law should be enhanced to ensure greater coverage of and timely access to reproductive health care for the benefit of all Washingtonians, regardless of immigration status, or gender identity or expression.

(8) Because stigma is also a key barrier to access to reproductive health care, all Washingtonians, regardless of gender identity or immigration status, should be free from discrimination in the provision of health care services, health care plan coverage, and in access to publicly funded health coverage.

(9) All people should have access to robust reproductive health services to maintain and improve their reproductive health.

NEW SECTION. Sec. 2. A new section is added to chapter 74.09 RCW to read as follows:

(1) By January 1, 2020, the authority shall administer a program for individuals over nineteen years of age who would be eligible for the Washington state family planning waiver program, currently known as the take care program, if not for 8 U.S.C. Sec. 1611 or 1612.

(2) The program shall provide services identical to those services covered by the Washington state family planning waiver program as of August 2018.

(3) The authority shall establish a comprehensive community education and outreach campaign, working with stakeholder and community organizations, to provide culturally and linguistically accessible information to facilitate participation in the program including, but not limited to, enrollment procedures, program services, and benefit utilization.

NEW SECTION. Sec. 3. A new section is added to chapter 74.09 RCW to read as follows:

(1) In the provision of reproductive health 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) The authority and any managed care plans delivering or administering services purchased or contracted for by the authority, may not issue automatic initial denials of coverage for reproductive health care services that are ordinarily or exclusively available to individuals of one gender, based on the fact that the individual's gender assigned at birth, gender identity, or gender otherwise recorded in one or more government-issued documents, is different from the one to which such health services are ordinarily or exclusively available.

(3) Denials as described in subsection (2) of this section are prohibited discrimination under chapter 49.60 RCW.

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

(a) "Gender expression" means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's gender assigned at birth.

(b) "Gender identity" means a person's internal sense of the person's own gender, regardless of the person's gender assigned at birth.

(c) "Reproductive health care services" means any medical services or treatments, including pharmaceutical and preventive care service or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction, in all stages of life.

Reproductive health care services does not include infertility treatment.

(d) "Reproductive system" includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

(5) This section must not be construed to authorize discrimination on the basis of a covered person's gender identity or expression in the administration of any other medical assistance programs administered by the authority.

Sec. 4. RCW 48.43.072 and 2018 c 119 s 2 are each amended to read as follows:

(1) A health plan (~~issued or renewed on or after January 1, 2019~~) or student health plan, including student health plans deemed by the insurance commissioner to have a short-term limited purpose or duration or to be guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, shall provide coverage for:

(a) All contraceptive drugs, devices, and other products, approved by the federal food and drug administration, including over-the-counter contraceptive drugs, devices, and products, approved by the federal food and drug administration. This includes condoms, regardless of the gender or sexual orientation of the covered person, and regardless of whether they are to be used for contraception or exclusively for the prevention of sexually transmitted infections;

(b) Voluntary sterilization procedures;

(c) The consultations, examinations, procedures, and medical services that are necessary to prescribe, dispense, insert, deliver, distribute, administer, or remove the drugs, devices, and other products or services in (a) and (b) of this subsection(-);

(d) The following preventive services:

(i) Screening for physical, mental, sexual, and reproductive health care needs that arise from a sexual assault; and

(ii) Well-person preventive visits;

(e) Medically necessary services and prescription medications for the treatment of physical, mental, sexual, and reproductive health care needs that arise from a sexual assault; and

(f) The following reproductive health-related over-the-counter drugs and products approved by the federal food and drug administration: Prenatal vitamins for pregnant persons; and breast pumps for covered persons expecting the birth or adoption of a child.

(2) The coverage required by subsection (1) of this section:

(a) May not require copayments, deductibles, or other forms of cost sharing(-);

(i) Except for:

(A) The medically necessary services and prescription medications required by subsection (1)(e) of this section; and

(B) The drugs and products in subsection (1)(f) of this section; or

(ii) Unless the health plan is offered as a qualifying health plan for a health savings account. For such a qualifying health plan, the carrier must establish the plan's cost sharing for the coverage required by subsection (1) of this section at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from ((his or her)) the enrollee's health savings account under internal revenue service laws and regulations; and

(b) May not require a prescription to trigger coverage of over-the-counter contraceptive drugs, devices, and products, approved by the federal food and drug administration, except those reproductive health related drugs and products as set forth in subsection (1)(f) of this section.

(3) A health carrier may not deny the coverage required in subsection (1) of this section because an enrollee changed ((his or her)) the enrollee's contraceptive method within a twelve-month period.

(4) Except as otherwise authorized under this section, a health benefit plan may not impose any restrictions or delays on the coverage required under this section, such as medical management techniques that limit enrollee choice in accessing the full range of contraceptive drugs, devices, or other products, approved by the federal food and drug administration.

(5) Benefits provided under this section must be extended to all enrollees, enrolled spouses, and enrolled dependents.

(6) This section may not be construed to allow for denial of care on the basis of race, color, national origin, sex, sexual orientation, gender expression or identity, marital status, age, citizenship, immigration status, or disability.

(7) A health plan or student health plan, including student health plans deemed by the insurance commissioner to have a short-term limited purpose or duration or to be guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, issued or renewed on or after January 1, 2021, may not issue automatic initial denials of coverage for reproductive health care services that are ordinarily or exclusively available to individuals of one gender, based on the fact that the individual's gender assigned at birth, gender identity, or gender otherwise recorded in one or more government-issued documents, is different from the one to which such health services are ordinarily or exclusively available.

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

(a) "Gender expression" means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's gender assigned at birth.

(b) "Gender identity" means a person's internal sense of the person's own gender, regardless of the person's gender assigned at birth.

(c) "Reproductive health care services" means any medical services or treatments, including pharmaceutical and preventive care service or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction, in all stages of life. Reproductive health care services does not include infertility treatment.

(d) "Reproductive system" includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

(e) "Well-person preventive visits" means the preventive annual visits recommended by the federal health resources and services administration women's preventive services guidelines, with the understanding that those visits must be covered for women, and when medically appropriate, for transgender, non-binary, and intersex individuals.

(9) This section may not be construed to authorize discrimination on the basis of gender identity or expression, or perceived gender identity or expression, in the provision of nonreproductive health care services.

(10) The commissioner, under RCW 48.30.300, and the human rights commission, under chapter 49.60 RCW shall share enforcement authority over complaints of discrimination under this section as set forth in RCW 49.60.178.

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

**NEW SECTION. Sec. 5.** A new section is added to chapter 74.09 RCW to read as follows:

Beginning January 1, 2021, the authority shall provide coverage under this chapter for:

(1) Screening for gonorrhea, chlamydia, syphilis, and human immunodeficiency virus;

(2) Pre-exposure prophylaxis and postexposure prophylaxis; and

(3) Condoms, regardless of the gender or sexual orientation of the covered person, and regardless of whether they are used for contraception or exclusively for the prevention of sexually transmitted infections.

**NEW SECTION. Sec. 6.** A new section is added to chapter 41.05 RCW to read as follows:

(1) A health plan offered to employees, school employees, and their covered dependents under this chapter

issued or renewed on or after January 1, 2021, shall provide coverage for:

(a) Screening for gonorrhea, chlamydia, syphilis, and human immunodeficiency virus;

(b) Pre-exposure prophylaxis and postexposure prophylaxis; and

(c) Condoms, regardless of the gender or sexual orientation of the covered person, and regardless of whether they are used for contraception or exclusively for the prevention of sexually transmitted infections.

(2) The coverage required by this section may not require copayments, deductibles, or other forms of cost sharing, unless the health plan is offered as a qualifying health plan for a health savings account. For such qualifying health plan, the plan's cost sharing for the coverage required by this section must be established at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from the enrollee's health savings account under internal revenue service laws and regulations.

**NEW SECTION. Sec. 7.** A new section is added to chapter 48.43 RCW to read as follows:

(1) The legislature intends to codify the state's current practice of requiring health carriers to bill enrollees with a single invoice and to segregate into a separate account the premium attributable to abortion services for which federal funding is prohibited. Washington has achieved full compliance with section 1303 of the federal patient protection and affordable care act by requiring health carriers to submit a single invoice to enrollees and to segregate into a separate account the premium amounts attributable to coverage of abortion services for which federal funding is prohibited. Further, section 1303 states that the act does not preempt or otherwise have any effect on state laws regarding the prohibition of, or requirement of, coverage, funding, or procedural requirements on abortions.

(2) In accordance with RCW 48.43.073 related to requirements for coverage and funding of abortion services, an issuer offering a qualified health plan must:

(a) Bill enrollees and collect payment through a single invoice that includes all benefits and services covered by the qualified health plan; and

(b) Include in the segregation plan required under applicable federal and state law a certification that the issuer's billing and payment processes meet the requirements of this section.

**NEW SECTION. Sec. 8.** This act may be known and cited as the reproductive health care access for all act.

**NEW SECTION. Sec. 9.** (1) Sections 2 and 3 of this act take effect January 1, 2020.

(2) Section 4 of this act takes effect January 1, 2021.

**NEW SECTION. Sec. 10.** Section 7 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."

Correct the title.

Signed by Representatives Macri, Vice Chair; Tharinger; Thai; Stonier; Robinson; Riccelli; Jinkins; Davis Cody, Chair.

MINORITY recommendation: Without recommendation. Signed by Representative Harris.

MINORITY recommendation: Do not pass. Signed by Representatives Chambers; Caldier, Assistant Ranking Minority Member Schmick, Ranking Minority Member.

Referred to Committee on Appropriations.

April 2, 2019

**ESSB 5688** Prime Sponsor, Committee on Health & Long Term Care: Concerning athletic trainers. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 18.250.040 and 2007 c 253 s 5 are each amended to read as follows:

(1) It is unlawful for any person to practice or offer to practice as an athletic trainer, or to represent themselves or other persons to be legally able to provide services as an athletic trainer, unless the person is licensed under the provisions of this chapter.

(2) No person may use the title "athletic trainer," the letters "ATC" or "LAT," the terms "sports trainer," "team trainer," "trainer," or any other words, abbreviations, or insignia in connection with his or her name to indicate or imply, directly or indirectly, that he or she is an athletic trainer without being licensed in accordance with this chapter as an athletic trainer.

**Sec. 2.** RCW 18.250.050 and 2007 c 253 s 6 are each amended to read as follows:

Nothing in this chapter may prohibit, restrict, or require licensure of:

(1) Any person licensed, certified, or registered in this state and performing services within the authorized scope of practice;

(2) The practice by an individual employed by the government of the United States as an athletic trainer while engaged in the performance of duties prescribed by the laws of the United States;

(3) Any person pursuing a supervised course of study in an accredited athletic training educational program, if the person is designated by a title that clearly indicates a student or trainee status;

(4) An athletic trainer from another state for purposes of continuing education, consulting, or performing athletic training services while accompanying his or her group, individual, or representatives into Washington state on a temporary basis for no more than ninety days in a calendar year;

(5) Any elementary, secondary, or postsecondary school teacher, educator, or coach~~(~~or authorized volunteer~~)~~ who does not represent themselves to the public as an athletic trainer; or

(6) A personal or fitness trainer employed by an athletic club or fitness center and not representing themselves as an athletic trainer or performing the duties of an athletic trainer provided under RCW 18.250.010(4)(a) (ii) through (vi).

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.250 RCW to read as follows:

(1) An athletic trainer licensed under this chapter may purchase, store, and administer over-the-counter topical medications such as hydrocortisone, fluocinonide, topical anesthetics, silver sulfadiazine, lidocaine, magnesium sulfate, zinc oxide, and other similar medications, as prescribed by an authorized health care practitioner for the practice of athletic training.

(a) An athletic trainer may not administer any medications to a student in a public school as defined in RCW 28A.150.010 or private schools governed by chapter 28A.195 RCW.

(b) An athletic trainer may administer medications consistent with this section to a minor in a setting other than a school, if the minor's parent or guardian provides written consent.

(2) An athletic trainer licensed under this chapter who has completed an anaphylaxis training program in accordance with RCW 70.54.440 may administer an epinephrine autoinjector to any individual who the athletic trainer believes in good faith is experiencing anaphylaxis as authorized by RCW 70.54.440.

**Sec. 4.** RCW 43.70.442 and 2016 c 90 s 5 are each amended to read as follows:

(1)(a) Each of the following professionals certified or licensed under Title 18 RCW shall, at least once every six years, complete training in suicide assessment, treatment, and management that is approved, in rule, by the relevant disciplining authority:

(i) An adviser or counselor certified under chapter 18.19 RCW;

(ii) A chemical dependency professional licensed under chapter 18.205 RCW;

(iii) A marriage and family therapist licensed under chapter 18.225 RCW;

(iv) A mental health counselor licensed under chapter 18.225 RCW;

(v) An occupational therapy practitioner licensed under chapter 18.59 RCW;

(vi) A psychologist licensed under chapter 18.83 RCW;

(vii) An advanced social worker or independent clinical social worker licensed under chapter 18.225 RCW; and

(viii) A social worker associate—advanced or social worker associate—independent clinical licensed under chapter 18.225 RCW.

(b) The requirements in (a) of this subsection apply to a person holding a retired active license for one of the professions in (a) of this subsection.

(c) The training required by this subsection must be at least six hours in length, unless a disciplining authority has determined, under subsection (10)(b) of this section, that training that includes only screening and referral elements is appropriate for the profession in question, in which case the training must be at least three hours in length.

(d) Beginning July 1, 2017, the training required by this subsection must be on the model list developed under subsection (6) of this section. Nothing in this subsection (1)(d) affects the validity of training completed prior to July 1, 2017.

(2)(a) Except as provided in (b) of this subsection, a professional listed in subsection (1)(a) of this section must complete the first training required by this section by the end of the first full continuing education reporting period after January 1, 2014, or during the first full continuing education reporting period after initial licensure or certification, whichever occurs later.

(b) A professional listed in subsection (1)(a) of this section applying for initial licensure may delay completion of the first training required by this section for six years after initial licensure if he or she can demonstrate successful completion of the training required in subsection (1) of this section no more than six years prior to the application for initial licensure.

(3) The hours spent completing training in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education or continuing competency requirements for each profession.

(4)(a) A disciplining authority may, by rule, specify minimum training and experience that is sufficient to exempt an individual professional from the training requirements in subsections (1) and (5) of this section. Nothing in this subsection (4)(a) allows a disciplining authority to provide blanket exemptions to broad categories or specialties within a profession.

(b) A disciplining authority may exempt a professional from the training requirements of subsections (1) and (5) of this section if the professional has only brief or limited patient contact.

(5)(a) Each of the following professionals credentialed under Title 18 RCW shall complete a one-time training in suicide assessment, treatment, and management that is approved by the relevant disciplining authority:

(i) A chiropractor licensed under chapter 18.25 RCW;

(ii) A naturopath licensed under chapter 18.36A RCW;

(iii) A licensed practical nurse, registered nurse, or advanced registered nurse practitioner, other than a certified registered nurse anesthetist, licensed under chapter 18.79 RCW;

(iv) An osteopathic physician and surgeon licensed under chapter 18.57 RCW, other than a holder of a postgraduate osteopathic medicine and surgery license issued under RCW 18.57.035;

(v) An osteopathic physician assistant licensed under chapter 18.57A RCW;

(vi) A physical therapist or physical therapist assistant licensed under chapter 18.74 RCW;

(vii) A physician licensed under chapter 18.71 RCW, other than a resident holding a limited license issued under RCW 18.71.095(3);

(viii) A physician assistant licensed under chapter 18.71A RCW;

(ix) A pharmacist licensed under chapter 18.64 RCW; ~~(and)~~

(x) An athletic trainer licensed under chapter 18.250 RCW; and

~~(xi)~~ A person holding a retired active license for one of the professions listed in (a)(i) through ~~((ix))~~ (x) of this subsection.

(b)(i) A professional listed in (a)(i) through (viii) of this subsection or a person holding a retired active license for one of the professions listed in (a)(i) through (viii) of this subsection must complete the one-time training by the end of the first full continuing education reporting period after January 1, 2016, or during the first full continuing education reporting period after initial licensure, whichever is later. Training completed between June 12, 2014, and January 1, 2016, that meets the requirements of this section, other than the timing requirements of this subsection (5)(b), must be accepted by the disciplining authority as meeting the one-time training requirement of this subsection (5).

(ii) A licensed pharmacist or a person holding a retired active pharmacist license must complete the one-time training by the end of the first full continuing education reporting period after January 1, 2017, or during the first full continuing education reporting period after initial licensure, whichever is later.

(c) The training required by this subsection must be at least six hours in length, unless a disciplining authority has determined, under subsection (10)(b) of this section, that training that includes only screening and referral elements is appropriate for the profession in question, in which case the training must be at least three hours in length.

(d) Beginning July 1, 2017, the training required by this subsection must be on the model list developed under subsection (6) of this section. Nothing in this subsection (5)(d) affects the validity of training completed prior to July 1, 2017.

(6)(a) The secretary and the disciplining authorities shall work collaboratively to develop a model list of training programs in suicide assessment, treatment, and management.

(b) The secretary and the disciplining authorities shall update the list at least once every two years.

(c) By June 30, 2016, the department shall adopt rules establishing minimum standards for the training programs included on the model list. The minimum standards must require that six-hour trainings include content specific to veterans and the assessment of issues related to imminent harm via lethal means or self-injurious behaviors and that three-hour trainings for pharmacists include content related to the assessment of issues related to imminent harm via lethal means. When adopting the rules required under this subsection (6)(c), the department shall:

(i) Consult with the affected disciplining authorities, public and private institutions of higher education, educators, experts in suicide assessment, treatment, and management, the Washington department of veterans affairs, and affected professional associations; and

(ii) Consider standards related to the best practices registry of the American foundation for suicide prevention and the suicide prevention resource center.

(d) Beginning January 1, 2017:

(i) The model list must include only trainings that meet the minimum standards established in the rules adopted under (c) of this subsection and any three-hour trainings that met the requirements of this section on or before July 24, 2015;

(ii) The model list must include six-hour trainings in suicide assessment, treatment, and management, and three-hour trainings that include only screening and referral elements; and

(iii) A person or entity providing the training required in this section may petition the department for inclusion on the model list. The department shall add the training to the list only if the department determines that the training meets the minimum standards established in the rules adopted under (c) of this subsection.

(7) The department shall provide the health profession training standards created in this section to the professional educator standards board as a model in meeting the requirements of RCW 28A.410.226 and provide technical assistance, as requested, in the review and

evaluation of educator training programs. The educator training programs approved by the professional educator standards board may be included in the department's model list.

(8) Nothing in this section may be interpreted to expand or limit the scope of practice of any profession regulated under chapter 18.130 RCW.

(9) The secretary and the disciplining authorities affected by this section shall adopt any rules necessary to implement this section.

(10) For purposes of this section:

(a) "Disciplining authority" has the same meaning as in RCW 18.130.020.

(b) "Training in suicide assessment, treatment, and management" means empirically supported training approved by the appropriate disciplining authority that contains the following elements: Suicide assessment, including screening and referral, suicide treatment, and suicide management. However, the disciplining authority may approve training that includes only screening and referral elements if appropriate for the profession in question based on the profession's scope of practice. The board of occupational therapy may also approve training that includes only screening and referral elements if appropriate for occupational therapy practitioners based on practice setting.

(11) A state or local government employee is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

(12) An employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter ~~(70.96A)~~ 71.24 RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

**Sec. 5.** RCW 43.70.442 and 2017 c 262 s 4 are each amended to read as follows:

(1)(a) Each of the following professionals certified or licensed under Title 18 RCW shall, at least once every six years, complete training in suicide assessment, treatment, and management that is approved, in rule, by the relevant disciplining authority:

(i) An adviser or counselor certified under chapter 18.19 RCW;

(ii) A chemical dependency professional licensed under chapter 18.205 RCW;

(iii) A marriage and family therapist licensed under chapter 18.225 RCW;

(iv) A mental health counselor licensed under chapter 18.225 RCW;

(v) An occupational therapy practitioner licensed under chapter 18.59 RCW;

(vi) A psychologist licensed under chapter 18.83 RCW;

(vii) An advanced social worker or independent clinical social worker licensed under chapter 18.225 RCW; and

(viii) A social worker associate—advanced or social worker associate—independent clinical licensed under chapter 18.225 RCW.

(b) The requirements in (a) of this subsection apply to a person holding a retired active license for one of the professions in (a) of this subsection.

(c) The training required by this subsection must be at least six hours in length, unless a disciplining authority has determined, under subsection (10)(b) of this section, that training that includes only screening and referral elements is appropriate for the profession in question, in which case the training must be at least three hours in length.

(d) Beginning July 1, 2017, the training required by this subsection must be on the model list developed under subsection (6) of this section. Nothing in this subsection (1)(d) affects the validity of training completed prior to July 1, 2017.

(2)(a) Except as provided in (b) of this subsection, a professional listed in subsection (1)(a) of this section must complete the first training required by this section by the end of the first full continuing education reporting period after January 1, 2014, or during the first full continuing education reporting period after initial licensure or certification, whichever occurs later.

(b) A professional listed in subsection (1)(a) of this section applying for initial licensure may delay completion of the first training required by this section for six years after initial licensure if he or she can demonstrate successful completion of the training required in subsection (1) of this section no more than six years prior to the application for initial licensure.

(3) The hours spent completing training in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education or continuing competency requirements for each profession.

(4)(a) A disciplining authority may, by rule, specify minimum training and experience that is sufficient to exempt an individual professional from the training requirements in subsections (1) and (5) of this section. Nothing in this subsection (4)(a) allows a disciplining authority to provide blanket exemptions to broad categories or specialties within a profession.

(b) A disciplining authority may exempt a professional from the training requirements of subsections

(1) and (5) of this section if the professional has only brief or limited patient contact.

(5)(a) Each of the following professionals credentialed under Title 18 RCW shall complete a one-time training in suicide assessment, treatment, and management that is approved by the relevant disciplining authority:

(i) A chiropractor licensed under chapter 18.25 RCW;

(ii) A naturopath licensed under chapter 18.36A RCW;

(iii) A licensed practical nurse, registered nurse, or advanced registered nurse practitioner, other than a certified registered nurse anesthetist, licensed under chapter 18.79 RCW;

(iv) An osteopathic physician and surgeon licensed under chapter 18.57 RCW, other than a holder of a postgraduate osteopathic medicine and surgery license issued under RCW 18.57.035;

(v) An osteopathic physician assistant licensed under chapter 18.57A RCW;

(vi) A physical therapist or physical therapist assistant licensed under chapter 18.74 RCW;

(vii) A physician licensed under chapter 18.71 RCW, other than a resident holding a limited license issued under RCW 18.71.095(3);

(viii) A physician assistant licensed under chapter 18.71A RCW;

(ix) A pharmacist licensed under chapter 18.64 RCW;

(x) A dentist licensed under chapter 18.32 RCW;

(xi) A dental hygienist licensed under chapter 18.29 RCW; ~~(and)~~

(xii) An athletic trainer licensed under chapter 18.250 RCW; and

~~(xiii)~~ A person holding a retired active license for one of the professions listed in (a)(i) through ~~((xi))~~ (xii) of this subsection.

(b)(i) A professional listed in (a)(i) through (viii) of this subsection or a person holding a retired active license for one of the professions listed in (a)(i) through (viii) of this subsection must complete the one-time training by the end of the first full continuing education reporting period after January 1, 2016, or during the first full continuing education reporting period after initial licensure, whichever is later. Training completed between June 12, 2014, and January 1, 2016, that meets the requirements of this section, other than the timing requirements of this subsection (5)(b), must be accepted by the disciplining authority as meeting the one-time training requirement of this subsection (5).

(ii) A licensed pharmacist or a person holding a retired active pharmacist license must complete the one-time training by the end of the first full continuing education reporting period after January 1, 2017, or during the first full

continuing education reporting period after initial licensure, whichever is later.

(iii) A licensed dentist, a licensed dental hygienist, or a person holding a retired active license as a dentist shall complete the one-time training by the end of the full continuing education reporting period after August 1, 2020, or during the first full continuing education reporting period after initial licensure, whichever is later. Training completed between July 23, 2017, and August 1, 2020, that meets the requirements of this section, other than the timing requirements of this subsection (5)(b)(iii), must be accepted by the disciplining authority as meeting the one-time training requirement of this subsection (5).

(c) The training required by this subsection must be at least six hours in length, unless a disciplining authority has determined, under subsection (10)(b) of this section, that training that includes only screening and referral elements is appropriate for the profession in question, in which case the training must be at least three hours in length.

(d) Beginning July 1, 2017, the training required by this subsection must be on the model list developed under subsection (6) of this section. Nothing in this subsection (5)(d) affects the validity of training completed prior to July 1, 2017.

(6)(a) The secretary and the disciplining authorities shall work collaboratively to develop a model list of training programs in suicide assessment, treatment, and management.

(b) The secretary and the disciplining authorities shall update the list at least once every two years.

(c) By June 30, 2016, the department shall adopt rules establishing minimum standards for the training programs included on the model list. The minimum standards must require that six-hour trainings include content specific to veterans and the assessment of issues related to imminent harm via lethal means or self-injurious behaviors and that three-hour trainings for pharmacists or dentists include content related to the assessment of issues related to imminent harm via lethal means. When adopting the rules required under this subsection (6)(c), the department shall:

(i) Consult with the affected disciplining authorities, public and private institutions of higher education, educators, experts in suicide assessment, treatment, and management, the Washington department of veterans affairs, and affected professional associations; and

(ii) Consider standards related to the best practices registry of the American foundation for suicide prevention and the suicide prevention resource center.

(d) Beginning January 1, 2017:

(i) The model list must include only trainings that meet the minimum standards established in the rules adopted under (c) of this subsection and any three-hour trainings that met the requirements of this section on or before July 24, 2015;

(ii) The model list must include six-hour trainings in suicide assessment, treatment, and management, and three-hour trainings that include only screening and referral elements; and

(iii) A person or entity providing the training required in this section may petition the department for inclusion on the model list. The department shall add the training to the list only if the department determines that the training meets the minimum standards established in the rules adopted under (c) of this subsection.

(7) The department shall provide the health profession training standards created in this section to the professional educator standards board as a model in meeting the requirements of RCW 28A.410.226 and provide technical assistance, as requested, in the review and evaluation of educator training programs. The educator training programs approved by the professional educator standards board may be included in the department's model list.

(8) Nothing in this section may be interpreted to expand or limit the scope of practice of any profession regulated under chapter 18.130 RCW.

(9) The secretary and the disciplining authorities affected by this section shall adopt any rules necessary to implement this section.

(10) For purposes of this section:

(a) "Disciplining authority" has the same meaning as in RCW 18.130.020.

(b) "Training in suicide assessment, treatment, and management" means empirically supported training approved by the appropriate disciplining authority that contains the following elements: Suicide assessment, including screening and referral, suicide treatment, and suicide management. However, the disciplining authority may approve training that includes only screening and referral elements if appropriate for the profession in question based on the profession's scope of practice. The board of occupational therapy may also approve training that includes only screening and referral elements if appropriate for occupational therapy practitioners based on practice setting.

(11) A state or local government employee is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

(12) An employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter ~~(70.96A)~~ 71.24 RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

**Sec. 6.** RCW 69.41.010 and 2016 c 148 s 10 and 2016 c 97 s 2 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

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

(3) "Community-based care settings" include: Community residential programs for persons with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

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

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

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

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

(8) "Distribute" means to deliver other than by administering or dispensing a legend drug.

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

(10) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of human beings or animals; and

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

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

(12) "In-home care settings" include an individual's place of temporary and permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings.

(13) "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(14) "Legible prescription" means a prescription or medication order issued by a practitioner that is capable of being read and understood by the pharmacist filling the prescription or the nurse or other practitioner implementing the medication order. A prescription must be hand printed, typewritten, or electronically generated.

(15) "Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department. A nonpractitioner may help in the preparation of legend drugs or controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate. Medication assistance shall not include assistance with intravenous medications or injectable medications, except prefilled insulin syringes.

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

(17) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, an East Asian medicine practitioner to the extent authorized under chapter 18.06 RCW and the rules adopted under RCW 18.06.010(1)(j), a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, an osteopathic physician assistant under chapter 18.57A RCW, a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a licensed athletic trainer to the extent authorized under chapter 18.250 RCW, a pharmacist under chapter 18.64 RCW, or, when

acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

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

NEW SECTION. **Sec. 7.** Section 4 of this act expires August 1, 2020.

NEW SECTION. **Sec. 8.** Section 5 of this act takes effect August 1, 2020."

Correct the title.

Signed by Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers; Davis; Harris; Jenkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

Referred to Committee on Rules for second reading.

April 2, 2019

E2SSB 5740 Prime Sponsor, Committee on Ways & Means: Creating the secure choice retirement savings program. Reported by Committee on Consumer Protection & Business

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** This act may be known and cited as the secure choice retirement savings program act.

NEW SECTION. **Sec. 2.** The legislature finds: That large numbers of households in this state have no or inadequate retirement savings and many of those households do not have access to any savings plan at work; that this lack of retirement savings and coverage is more prevalent among low-income households; and that it is well-established that most workers will save for retirement if they are offered a

workplace savings program using an opt-out approach. Washington state is deeply concerned about the retirement prospects of its citizens and the strain that large numbers of ill-prepared retirees may impose on taxpayer-financed elderly assistance programs for housing, food, medical care, and other necessities. Accordingly, this act will facilitate voluntary retirement savings by workers in this state by establishing an IRA savings program with automatic enrollment ("auto-IRA") and requiring employers in this state that do not offer a retirement plan to make the program available to their employees.

**NEW SECTION. Sec. 3.** The definitions in this section apply throughout sections 2 through 11 of this act unless the context clearly requires otherwise.

(1) "Administrative fee" means the amount deducted from the investment fund of a covered employee and used to pay the costs associated with administering the program.

(2) "Administrative fund" means the secure choice retirement savings administrative fund established under section 7 of this act.

(3) "Compensation" means compensation within the meaning of section 219(f)(1) of the internal revenue code that is received by a covered employee from a covered employer or a professional employer organization, as such term is defined in RCW 50.04.298.

(4) "Contribution rate" means the percentage of a covered employee's compensation that is withheld from his or her compensation and paid to the IRA established for the covered employee under the program.

(5) "Covered employee" means any individual who is eighteen years of age or older, who is employed by a covered employer, and who has compensation that is allocable to the state. For purposes of the investment, withdrawal, transfer, rollover, or other distribution of an IRA, the term covered employee also includes the beneficiary of a deceased covered employee and an "alternate payee" under state domestic relations law. For purposes of sections 2 through 11 of this act, a covered employee, as defined in this subsection, who is performing services for a client employer that has entered into a professional employer agreement with a professional employer organization, as such terms are defined in RCW 50.04.298, must be treated as employed by the client employer and not by the professional employer organization.

(6) "Covered employer" means an employer that either:

(a) Satisfies both of the following requirements:

(i) Has been in business for at least five years; and

(ii) Has not sponsored, maintained, or contributed to a retirement plan under sections 401(a), 401(k), 403(a), 403(b), 408(k), or 408(p) of the internal revenue code, including such a plan sponsored or maintained by a professional employer organization with which the employer has a professional employer agreement, as such terms are defined in RCW 50.04.298, at any time during the

preceding two calendar years and does not currently sponsor, maintain, or contribute to a retirement plan; or

(b) Elects to be a covered employer if and as permitted in accordance with rules and procedures established by the director.

(7) "Director" means the director of the department of commerce.

(8) "Employer" means a person or entity engaged in a business, profession, trade, or other enterprise in the state, whether for profit or not for profit, that employs more than five individuals in the state; provided that a federal or state entity, agency, or instrumentality, or any political subdivision thereof, is not an employer.

(9) "Internal revenue code" means the federal internal revenue code of 1986, as amended.

(10) "Investment advisor" means:

(a) An investment advisor registered under the federal investment advisers act of 1940; or

(b) A bank or other institution exempt from registration under the federal investment advisers act of 1940.

(11) "Investment fund" means each investment portfolio established by the director within the trust for investment purposes.

(12) "IRA" means either an individual retirement account or individual retirement annuity established under section 408A of the internal revenue code.

(13) "Program" means the secure choice retirement savings program established under sections 2 through 11 of this act.

(14) "Trust" means the IRA retirement trust or annuity contract established under section 8 of this act.

(15) "Trustee" means the trustee of the trust, including an insurance company issuing an annuity contract, selected by the director under section 8 of this act.

**NEW SECTION. Sec. 4.** (1) The director has the following powers and duties:

(a) To design, establish, and operate the program in accordance with the requirements set forth in sections 2 through 11 of this act;

(b) To collect administrative fees to defray the costs of administering the program;

(c) To enter into contracts necessary or desirable for the establishment and administration of the program;

(d) To hire, retain, and terminate other state or nonstate entities as the director deems necessary or desirable for all or part of the services necessary for the management of the program, including, but not limited to, consultants, investment advisors, trustees, custodians, insurance companies, recordkeepers, administrators, actuaries, counsel, auditors, and other professionals; provided that

each service provider must be authorized to do business in this state;

(e) To determine the type or types of IRAs to be offered, the default contribution rate and automatic escalation rate;

(f) To employ a program director and such other individuals as the director determines to be necessary or desirable to administer the program and the administrative fund;

(g) To develop and implement an outreach plan to gain input and disseminate information regarding the program and retirement and financial education in general, to employees, employers, and other constituents in the state;

(h) To develop and implement a marketing strategy for the program that includes outreach to communities of color and encourages small business engagement;

(i) To determine the number of days by which an eligible employer must make the program available to a covered employee upon first becoming an eligible employer or covered employee;

(j) To adopt rules and procedures for the establishment and operation of the program and to take such other actions necessary or desirable to establish and operate the program in accordance with sections 2 through 11 of this act.

(2) The director shall use the following principles in the design and operation of the program:

(a) Operate with low costs but sufficient to ensure that the program is sustainable;

(b) Structure the program so that covered employees are automatically enrolled and covered employer participation is required;

(c) Ensure that the program does not conflict with or be preempted by federal law, including the employee retirement income security act of 1974;

(d) Provide customer service processes to any and all pertinent persons and disseminate program information to covered employers and covered employees;

(e) Monitor the investment advisor's financial management policies, processes, and performance.

(3) Other state agencies must provide appropriate and reasonable assistance to the director as needed, including gathering data and information, in order for the director to carry out the purpose of sections 2 through 11 of this act.

(4) The director shall not impose any obligations on the state, nor may it pledge the credit of the state.

(5) The director, in consultation with the state investment board and the department of financial institutions, has discretion to establish and maintain the program by: Contracting with another state to use that state's auto-IRA program, partnering with one or more states to create a joint auto-IRA program that includes the program,

or forming a consortium with one or more other states in which certain aspects of each state's program are combined for administrative convenience and efficiency, provided that in any such case, the auto-IRA program used, the joint program, or the consortium otherwise satisfies the requirements of this chapter.

NEW SECTION. **Sec. 5.** (1) The director, the trustee, and each investment adviser or other person which has control of the assets of the trust shall be a fiduciary with respect to the trust and IRAs established and maintained under the program.

(2) Each covered employer is required to provide covered employees with such information as the director directs. No employer acting as such is a fiduciary with respect to the trust or an IRA or has fiduciary responsibilities under sections 2 through 11 of this act.

(3) Each fiduciary shall discharge its duties with respect to the program solely in the interests of covered employees and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of like character and aims.

NEW SECTION. **Sec. 6.** The secure choice retirement savings program must be designed, established, and operated in accordance with the following:

(1) Each covered employer is required to offer to each covered employee an opportunity to contribute to an IRA established under the program for the benefit of the covered employee through withholding from his or her compensation. No employer is permitted to contribute to the program or to endorse or otherwise promote the program.

(2) Unless the covered employee chooses otherwise, he or she shall be automatically enrolled in the program and contributions shall be withheld from such covered employee's compensation at a rate set by the director unless the covered employee elects not to contribute or to contribute at a different rate.

(3) The contribution rate of each covered employee shall be increased at such rate and at such intervals as from time to time established by the director, unless the covered employee elects not to have such automatic increases apply.

(4) The IRAs are intended to qualify for favorable federal income tax treatment under section 408A of the internal revenue code.

(5) The director may establish intervals after which a covered employee must reaffirm elections, including opt-out elections, with regard to participation or escalation.

(6) Each covered employer shall deposit covered employees' withheld contributions under the program with the trustee in such manner as is determined by the director, provided that the employer shall deliver the amounts withheld to the trustee in good order within ten business days

after the date such amounts otherwise would have been paid to the covered employee.

(7) The director shall determine the rules and procedures for withdrawals, distributions, transfers, and rollovers of IRAs and for the designation of IRA beneficiaries.

(8) The director shall report annually to the governor and the legislature outlining the director's activities and the program's operations.

(9) The director shall cause to be furnished to each covered employer:

(a) Information regarding the program;

(b) Required disclosures to be furnished to covered employees. Such disclosures must include:

(i) A description of the benefits and risks associated with making contributions under the program;

(ii) Instructions about how to obtain additional information about the program;

(iii) A description of the tax consequences of an IRA, which may consist of or include the disclosure statement required to be distributed by the trustee under the internal revenue code and the treasury regulations thereunder;

(iv) A statement that covered employees seeking financial advice should contact their own financial advisors and that covered employers are not in a position to provide financial advice and that covered employers are not liable for decisions covered employees make under sections 2 through 11 of this act;

(v) A statement that the program is not an employer-sponsored retirement plan;

(vi) A statement that neither the program nor the covered employee's IRA established under the program is guaranteed by the state;

(vii) A statement that neither a covered employer nor the state will monitor or has an obligation to monitor the covered employee's eligibility under the internal revenue code to make contributions to an IRA or to monitor whether the covered employee's contributions to the IRA established for the covered employee under the program exceed the maximum permissible IRA contribution; that it is the covered employee's responsibility to monitor such matters; and that the state, the program, and the covered employer have no liability with respect to any failure of the covered employee to be eligible to make IRA contributions or any contribution in excess of the maximum IRA contribution;

(c) Information, forms, and instructions to be furnished to covered employees at such times as the director determines that provide the covered employee with the procedures for:

(i) Making contributions to the covered employee's IRA established under the program, including a description of the automatic enrollment rate, the automatic escalation rate and frequency, and the right to elect to make no

contribution or to change the contribution rate under the program;

(ii) Making an investment election with respect to the covered employee's IRA established under the program, including a description of the default investment fund;

(iii) Making transfers, rollovers, withdrawals, and other distributions from the covered employee's IRA.

(10) Each covered employer shall deliver or facilitate the delivery of the items set forth in subsection (9)(b) and (c) of this section to each covered employee at such time and in such manner as determined by the director.

(11) The program must be designed and operated in a manner that will cause it not to be an employee benefit plan within the meaning of section 3(3) of the employee retirement income security act of 1974.

(12) Nothing in sections 2 through 11 of this act prohibits a covered employer from contracting with a third party, such as a payroll service provider or a professional employer organization, to assist such employer with the tasks required of a covered employer under sections 2 through 11 of this act.

NEW SECTION. **Sec. 7.** (1) The secure choice retirement savings administrative fund is hereby established in the custody of the state treasurer as a nonappropriated account separate and apart from the trust. The director shall use moneys in the administrative fund to pay for administrative expenses it incurs in the performance of its duties under sections 2 through 11 of this act. The administrative fund may receive any grants or other moneys designated for the administrative fund from the state, or any unit of federal or local government, or any other person. Any interest earnings that are attributable to moneys in the administrative fund must be deposited into the administrative fund. Only the director 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) The account is authorized to maintain a cash deficit in the account for a period of no more than six fiscal years after the implementation of the secure choice retirement savings program to defray its initial program administration costs. By January 1, 2020, the director shall establish a program administration spending plan and an administrative fee schedule to discharge any projected cash deficit to the account. The legislature may make appropriations into the account for the purpose of reducing program administration costs.

(3) Administrative fees may be used to contract with another state to use that state's program or to create a joint program or consortium with one or more states offering an existing program. No other state funds may be used to contract or partner with one or more other states.

**NEW SECTION. Sec. 8.** There is hereby created as an instrumentality of the state a trust to be known as the secure choice retirement savings trust.

(1) The director shall appoint an institution qualified to act as trustee of IRA trusts or insurance company issuing annuity contracts under section 408 of the internal revenue code and licensed to do business in the state to act as trustee.

(2) The assets of IRAs established for covered employees must be allocated to the trust and combined for investment purposes. Trust assets must be managed and administered for the exclusive purposes of providing benefits to covered employees and defraying reasonable expenses of administering and maintaining, and managing investments, of the IRAs and the trust, including the expenses of the director under section 4 of this act.

(3) The director shall establish within the trust one or more investment funds, each pursuing an investment strategy and policy established by the director. The underlying investments of each investment fund shall be diversified, to the extent the director determines to be appropriate, so as to minimize the risk of large losses under the circumstances. The director may, at any time and from time to time, add, replace, or remove any investment fund.

(4) The director may allow covered employees to allocate assets of their IRAs among such investment funds and in such case, the director also may designate an investment fund as a default investment for the IRAs of covered employees who do not make an investment choice.

(5) Subject to subsection (6) of this section, the director, in consultation with such third-party professional investment advisers, managers, or consultants as it may retain, shall select the underlying investments of each investment fund. Such underlying investments may include, without limitation, shares of mutual funds and exchange-traded funds, publicly traded equity, and fixed-income securities, and other investments available for investment by the trust. No investment fund may invest in any bond, debt instrument, or other security issued by this state.

(6) The director may, in its discretion, retain an investment adviser to select and manage the investments of an investment fund on a discretionary basis, subject to the director's ongoing review and oversight.

(7) The trustee is subject to directions of the director under subsection (5) of this section or an investment adviser under subsection (6) of this section and otherwise has no responsibility for the selection, retention, or disposition of trust investments or assets.

(8) The assets of the trust must at all times be preserved, invested, and expended solely for the purposes of the trust and no property rights therein shall exist in favor of the state or any covered employer. Trust assets may not be transferred or used by the state for any purposes other than the purposes of the trust or funding the expenses of operating the program, including the expenses of the director. Amounts deposited with the trustee are not property of the state and may not be commingled with state funds and the state has no claim to or against, or interest in, the trust assets.

(9) The assets of the trust shall at all times be held separate and apart from the assets of the state. None of the state, the program, the director, nor any employer may guaranty any investment, rate of return, or interest on amounts held in the trust, an investment fund, or any IRA. None of the state, the program, the director, or any employer is liable for any losses incurred by trust investments or otherwise by any covered employee or other person as a result of participating in the program except for any liability that arises out of a breach of fiduciary duty under section 5 of this act. No covered employer is liable for any losses incurred by trust investments or otherwise by any covered employee or other person as a result of participating in the program.

(10) Any security issued, managed, or invested by the director within the secure choice retirement savings trust on behalf of an individual participating in the program is exempt from RCW 21.20.140.

(11) The trust is authorized to engage in trust business under Title 30B RCW and is exempt from the requirement to obtain a certificate of authority from the department of financial institutions under Title 30B RCW.

(12) If the director determines to exercise his or her discretion under section 4(5) of this act to establish the program by using another state's auto-IRA program, establishing a joint program, or a consortium with one or more other states, then the trust may be established by adopting the trust established under such other state's program or as a master trust or similar arrangement with such other states, provided that such trust, master trust, or similar arrangement otherwise satisfies the requirements of this section.

**NEW SECTION. Sec. 9.** If the director determines to exercise his or her discretion under section 4(5) of this act:

(1) Only the secure choice retirement savings administrative fund may be used to contract with another state to use that state's program or to create a joint program or consortium with one or more states offering an existing program;

(2) The rate of the administrative fee for covered employees may not exceed the rate charged to employees of another state participating in the same program; and

(3) The rate of the administrative fee may be increased only after consultation with the state investment board and the chair and ranking members of the appropriate legislative committees.

**NEW SECTION. Sec. 10.** The director may establish a pilot program for covered employers to auto enroll employees into an IRA by January 1, 2020. The director may also provide for a staggered rollout of the program so that covered employers are initially required to offer the program to covered employees in stages based on employee headcount or such other criteria as may be established by the director.

NEW SECTION. **Sec. 11.** (1) The director must develop an implementation plan that details how the department of commerce will design, establish, operate, and market the program under sections 2 through 10 of this act.

(2) By December 1, 2019, and in compliance with RCW 43.01.036, the department of commerce must submit a report to the appropriate committees of the legislature describing the implementation plan.

(3) Beginning on December 1st of the first year after fully implementing the program, the director must report annually on administrative fees. The report shall include:

(a) An update on progress to date towards eliminating the cash deficit in the secure choice retirement savings administrative fund;

(b) The administrative fee cost basis assigned to each state participating in the program;

(c) The uses of administrative fees; and

(d) A plan to the reduce administrative fee cost basis for covered employees as the assets under management in the secure choice retirement savings trust increase over time.

NEW SECTION. **Sec. 12.** RCW 43.330.730 (Finding—2015 c 296) is decodified.

**Sec. 13.** RCW 43.330.732 and 2015 c 296 s 2 are each amended to read as follows:

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

(1) "Approved plans" means retirement plans offered by private sector financial services firms that meet the requirements of this chapter to participate in the marketplace.

(2) "Balanced fund" means a mutual fund that has an investment mandate to balance its portfolio holdings. The fund generally includes a mix of stocks and bonds in varying proportions according to the fund's investment outlook.

(3) "Eligible employer" means a self-employed individual, sole proprietor, or an employer with ~~((fewer than))~~ at least one ~~((hundred))~~ qualified employee~~((s))~~ at the time of enrollment.

(4) "Enrollee" means any employee who is voluntarily enrolled in an approved plan offered by an eligible employer through the Washington small business retirement marketplace.

(5) ~~((("myRA" means the myRA retirement program administered by the United States department of the treasury that is available to all employers and employees with no fees or no minimum contribution requirements. A myRA is a Roth IRA option and investments in these accounts are backed by the United States department of the treasury.~~

~~((6))~~ "Participating employer" means any eligible employer with employees enrolled in an approved plan offered through the Washington small business retirement

marketplace who chooses to participate in the marketplace and offers approved plans to employees for voluntary enrollment.

~~((7))~~ (6) "Private sector financial services firms" or "financial services firms" mean persons or entities licensed or holding a certificate of authority and in good standing by either the department of financial institutions or the office of the insurance commissioner and meeting all federal laws and regulations to offer retirement plans.

~~((8))~~ (7) "Qualified employee" means those workers who are defined by the federal internal revenue service to be eligible to participate in a specific qualified plan.

~~((9))~~ (8) "Target date or other similar fund" means a hybrid mutual fund that automatically resets the asset mix of stocks, bonds, and cash equivalents in its portfolio according to a selected time frame that is appropriate for a particular investor. A target date is structured to address a projected retirement date.

~~((10))~~ (9) "Washington small business retirement marketplace" or "marketplace" means the retirement savings program created to connect eligible employers and their employees with approved plans to increase retirement savings.

**Sec. 14.** RCW 43.330.735 and 2017 c 69 s 1 are each amended to read as follows:

(1) The Washington small business retirement marketplace is created.

(2) Prior to connecting any eligible employer with an approved plan in the marketplace, the director shall design a plan for the operation of the marketplace.

(3) The director shall consult with the Washington state department of retirement systems, the Washington state investment board, and the department of financial institutions in designing and managing the marketplace.

(4) The director shall approve for participation in the marketplace all private sector financial services firms that meet the requirements of RCW 43.330.732~~((7))~~ (6).

(5) A range of investment options must be provided to meet the needs of investors with various levels of risk tolerance and various ages. The director must approve a diverse array of private retirement plan options that are available to employers on a voluntary basis, including but not limited to life insurance plans that are designed for retirement purposes, and plans for eligible employer participation such as: (a) A SIMPLE IRA-type plan that provides for employer contributions to participating enrollee accounts; and (b) a payroll deduction individual retirement account type plan or workplace-based individual retirement accounts open to all workers in which the employer does not contribute to the employees' account.

~~((6))~~(a) Prior to approving a plan to be offered on the marketplace, the department must receive verification from

the department of financial institutions or the office of the insurance commissioner:

(i) That the private sector financial services firm offering the plan meets the requirements of RCW 43.330.732(~~((7))~~) (6); and

(ii) That the plan meets the requirements of this section excluding subsection (9) of this section which is subject to federal laws and regulations.

(b) If the plan includes either life insurance or annuity products, or both, the office of the insurance commissioner may request that the department of financial institutions conduct the plan review as provided in (a)(ii) of this subsection prior to submitting its verification to the department.

(c) The director may remove approved plans that no longer meet the requirements of this chapter.

(7) The financial services firms participating in the marketplace must offer a minimum of two product options: (a) A target date or other similar fund, with asset allocations and maturities designed to coincide with the expected date of retirement and (b) a balanced fund. (~~The marketplace must offer myRA.~~)

(8) In order for the marketplace to operate, there must be at least two approved plans on the marketplace; however, nothing in this subsection shall be construed to limit the number of private sector financial services firms with approved plans from participating in the marketplace.

(9) Approved plans must meet federal law or regulation for internal revenue service approved retirement plans.

(10) The approved plans must include the option for enrollees to roll pretax contributions into a different individual retirement account or another eligible retirement plan after ceasing participation in a plan approved by the Washington small business retirement marketplace.

(11) Financial services firms selected by the department to offer approved plans on the marketplace may not charge the participating employer an administrative fee and may not charge enrollees more than one hundred basis points in total annual fees and must provide information about their product's historical investment performance. Financial services firms may charge enrollees a de minimis fee for new and/or low balance accounts in amounts negotiated and agreed upon by the department and financial services firms. The director shall limit plans to those with total fees the director considers reasonable based on all the facts and circumstances.

(12) Participation in the Washington small business retirement marketplace is voluntary for both eligible employers and qualified employees.

(13) Enrollment in any approved plan offered in the marketplace is not an entitlement.

**Sec. 15.** RCW 43.79A.040 and 2018 c 260 s 28, 2018 c 258 s 4, and 2018 c 127 s 6 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism

promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, ~~((the))~~ the public employees' and retirees' insurance account, ~~((the))~~ the school employees' insurance account, the secure choice retirement savings administrative fund, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 16.** RCW 30B.04.040 and 2014 c 37 s 306 are each amended to read as follows:

Notwithstanding any other provision of this title, a person is exempt from the requirement of a certificate of authority or approval under this title, or from regulation by the director pursuant to this title, if the person is:

(1) An individual, sole proprietor, or general partnership or joint venture composed of individuals;

(2) Engaging in business in this state (a) as a national banking association or (b) as a federal mutual savings bank, federal stock savings bank, or federal savings and loan

association under authority of the office of the comptroller of the currency;

(3) Acting in a manner otherwise authorized by law and within the scope of authority as an agent of a trust institution with respect to an activity which is not an unauthorized trust activity;

(4) Acting as a fiduciary solely by reason of being appointed by a court to perform the duties of a trustee, guardian, conservator, or receiver;

(5) While holding oneself out to the public as an attorney-at-law, law firm, or limited license legal technician, performing a service customarily performed as an attorney-at-law, law firm, or limited license legal technician in a manner approved and authorized by the supreme court of the state of Washington;

(6) Acting as an escrow agent pursuant to the escrow agent registration act, chapter 18.44 RCW, or in one's capacity as an authorized title agent under Title 48 RCW;

(7) Acting as trustee under a deed of trust delivered only as security for the payment of money or for the performance of another act;

(8) Receiving and distributing rents and proceeds of sale as a licensed real estate broker on behalf of a principal in a manner authorized by the Washington department of licensing;

(9) Engaging in a securities transaction or providing an investment advisory service in the capacity of a licensed and registered broker-dealer, investment advisor, or registered representative thereof, provided the activity is regulated by the department or the United States securities and exchange commission;

(10) Engaging in the sale and administration of an insurance product by an insurance company or agent licensed by the office of the insurance commissioner to the extent that the activity is regulated by the office of the insurance commissioner;

(11) Acting as trustee under a voting trust as provided by Washington state law;

(12) Acting as trustee by a public, private, or independent institution of higher education or a university system authorized under Washington state law, including its affiliated foundations or corporations, with respect to endowment funds or other funds owned, controlled, provided to, or otherwise made available to such institution with respect to its educational or research purposes;

(13) Acting as a private trust or private trust company to the extent exempt from regulation of the department as set forth in chapter 30B.64 RCW; ~~((or))~~

(14) The trust created in section 8 of this act, or a trustee of such trust; or

(15) Engaging in other activities expressly excluded from the application of this title by rule of the director.

NEW SECTION. **Sec. 17.** If any provision of this act is found to be in conflict with federal law or regulations, including the employee retirement income security act of 1974, the conflicting provision of this act is declared to be inoperative solely to the extent of the conflict, and that finding or determination shall not affect the operation of the remainder of this act.

NEW SECTION. **Sec. 18.** Sections 2 through 11 of this act are each added to chapter 43.330 RCW."

Correct the title.

Signed by Representatives Kirby, Chair; Reeves, Vice Chair; Blake; Ryu; Santos; Stanford and Walen.

MINORITY recommendation: Do not pass. Signed by Representatives Vick, Ranking Minority Member; Hoff, Assistant Ranking Minority Member; Barkis; Dufault; Volz and Ybarra.

Referred to Committee on Appropriations.

April 2, 2019

ESB 5765 Prime Sponsor, Senator Kuderer: Creating a new exclusion from mandatory industrial insurance coverage for persons transporting freight. (REVISED FOR ENGROSSED: Clarifying responsibilities for mandatory industrial insurance coverage for persons transporting freight.) Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 51.12 RCW to read as follows:

For purposes of section 2 of this act, the legislature finds that there are a variety of business models within the freight transportation industry. New freight business models continue to evolve, with the potential to create confusion regarding which entity is considered the employer of a driver for purposes of industrial insurance. The legislature intends to clarify, in alignment with current law and practice, the circumstances under which a freight broker or forwarder who engages with a carrier for delivery of freight may not be considered the employer of the drivers.

NEW SECTION. **Sec. 2.** A new section is added to chapter 51.12 RCW to read as follows:

(1) Solely for purposes of this title, a freight broker or freight forwarder that enters into an agreement with a licensed common or contract carrier for the transportation of

freight on behalf of such broker or forwarder may not be the employer of the drivers engaged by such common or contract carrier to operate commercial vehicles owned or operated by such common or contract carrier unless the common or contract carrier is also the driver.

(2) Nothing in this section shall be construed as relieving the owner or lessee of a commercial vehicle from treating the individual operating the vehicle as a worker under this title unless such individuals are not workers within the meaning of RCW 51.08.180 or are otherwise excluded from coverage under RCW 51.08.195.

(3) If an individual is excluded from coverage under this title pursuant to subsection (1) or (2) of this section, the individual may elect coverage under this title in the manner provided by RCW 51.32.030."

Correct the title.

Signed by Representatives Sells, Chair; Chapman, Vice Chair; Mosbrucker, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Gregerson; Hoff and Ormsby.

Referred to Committee on Rules for second reading.

April 3, 2019

SB 5782 Prime Sponsor, Senator Zeiger: Concerning spring blade knives. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 9.41.250 and 2012 c 179 s 1 are each amended to read as follows:

(1) Every person who:

(a) Manufactures, sells, or disposes of or possesses any instrument or weapon of the kind usually known as slung shot, sand club, or metal knuckles, or spring blade knife having a blade more than three and one-half inches in length;

(b) Furtively carries with intent to conceal any dagger, dirk, pistol, or other dangerous weapon; or

(c) Uses any contrivance or device for suppressing the noise of any firearm unless the suppressor is legally registered and possessed in accordance with federal law,

is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(2) "Spring blade knife" means any knife, including a prototype, model, or other sample, with a blade that is automatically released by a spring mechanism or other mechanical device, or any knife having a blade which opens, or falls, or is ejected into position by the force of gravity, or by an outward, downward, or centrifugal thrust or movement. A knife that contains a spring, detent, or other

mechanism designed to create a bias toward closure of the blade and that requires physical exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure to assist in opening the knife is not a spring blade knife.

**Sec. 2.** RCW 9.41.280 and 2016 sp.s. c 29 s 403 are each amended to read as follows:

(1) It is unlawful for a person to carry onto, or to possess on, public or private elementary or secondary school premises, school-provided transportation, or areas of facilities while being used exclusively by public or private schools:

(a) Any firearm;

(b) Any other dangerous weapon as defined in RCW 9.41.250;

(c) Any device commonly known as "nun-chu-ka sticks," consisting of two or more lengths of wood, metal, plastic, or similar substance connected with wire, rope, or other means;

(d) Any device, commonly known as "throwing stars," which are multipointed, metal objects designed to embed upon impact from any aspect;

(e) Any air gun, including any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide, or other gas; ~~((e))~~

(f)(i) Any portable device manufactured to function as a weapon and which is commonly known as a stun gun, including a projectile stun gun which projects wired probes that are attached to the device that emit an electrical charge designed to administer to a person or an animal an electric shock, charge, or impulse; or

(ii) Any device, object, or instrument which is used or intended to be used as a weapon with the intent to injure a person by an electric shock, charge, or impulse; or

(g) Any spring blade knife as defined in RCW 9.41.250(2).

(2) Any such person violating subsection (1) of this section is guilty of a gross misdemeanor. If any person is convicted of a violation of subsection (1)(a) of this section, the person shall have his or her concealed pistol license, if any revoked for a period of three years. Anyone convicted under this subsection is prohibited from applying for a concealed pistol license for a period of three years. The court shall send notice of the revocation to the department of licensing, and the city, town, or county which issued the license.

Any violation of subsection (1) of this section by elementary or secondary school students constitutes grounds for expulsion from the state's public schools in accordance with RCW 28A.600.010. An appropriate school authority shall promptly notify law enforcement and the student's parent or guardian regarding any allegation or indication of such violation.

Upon the arrest of a person at least twelve years of age and not more than twenty-one years of age for violating subsection (1)(a) of this section, the person shall be detained or confined in a juvenile or adult facility for up to seventy-two hours. The person shall not be released within the seventy-two hours until after the person has been examined and evaluated by the designated crisis responder unless the court in its discretion releases the person sooner after a determination regarding probable cause or on probation bond or bail.

Within twenty-four hours of the arrest, the arresting law enforcement agency shall refer the person to the designated crisis responder for examination and evaluation under chapter 71.05 or 71.34 RCW and inform a parent or guardian of the person of the arrest, detention, and examination. The designated crisis responder shall examine and evaluate the person subject to the provisions of chapter 71.05 or 71.34 RCW. The examination shall occur at the facility in which the person is detained or confined. If the person has been released on probation, bond, or bail, the examination shall occur wherever is appropriate.

Upon completion of any examination by the designated crisis responder, the results of the examination shall be sent to the court, and the court shall consider those results in making any determination about the person.

The designated crisis responder shall, to the extent permitted by law, notify a parent or guardian of the person that an examination and evaluation has taken place and the results of the examination. Nothing in this subsection prohibits the delivery of additional, appropriate mental health examinations to the person while the person is detained or confined.

If the designated crisis responder determines it is appropriate, the designated crisis responder may refer the person to the local behavioral health organization for follow-up services or the ~~((department of social and health services))~~ health care authority or other community providers for other services to the family and individual.

(3) Subsection (1) of this section does not apply to:

(a) Any student or employee of a private military academy when on the property of the academy;

(b) Any person engaged in military, law enforcement, or school district security activities. However, a person who is not a commissioned law enforcement officer and who provides school security services under the direction of a school administrator may not possess a device listed in subsection (1)(f) of this section unless he or she has successfully completed training in the use of such devices that is equivalent to the training received by commissioned law enforcement officers;

(c) Any person who is involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the firearms of collectors or instructors are handled or displayed;

(d) Any person while the person is participating in a firearms or air gun competition approved by the school or school district;

(e) Any person in possession of a pistol who has been issued a license under RCW 9.41.070, or is exempt from the licensing requirement by RCW 9.41.060, while picking up or dropping off a student;

(f) Any nonstudent at least eighteen years of age legally in possession of a firearm or dangerous weapon that is secured within an attended vehicle or concealed from view within a locked unattended vehicle while conducting legitimate business at the school;

(g) Any nonstudent at least eighteen years of age who is in lawful possession of an unloaded firearm, secured in a vehicle while conducting legitimate business at the school; or

(h) Any law enforcement officer of the federal, state, or local government agency.

(4) Subsections (1)(c) and (d) of this section do not apply to any person who possesses nun-chu-ka sticks, throwing stars, or other dangerous weapons to be used in martial arts classes authorized to be conducted on the school premises.

(5) Subsection (1)(f)(i) of this section does not apply to any person who possesses a device listed in subsection (1)(f)(i) of this section, if the device is possessed and used solely for the purpose approved by a school for use in a school authorized event, lecture, or activity conducted on the school premises.

(6) Except as provided in subsection (3)(b), (c), (f), and (h) of this section, firearms are not permitted in a public or private school building.

(7) "GUN-FREE ZONE" signs shall be posted around school facilities giving warning of the prohibition of the possession of firearms on school grounds.

**Sec. 3.** RCW 9.41.300 and 2018 c 201 s 9003 and 2018 c 201 s 6007 are each reenacted and amended to read as follows:

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

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

(b) Those areas in any building which are used in connection with court proceedings, including courtrooms, jury rooms, judge's chambers, offices and areas used to conduct court business, waiting areas, and corridors adjacent to areas used in connection with court proceedings. The restricted areas do not include common areas of ingress and egress to the building that is used in connection with court proceedings, when it is possible to protect court areas

without restricting ingress and egress to the building. The restricted areas shall be the minimum necessary to fulfill the objective of this subsection (1)(b).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Security personnel while engaged in official duties.

(7) Subsection (1)(a), (b), (c), and (e) of this section does not apply to correctional personnel or community corrections officers, as long as they are employed as such, who have completed government-sponsored law enforcement firearms training, except that subsection (1)(b) of this section does apply to a correctional employee or community corrections officer who is present at a courthouse building as a party to an action under chapter 10.14, 10.99,

or 26.50 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 26.50.010.

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

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

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

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

(12) Any person violating subsection (1) of this section is guilty of a gross misdemeanor.

(13) "Weapon" as used in this section means any firearm, explosive as defined in RCW 70.74.010, spring blade knife as defined in RCW 9.41.205(2), or instrument or weapon listed in RCW 9.41.250."

Correct the title.

Signed by Representatives Jinkins, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Graham; Kirby; Klippert; Shea; Walen; Ybarra and Orwall.

MINORITY recommendation: Do not pass. Signed by Representatives Kilduff and Valdez.

Referred to Committee on Rules for second reading.

April 3, 2019

SB 5787

Prime Sponsor, Senator Walsh:  
Concerning hours of availability for  
inspection and copying of public records.  
Reported by Committee on State  
Government & Tribal Relations

MAJORITY recommendation: Do pass. Signed by Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Appleton; Dolan; Hudgins; Mosbrucker and Smith.

Referred to Committee on Rules for second reading.

April 2, 2019

ESSB 5812 Prime Sponsor, Committee on Housing Stability & Affordability: Concerning local governments planning and zoning for accessory dwelling units. Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. FINDINGS AND INTENT. (1) The legislature makes the following findings:

(a) Washington state is experiencing a housing affordability crisis. Many communities across the state are in need of more housing options for renters.

(b) Accessory dwelling units are one of the best housing affordability tools that support homeownership and address long-standing issues of intergenerational poverty.

(c) Accessory dwelling units typically rent below market rate compared to new constructed apartments, providing additional affordable housing options for renters.

(d) Accessory dwelling units also help to provide housing for very low-income households. More than ten percent of accessory dwelling units in some areas are occupied by tenants who pay no rent at all; among these tenants are grandparents, adult children, family members with disabilities, and friends going through life transitions. Accessory dwelling units meet the needs of these people who might otherwise require subsidized housing space and resources needed by other households.

(e) Homeowners who add an accessory dwelling unit to their property may benefit from added income and an increased sense of security, as well as enabling them to stay in their home.

(f) Accessory dwelling units can also benefit neighborhoods by expanding rental options near public amenities such as schools, parks, and transit without changing the look and feel of existing neighborhoods.

(g) Accessory dwelling units may reduce economic displacement in existing communities by expanding the range of available housing options and prices, provided that the units are utilized for permanent housing rather than for short-term rental, such as to tourists, or for business uses.

(h) Accessory dwelling units are a housing choice that provides environmental benefits. They promote energy conservation compared with average size single-family homes. In addition, the siting of additional accessory dwelling units near transit hubs can help to reduce greenhouse gas emissions.

(i) Removing certain regulatory barriers to the construction of accessory dwelling units, such as inflexible design standards and siting restrictions, may substantially reduce construction costs, thereby enabling more homeowners to add accessory dwelling units to their properties. The increased availability of accessory dwelling units will provide benefits to homeowners, renters, the community, and the environment.

(2) The legislature intends to promote and encourage the creation of accessory dwelling units as a means to address the need for additional affordable housing options. The legislature intends that local governments shall continue to have full authority to: Regulate accessory dwelling units to ensure that they are utilized for permanent affordable housing; regulate or bar accessory dwelling units for use in any zone or area as short-term visitor businesses or any other business use; prevent speculation leading to displacement or loss of affordable home purchase options; preserve environmental values; and apply local landlord-tenant ordinances, including antidiscrimination provisions or provisions requiring acceptance of housing vouchers or noncash governmental or nonprofit supported housing payments, and safety and health codes.

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

(1) "Accessory dwelling unit" means a dwelling unit located on the same lot as a single-family housing unit.

(2) "Attached accessory dwelling unit" means an accessory dwelling unit located within or attached to a single-family housing unit without violating applicable lot size or lot coverage and set back requirements.

(3) "Detached accessory dwelling unit" means an accessory dwelling unit that consists partly or entirely of a building that is separate and detached from a single-family housing unit.

(4) "Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

(5) "Cities" means all cities, code cities, and towns with a population of ten thousand or more.

(6) "Counties" means all counties with a population of fifteen thousand or more.

(7) "Gross floor area" means the interior habitable area of a dwelling unit including basements and attics but not including a garage or accessory structure.

(8) "Permanent rental housing" or "permanent housing" for purposes of this act in regard to accessory dwelling units means a dwelling unit typically offered for rent for greater than a six-month period under either a month-to-month tenancy or residential lease, or utilized for free long-term residence by the homeowner.

(9) "Short-term rental" means a dwelling unit offered for rent for thirty days or fewer.

(10) "Single-family housing unit" means a single-family detached house, and excludes a duplex, triplex, townhome, or other housing unit.

NEW SECTION. **Sec. 3. ACCESSORY DWELLING UNIT REGULATIONS REQUIRED.** (1) Except as provided in section 4 of this act, cities and counties must adopt or amend by ordinance and incorporate into their development regulations, zoning regulations, and other official controls, an authorization for the creation of accessory dwelling units that is consistent with this chapter.

(2) Ordinances, development regulations, and other official controls adopted or amended pursuant to this chapter may only apply in the portions of towns, cities, and counties that are within designated urban growth areas.

(3) Except as provided in section 4 of this act, cities and counties must implement the requirements of this chapter by June 1, 2021.

(4) Any action taken by a county or city to comply with the requirements of this chapter within its urban growth area boundary is not subject to legal challenge under chapter 36.70A RCW.

(5) Attached or detached accessory dwelling units may not be considered as contributing to the overall underlying density within the urban growth area boundary of a county for purposes of compliance with chapter 36.70A RCW.

(6) A local jurisdiction adopting an ordinance pursuant to this section must provide for notice to neighbors to provide an opportunity for review along with a minimum thirty-day period for submitting public comments. A local jurisdiction may provide notice by posting signs on the respective property and within two hundred feet of the property, mailing a notice, and providing notice to community organizations for the neighborhood recognized by the local governmental entity.

(7) City and county ordinances adopted pursuant to this chapter:

(a) May be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority, to allow local flexibility, and recognize local authority;

(b) Must require an accessory dwelling unit to be accessible to fire department apparatus by way of a public street or approved fire apparatus access;

(c) May exempt designated historical districts;

(d) May establish design guidelines consistent with the neighborhood;

(e) May include owner occupancy restrictions relating to accessory dwelling units, restrictions on short-term rentals relating to accessory dwelling units, or both;

(f) For setbacks, heights, and design elements, such elements must be developed based on lot sizes, lot conditions, street block setbacks, slope, provide for pedestrian friendly streets and alleys, and other appropriate local considerations;

(g) May establish regulations consistent with tree, solar access, shading, and stormwater runoff capture ordinances; and

(h) May require the acceptance of low-income housing vouchers or other noncash housing program payments and other rules to create affordable housing.

NEW SECTION. **Sec. 4. GENERAL REGULATORY REQUIREMENTS.** Cities and counties which have not adopted accessory dwelling unit regulations as of June 1, 2021, which resulted in an increase in permitted accessory dwelling units utilized for permanent rental or permanent housing, as defined in section 2 of this act, or have not adopted or updated an accessory dwelling unit ordinance since 2012, must adopt an ordinance that includes at least four of the following provisions in subsections (1) through (10) of this section:

(1) For lots exceeding three thousand two hundred square feet and less than four thousand three hundred fifty-six square feet on which there is a single-family housing unit, allow for an attached accessory dwelling unit to be permitted for permanent rental housing or permanent housing, provided that the location of the accessory dwelling unit is compliant with all applicable state and federal laws, critical area ordinances, or other local ordinances regarding significant trees, lot setback, solar access, and health or safety considerations. Compliance with such other laws and development regulations may limit approval to an attached accessory dwelling unit within the existing permitted footprint of the main dwelling unit;

(2) For lots of four thousand three hundred fifty-six square feet or greater on which there is a single-family housing unit, allow for an attached or detached accessory dwelling unit to be permitted for permanent rental housing or permanent housing, provided that the location of the accessory dwelling unit is compliant with all applicable state and federal laws, critical area ordinances, or other local ordinances regarding significant trees, lot setback, solar access, and health or safety considerations. Compliance with such other laws and development regulations may limit approval to an attached accessory dwelling unit within the existing permitted footprint of the main dwelling unit or bar siting of a detached accessory dwelling unit;

(3) For lots of three thousand two hundred square feet or less on which there is a single-family housing unit, allow at least one attached accessory dwelling unit used for permanent rental housing or permanent housing located within the existing permitted dwelling structure;

(4) Attached or detached accessory dwelling units are not considered as contributing to the overall underlying density within the urban growth area boundary of a city for purposes of compliance with chapter 36.70A RCW;

(5) Any connection fees or capacity charges for attached or detached accessory dwelling units must not exceed the proportionate burden upon the water or sewer system that is typical of structures with similar characteristics as the proposed accessory dwelling. These charges may not be inconsistent with water availability requirements, water system plans, small water system management plans, or established policies adopted by the water or sewer utility provider;

(6) Does not count residents of accessory dwelling units against any limits on the number of unrelated residents on a single-family lot;

(7) Does not count the gross floor area of an accessory dwelling unit against any floor area ratio limitations that apply to single-family housing units;

(8) Does not establish a maximum gross floor area for accessory dwelling units that is less than five hundred square feet and fifteen percent of total lot size for lots over five thousand square feet but less than six thousand six hundred seventy square feet;

(9) Does not establish a minimum gross floor area for accessory dwelling units that is greater than two hundred square feet; or

(10) Provides for a waiver or reduction in on-site parking requirements based on location such as for accessory dwelling units within one-half mile of a transit stop for fixed rail or for bus service that is scheduled at least every fifteen minutes for no less than ten hours per day that is greater than fifty percent of the amount set for single-family residences.

**NEW SECTION. Sec. 5.** An ordinance that meets the criteria of sections 3 and 4 of this act may not be challenged in administrative or judicial appeals for noncompliance with chapter 43.21C RCW.

**NEW SECTION. Sec. 6. IMPACT FEE REVIEW.** Cities and counties must review their impact fees to ensure that any impact fees imposed for accessory dwelling units, in accordance with RCW 82.02.060(9), are commensurate with the actual impact of the accessory dwelling unit and are less than impact fees for single-family housing units.

**NEW SECTION. Sec. 7.** A new section is added to chapter 19.27 RCW to read as follows:

By April 1, 2020, the building code council shall adopt rules pertaining to accessory dwelling units that are consistent with the definitions and standards in chapter 36.-- RCW (the new chapter created in section 14 of this act).

**Sec. 8.** RCW 82.02.060 and 2012 c 200 s 1 are each amended to read as follows:

The local ordinance by which impact fees are imposed:

(1) Shall include a schedule of impact fees which shall be adopted for each type of development activity that is subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. The schedule shall be based upon a formula or other method of calculating such impact fees. In determining proportionate share, the formula or other method of calculating impact fees shall incorporate, among other things, the following:

(a) The cost of public facilities necessitated by new development;

(b) An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;

(c) The availability of other means of funding public facility improvements;

(d) The cost of existing public facilities improvements; and

(e) The methods by which public facilities improvements were financed;

(2) May provide an exemption for low-income housing, and other development activities with broad public purposes, from these impact fees, provided that the impact fees for such development activity shall be paid from public funds other than impact fee accounts;

(3) May provide an exemption from impact fees for low-income housing. Local governments that grant exemptions for low-income housing under this subsection (3) may either: Grant a partial exemption of not more than eighty percent of impact fees, in which case there is no explicit requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or provide a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts. An exemption for low-income housing granted under subsection (2) of this section or this subsection (3) must be conditioned upon requiring the developer to record a covenant that, except as provided otherwise by this subsection, prohibits using the property for any purpose other than for low-income housing. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion. Covenants required by this subsection must be recorded with the applicable county auditor or recording officer. A local government granting an exemption under subsection (2) of this section or this subsection (3) for low-income housing may not collect revenue lost through granting an exemption by increasing impact fees unrelated to the exemption. A school district who receives school impact fees must approve any exemption under subsection (2) of this section or this subsection (3);

(4) Shall provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan and that are required by the county, city, or town as a condition of approving the development activity;

(5) Shall allow the county, city, or town imposing the impact fees to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly;

(6) Shall include a provision for calculating the amount of the fee to be imposed on a particular development that permits consideration of studies and data submitted by the developer to adjust the amount of the fee;

(7) Shall establish one or more reasonable service areas within which it shall calculate and impose impact fees for various land use categories per unit of development; and

(8) May provide for the imposition of an impact fee for system improvement costs previously incurred by a county, city, or town to the extent that new growth and development will be served by the previously constructed improvements provided such fee shall not be imposed to make up for any system improvement deficiencies.

(9) May provide an exemption from impact fees for accessory dwelling units as defined in section 2 of this act, but may not establish a transportation impact fee amount for accessory dwelling units within one-half mile of a transit stop for fixed rail or for bus service that is scheduled at least every fifteen minutes for no less than ten hours per day that is greater than fifty percent of the amount set for single-family residences.

For purposes of this section, "low-income housing" means housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development.

**Sec. 9.** RCW 35.63.210 and 1993 c 478 s 8 are each amended to read as follows:

Any (~~local government~~) city or county, as defined in (~~RCW 43.63A.215~~) section 2 of this act, that is planning under this chapter shall comply with (~~RCW 43.63A.215(3)~~) chapter 36--- RCW (the new chapter created in section 14 of this act).

**Sec. 10.** RCW 35A.63.230 and 1993 c 478 s 9 are each amended to read as follows:

Any (~~local government~~) city or county, as defined in (~~RCW 43.63A.215~~) section 2 of this act, that is planning under this chapter shall comply with (~~RCW 43.63A.215(3)~~) chapter 36--- RCW (the new chapter created in section 14 of this act).

**Sec. 11.** RCW 36.70.677 and 1993 c 478 s 10 are each amended to read as follows:

Any (~~local government~~) city or county, as defined in (~~RCW 43.63A.215~~) section 2 of this act, that is planning under this chapter shall comply with (~~RCW 43.63A.215(3)~~) chapter 36--- RCW (the new chapter created in section 14 of this act).

**Sec. 12.** RCW 36.70A.400 and 1993 c 478 s 11 are each amended to read as follows:

Any (~~local government~~) city or county, as defined in (~~RCW 43.63A.215~~) section 2 of this act, that is planning under this chapter shall comply with (~~RCW 43.63A.215(3)~~) chapter 36--- RCW (the new chapter created in section 14 of this act).

NEW SECTION. **Sec. 13.** RCW 43.63A.215 (Accessory apartments—Development and placement—Local governments) and 1993 c 478 s 7 are each repealed.

NEW SECTION. **Sec. 14.** Sections 1 through 6 of this act constitute a new chapter in Title 36 RCW."

Correct the title.

Signed by Representatives Senn, Appleton, Peterson, Vice Chair Pollet, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Goehner Kraft, Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representative Griffey, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 2, 2019

2SSB 5822

Prime Sponsor, Committee on Ways & Means: Providing a pathway to establish a universal health care system for the residents of Washington state. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Tharinger; Thai; Stonier; Robinson; Riccelli; Jenkins; Harris; Davis; Macri, Vice Chair Cody, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick, Ranking Minority Member; Chambers Caldier, Assistant Ranking Minority Member.

Referred to Committee on Appropriations.

April 2, 2019

ESB 5887 Prime Sponsor, Senator Short: Concerning health carrier requirements for prior authorization standards. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 48.43.016 and 2018 c 193 s 1 are each amended to read as follows:

(1) A health carrier or its contracted entity that imposes different prior authorization standards and criteria for a covered service among tiers of contracting providers of the same licensed profession in the same health plan shall inform an enrollee which tier an individual provider or group of providers is in by posting the information on its web site in a manner accessible to both enrollees and providers.

(2)(a) A health carrier or its contracted entity may not require prior authorization for an initial evaluation and management visit and up to six (~~consecutive~~) treatment visits with a contracting provider (~~in a new episode of care~~) for each of the following: Chiropractic, physical therapy, occupational therapy, East Asian medicine, massage therapy, or speech and hearing therapies (that meet the standards of medical necessity and)). Visits for which prior authorization is not required under this section are subject to quantitative treatment limits of the health plan. Notwithstanding RCW 48.43.515(5) this section may not be interpreted to limit the ability of a health plan to require a referral or prescription for the therapies listed in this section.

(b) For visits for which prior authorization is not required under this section, a health carrier or its contracted entity may not:

(i) Deny or limit coverage on the basis of medical necessity or appropriateness if the patient's treating or referring provider has determined that the visits are medically necessary; or

(ii) Retroactively deny care or refuse payment for the visits.

(3) A health carrier shall post on its web site and provide upon the request of a covered person or contracting provider any prior authorization standards, criteria, or information the carrier uses for medical necessity decisions.

(4) A health care provider with whom a health carrier consults regarding a decision to deny, limit, or terminate a person's covered health care services must hold a license, certification, or registration, in good standing and must be in the same or related health field as the health care provider being reviewed or of a specialty whose practice entails the same or similar covered health care service.

(5) A health carrier may not require a provider to provide a discount from usual and customary rates for health

care services not covered under a health plan, policy, or other agreement, to which the provider is a party.

(6) For purposes of this section((:

~~(a) "New episode of care" means treatment for a new or recurrent condition for which the enrollee has not been treated by the provider within the previous ninety days and is not currently undergoing any active treatment.~~

~~(b))~~, "contracting provider" does not include providers employed within an integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW."

Correct the title.

Signed by Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers; Davis; Harris; Jenkins; Riccelli; Robinson; Stonier; Thai and Tharinger.

Referred to Committee on Rules for second reading.

April 3, 2019

ESSB 5959 Prime Sponsor, Committee on Ways & Means: Revising livestock identification law. Reported by Committee on Rural Development, Agriculture, & Natural Resources

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 16.57.010 and 2010 c 66 s 5 are each reenacted and amended to read as follows:

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

(1) "Brand" means a permanent fire brand or any artificial mark, other than an individual identification symbol, approved by the director to be used in conjunction with a brand or by itself.

(2) "Certificate of permit" means a form prescribed by and obtained from the director that is completed by the owner or a person authorized to act on behalf of the owner to show the ownership of livestock. It is used to document ownership of livestock while in transit within the state or on consignment to any public livestock market, special sale, slaughter plant or certified feed lot. It does not evidence inspection of livestock.

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

(4) "Director" means the director of the department or his or her duly authorized representative.

(5) "Horses" means horses, burros, and mules.

(6) "Individual identification certificate" means an inspection certificate that authorizes the livestock owner to transport the animal out of state multiple times within a set period of time.

(7) "Individual identification symbol" means a permanent mark placed on a horse for the purpose of individually identifying and registering the horse and which has been approved for use as such by the director.

(8) "Inspection certificate" means a certificate issued by the director, or a veterinarian or field livestock inspector that are certified by the director documenting the ownership of an animal based on an inspection of the animal. It includes an individual identification certificate.

(9) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, and goats.

(10) "Livestock inspection" or "inspection" means the examination of livestock or livestock hides for brands or any means of identifying livestock or livestock hides including the examination of documents providing evidence of ownership.

(11) "Microchipping" means the implantation of an identification microchip or similar electronic identification device to establish the identity of an individual animal:

(a) In the pipping muscle of a chick ratite or the implantation of a microchip in the tail muscle of an otherwise unidentified adult ratite;

(b) In the nuchal ligament of a horse unless otherwise specified by rule of the director; and

(c) In locations of other livestock species as specified by rule of the director when requested by an association of producers of that species of livestock.

(12) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

(13) "Production record brand" means a number brand which shall be used for production identification purposes only.

(14) "Ratite" means, but is not limited to, ostrich, emu, rhea, or other flightless bird used for human consumption, whether live or slaughtered.

(15) "Registering agency" means any person issuing an individual identification symbol for the purpose of individually identifying and registering a horse.

(16) "Self-inspection certificate" means a form prescribed by and obtained from the director that ~~((was))~~ is completed and signed by the buyer and seller of livestock to document a change in ownership ~~((before June 10, 2010))~~.

**Sec. 2.** RCW 16.57.015 and 2011 1st sp.s. c 21 s 51 are each amended to read as follows:

(1) The director shall establish a livestock identification advisory committee. The committee shall be composed of ~~((six members appointed by the director. One member shall represent each of the following groups: Beef producers, public livestock market operators, horse owners, dairy farmers, cattle feeders, and meat processors))~~ twelve voting members appointed by the director as follows: Two beef producers, two cattle feeders, two dairy producers, two livestock market owners, two meat processors, and two horse producers. Organizations representing the groups represented on the committee may submit nominations for these appointments to the director for the director's consideration. No more than two members at the time of their appointment or during their term may reside in the same county. Members may be reappointed and vacancies must be filled in the same manner as original appointments are made. As used in this subsection, "meat processor" means a person licensed to operate a slaughtering establishment under chapter 16.49 RCW or the federal meat inspection act (21 U.S.C. Sec. 601 et seq.). In making appointments, the director shall solicit nominations from organizations representing these groups statewide. The committee shall elect a member to serve as chair of the committee. The committee must meet at least twice a year. The committee shall meet at the call of the director, chair, or a majority of the committee. A quorum of the committee consists of a majority of members. If a member has not been designated for a position set forth in this section, that position may not be counted for purposes of determining a quorum. A member may appoint an alternate who meets the same qualifications as the member to serve during the member's absence. The director may remove a member from the committee if that member has two or more unexcused absences during a single calendar year.

(2) The purpose of the committee is to provide advice to the director regarding livestock identification programs administered under this chapter and regarding inspection fees and related licensing fees. The director shall consult the committee before adopting, amending, or repealing a rule under this chapter or altering a fee under RCW 16.58.050, 16.65.030, 16.65.037, or 16.65.090. If the director publishes in the state register a proposed rule to be adopted under the authority of this chapter and the rule has not received the approval of the advisory committee, the director shall file with the committee a written statement setting forth the director's reasons for proposing the rule without the committee's approval.

(3) The members of the advisory committee serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the committee to stagger the expiration of the initial terms. The members serve without compensation. The director may authorize the expenses of a member to be reimbursed if the member is selected to attend a regional or national conference or meeting regarding livestock identification. Any such reimbursement shall be in accordance with RCW 43.03.050 and 43.03.060.

**Sec. 3.** RCW 16.57.020 and 2003 c 326 s 4 are each amended to read as follows:

The director shall be the recorder of livestock brands and such brands shall not be recorded elsewhere in this state. Any person desiring to record a livestock brand shall apply on a form prescribed by the director. The application shall be accompanied by a facsimile of the brand applied for and a one hundred ~~((twenty))~~ thirty-two dollar recording fee. The director shall, upon his or her satisfaction that the application and brand facsimile meet the requirements of this chapter and its rules, record the brand. The director must establish a staggered brand record renewal schedule and may adopt an annual or biennial renewal schedule if necessary. The application to transfer a brand shall be accompanied by a notarized form that includes a facsimile of the brand, a description, information about the current owners, and a twenty seven dollar and fifty cent transfer fee. If the application to transfer a brand is for a legacy brand, the application must be accompanied by a one hundred dollar transfer fee. For purposes of this section, "legacy brand" means a brand that has been in continuous use for at least twenty-five years.

**Sec. 4.** RCW 16.57.025 and 2003 c 326 s 6 are each amended to read as follows:

(1) The director may enter into agreements with Washington state licensed and accredited veterinarians, who have been certified by the director, to perform livestock inspection.

(2) The department must actively recruit and maintain a list of field livestock inspectors who are certified to perform livestock inspection. The list must be divided into at least six geographic regions of the state. The list must be updated quarterly and must be made available to the public through electronic media and by mail when requested.

(3) All individuals applying for certification as a field livestock inspector under this section must complete training provided by the department at the discretion of the director. Training must include, but is not limited to, the:

(a) Reading of printed brands;

(b) Reading of brands or other marks on animals, including the location of brands on animals;

(c) Reading of a microchip or other electronic official individual identification;

(d) Completion of official documents; and

(e) Review of satisfactory ownership documents.

(4) In order to qualify, an individual must submit an application to the director that includes:

(a) The full name, address, telephone number, and email address of the individual applying for certification;

(b) The applicant's Washington state veterinary license number, if the applicant is a veterinarian;

(c) The geographic area in which the applicant will issue inspection certificates for livestock;

(d) A statement describing the applicant's experience with large animals, especially cattle and horses; and

(e) A brief statement indicating that the applicant is requesting certification to issue inspection certificates for cattle, horses, or both.

(5) Fees for livestock inspection performed by a certified veterinarian or field livestock inspector shall be collected by the veterinarian or field livestock inspector and remitted to the director. Veterinarians and field livestock inspectors providing livestock inspection may charge a fee for livestock inspection that is in addition to and separate from fees collected under RCW 16.57.220. The director may adopt ~~((rules necessary to implement livestock inspection performed by veterinarians and may adopt))~~ fees to cover the cost associated with certification of veterinarians and field livestock inspectors.

(6) A veterinarian or field livestock inspector certified to perform livestock inspection under this section shall not be considered an employee of the department.

(7)(a) The director may suspend or revoke a veterinarian's or field livestock inspector's certification to issue inspection certificates if the veterinarian or field livestock inspector knowingly:

(i) Makes or acquiesces in false or inaccurate statements on livestock inspection certificates regarding:

(A) The date or location of the inspection;

(B) The marks or brands on the livestock inspected;

(C) The owner's name; or

(D) Any other statement about the livestock inspected.

(ii) Fails to properly verify the ownership status of the animal before issuing an inspection certificate.

(iii) Issues an inspection certificate without actually conducting an inspection of the livestock.

(iv) Fails to submit inspection fees and certificates issued to the director within thirty days from the date of issue.

(b) Actions under this section must be taken in accordance with chapter 34.05 RCW.

**Sec. 5.** RCW 16.57.160 and 2015 c 197 s 2 are each amended to read as follows:

(1) The director may adopt rules:

(a) Designating any point for mandatory inspection of cattle or horses or the furnishing of proof that cattle or horses passing or being transported through the point have been inspected or identified and are lawfully being transported;

(b) Providing for issuance of individual horse and cattle identification certificates or other means of horse and cattle identification;

(c) Designating the documents that constitute other satisfactory proof of ownership for cattle and horses. A bill

of sale may not be designated as documenting satisfactory proof of ownership for cattle; ~~((and))~~

(d) Providing for self-inspection of twenty-five or fewer horses at a time, and no more than one hundred horses per calendar year; and

(e) Designating when inspection certificates, certificates of permit, or other transportation documents required by law or rule must designate a physical address of a destination. Cattle and horses must be delivered or transported directly to the physical address of that destination.

(2) The director may establish a process to electronically report transactions involving ~~((unbranded dairy))~~ cattle under RCW 16.57.450 as an alternative to the mandatory cattle inspections required by department rule adopted pursuant to this section.

(3) A self-inspection certificate may be accepted as satisfactory proof of ownership for cattle if the director determines that the self-inspection certificate, together with other available documentation, sufficiently establishes ownership. Self-inspection certificates completed after June 10, 2010, are not satisfactory proof of ownership for cattle.

(4)(a) Upon request by a milk producer licensed under chapter 15.36 RCW, the department must issue an official individual identification tag to be placed by the producer before the first point of sale on bull calves and free-martins (infertile female calves) under thirty days of age. The fee for each tag is the cost to the department for manufacture, purchase, and distribution of the tag plus the applicable beef commission assessment. As used in this subsection (4), "green tag" means the official individual identification issued by the department.

(b) Transactions involving unbranded dairy breed bull calves or free-martins (infertile female calves) not being moved or transported out of Washington are exempt from inspection requirements under this chapter only if:

(i) The animal is under thirty days old and has not been previously bought or sold;

(ii) The seller holds a valid milk producer's license under chapter 15.36 RCW;

(iii) The sale does not take place at or through a public livestock market or special sale authorized by chapter 16.65 RCW;

(iv) Each animal is officially identified as provided in (a) of this subsection; and

(v) A certificate of permit and a bill of sale listing each animal's green tag accompanies the animal to the buyer's location. These documents do not constitute proof of ownership under this chapter.

(c) All fees received under (a) of this subsection, except for the beef commission assessment, must be deposited in the animal disease traceability account in the agricultural local fund created in RCW 43.23.230.

**Sec. 6.** RCW 16.57.220 and 2010 c 66 s 7 are each amended to read as follows:

(1) Except as provided for in RCW 16.65.090 and otherwise in this section, the fee for livestock inspection is ~~((one dollar and sixty cents))~~ three dollars per head for cattle and ~~((three))~~ two dollars and ~~((fifty))~~ forty cents for horses ~~((or the time and mileage fee, whichever is greater)),~~ with a call out fee of twenty dollars.

(2) When cattle are identified with the owner's brand, electronic official individual identification, or other form of identification specified by the director by rule, the fee for livestock inspection is one dollar and ~~((ten))~~ twenty-five cents per head ~~((or the time and mileage fee, whichever is greater)),~~ with a call out fee of twenty dollars.

(3) No inspection fee is charged for a calf that is inspected before moving out-of-state under an official temporary grazing permit if the calf is part of a cow-calf unit and the calf is identified with the owner's Washington-recorded brand or other form of identification specified by the director by rule.

(4) The fee for inspection of cattle at a processing plant with a daily capacity of no more than five hundred head of cattle where the United States department of agriculture maintains a meat inspection program is four dollars per head, with a call out fee of twenty dollars.

(5) When a single inspection certificate is issued for thirty or more horses belonging to one person, the fee for livestock inspection is two dollars per head ~~((or the time and mileage fee, whichever is greater)),~~ with a call out fee of twenty dollars.

(6) The fee for individual identification certificates is twenty-two dollars for an annual certificate and sixty dollars for a lifetime certificate ~~((or the time and mileage fee, whichever is greater)),~~ with a call out fee of twenty dollars. However, the fee for an annual certificate listing thirty or more animals belonging to one person is five dollars per head ~~((or the time and mileage fee, whichever is greater)),~~ with a call out fee of twenty dollars. A lifetime certificate shall not be issued until the fee has been paid to the director.

(7) The minimum fee for the issuance of an inspection certificate by the director is ~~((five))~~ four dollars. The minimum fee does not apply to livestock consigned to a public livestock market or special sale or inspected at a cattle processing plant.

~~((8) For purposes of this section, "the time and mileage fee" means seventeen dollars per hour and the current mileage rate set by the office of financial management.))~~

**Sec. 7.** RCW 16.57.450 and 2015 c 197 s 1 are each amended to read as follows:

(1)(a) The director may establish an electronic cattle transaction reporting system as a mechanism for reporting transactions involving ~~((unbranded dairy))~~ cattle to the department. The system may be used as an alternative to mandatory inspections under RCW 16.57.160. However, it

may only be used as an alternative for ~~((unbranded dairy))~~ cattle that are ~~((individually identified through an identification method authorized by the department))~~ identified with official electronic individual identification. All other livestock transactions are subject to the provisions of RCW 16.57.160. The system may be used to report the inspection of animals that are being moved out-of-state.

(b) ~~((Pursuant to criteria established by the director by rule,))~~ A cattle transaction described in (a) of this subsection, that would otherwise trigger a mandatory inspection under rules adopted pursuant to RCW 16.57.160, is eligible to report electronically under this section.

(c) Transactions that may be reported electronically include any sale, trade, gift, barter, or any other transaction that constitutes a change of ownership of ~~((unbranded dairy))~~ cattle.

(2) A person may not electronically report change of ownership or out of state movement transactions involving ~~((unbranded dairy))~~ cattle under this section without first obtaining an electronic cattle transaction reporting license from the director. Applicants for an electronic cattle transaction reporting license must submit an application to the department on a form provided by the department and must include an application fee. The amount of the application fee must be established by the director by rule consistent with subsection (8) of this section.

(3) All holders of an electronic cattle transaction reporting license must transmit to the department a record of each transaction containing the ~~((unique))~~ official electronic individual identification of each ~~((individual))~~ animal ~~((included in the transaction as assigned through a department authorized identification method)).~~ The transmission required under this subsection must be completed no more than twenty-four hours after a qualifying transaction involving ~~((unbranded dairy))~~ cattle.

(4) All holders of an electronic cattle transaction reporting license must keep accurate records of all transactions involving ~~((unbranded dairy))~~ cattle and make those records available for inspection by the department upon reasonable request during normal business hours. All records of the licensed property must be retained for at least three years.

(5)(a) The director may enter the property of the holder of an electronic cattle transaction reporting license at any reasonable time to conduct examinations and inspections of cattle and any associated records for movement verification purposes. For purposes of this section, "any reasonable time" means during regular business hours or during any working shift.

(b) It is unlawful for any person to interfere with an examination and inspection of cattle and records performed under this subsection.

(c) If the director is denied access to a property or cattle for the purposes of this subsection, or a person fails to comply with an order of the director, the director may apply to a court of competent jurisdiction for a search warrant. To show that access is denied, the director must file with the

court an affidavit or declaration containing a description of all attempts to notify and locate the owner or owner's agent and secure consent.

(6)(a) The director may deny, suspend, or revoke an electronic cattle transaction reporting license issued under this section if the director finds that an electronic cattle transaction reporting license holder:

(i) Fails to satisfy the reporting requirements as provided in this section;

(ii) Knowingly makes false or inaccurate statements;

(iii) Has previously had an electronic cattle transaction reporting license revoked;

(iv) Denies entry to property, cattle, or records as provided in subsection (5) of this section; or

(v) Violates any other provision of this chapter or any rules adopted under this chapter.

(b) Any action taken under this subsection must be consistent with the provisions of chapter 34.05 RCW, the administrative procedure act.

(c) If an electronic cattle transaction reporting license is denied, suspended, or revoked, then the mandatory cattle inspection requirements under RCW 16.57.160 apply to any future transactions.

(7) The department must submit an annual report to the legislature, consistent with RCW 43.01.036, that documents all examinations and inspections of cattle and records of electronic cattle transaction reporting license holders performed by the department either since the department's last report or since the adoption of the electronic cattle transaction reporting system. The annual report must also include details regarding any actions the department took following the examinations and inspections. All reports required under this section must be submitted by July 31st of each year.

(8)(a) The director may adopt rules:

(i) Designating the conditions of licensure under this section and the use of the electronic cattle transaction reporting system authorized by this section;

(ii) Establishing an initial application fee and a license renewal fee applicable to the electronic cattle transaction reporting license; and

(iii) Establishing any fees that must be paid by the holder of an electronic cattle transaction reporting license for reporting cattle transactions through the electronic cattle transaction reporting system.

(b) All fees established under this section must, as closely as practicable, cover the cost of the development, maintenance, fee collection, and audit and administrative oversight of the electronic cattle transaction reporting system.

NEW SECTION. Sec. 8. A new section is added to chapter 16.57 RCW to read as follows:

The department must maintain appropriate staffing levels to efficiently provide brand inspections.

**Sec. 9.** RCW 16.58.050 and 2003 c 326 s 49 are each amended to read as follows:

(1) The application for an annual license to engage in the business of operating one or more certified feed lots shall be accompanied by a license fee of (~~eight hundred fifty~~) nine hundred thirty-five dollars.

(2) Upon approval of the application by the director and compliance with the provisions of this chapter and rules adopted under this chapter, the applicant shall be issued a license or license renewal. The director shall conduct an inspection of all cattle and their corresponding ownership documents prior to issuing an original license. The inspection fee is the higher of the current inspection fee per head of cattle or time and mileage as set forth in RCW 16.57.220.

**Sec. 10.** RCW 16.65.080 and 2003 c 326 s 70 are each amended to read as follows:

(1) The director may deny, suspend, or revoke a license when the director finds that a licensee (a) has misrepresented titles, charges, numbers, brands, weights, proceeds of sale, or ownership of livestock; (b) has attempted payment to a consignor or the department by a check the licensee knows not to be backed by sufficient funds to cover such check; (c) has violated any of the provisions of this chapter or rules adopted under this chapter; (d) has violated any laws of the state that require inspection of livestock for health or (~~ownership~~) identification purposes; (e) has violated any condition of the bond, as provided in this chapter.

(2) Upon notice by the director to deny, revoke, or suspend a license, a person may request a hearing under chapter 34.05 RCW.

(3) The director may issue subpoenas to compel the attendance of witnesses, (~~and/or~~) or the production of books or documents anywhere in the state. The applicant or licensee shall have opportunity to be heard, and may have such subpoenas issued as he or she desires. Subpoenas shall be served in the same manner as in civil cases in the superior court. Witnesses shall testify under oath which may be administered by the director. Testimony shall be recorded, and may be taken by deposition under such rules as the director may prescribe.

**Sec. 11.** RCW 16.65.037 and 2003 c 326 s 66 are each amended to read as follows:

(1) Any license issued under the provisions of this chapter shall only be valid at the location and for the sales day or days for which the license was issued.

(2) The license fee shall be based on the average gross sales volume per official sales day of a market in the previous twelve months or, for a new market, the projected

average gross sales per official sales day of the market during its first year's operation.

(a) The license fee for markets with an average gross sales volume up to and including ten thousand dollars is one hundred (~~fifty~~) sixty-five dollars.

(b) The license fee for markets with an average gross sales volume over ten thousand dollars and up to and including fifty thousand dollars is three hundred thirty dollars.

(c) The license fee for markets with an average gross sales volume over fifty thousand dollars is four hundred (~~fifty~~) ninety-five dollars.

(3) Any applicant operating more than one public livestock market shall make a separate application for a license to operate each public livestock market, and each application shall be accompanied by the appropriate license fee.

**Sec. 12.** RCW 16.65.090 and 2003 c 326 s 71 are each amended to read as follows:

(~~The director shall provide for livestock inspection.~~) When livestock inspection is required the licensee shall collect from the consignor and pay to the department an inspection fee, as provided by law, for each animal inspected. However, if in any one sale day the total fees collected for inspection do not exceed one hundred fifty dollars, then the licensee shall pay one hundred fifty dollars for the inspection services. The licensee must pay a call out fee of twenty dollars to the department for each day and for each livestock inspector, certified veterinarian, or field livestock inspector who performs inspections at a public livestock market.

**Sec. 13.** RCW 16.65.170 and 2003 c 326 s 74 are each amended to read as follows:

The licensee shall keep accurate records which shall be available for inspection to all parties directly interested therein, and the records shall contain the following information:

(1) The date on which each consignment of livestock was received and sold.

(2) The name and address of the buyer and seller of the livestock.

(3) The number and species of livestock received and sold.

(4) The marks (~~and~~)<sub>2</sub> brands, and identification on the livestock.

(5) All statements of warranty or representations of title material to, or upon which, any sale is consummated.

(6) The gross selling price of the livestock with a detailed list of all charges deducted therefrom.

These records shall be kept by the licensee for one year subsequent to the receipt of such livestock.

NEW SECTION. Sec. 14. A new section is added to chapter 16.57 RCW to read as follows:

(1) The department shall submit a livestock inspection program report pursuant to RCW 43.01.036 by September 1, 2020, and annually thereafter, to the appropriate committees of the legislature having oversight over agriculture and fiscal matters. The report must also be submitted to the livestock identification advisory committee created in RCW 16.57.015. The report must include amounts collected, a report on program expenditures, and any recommendations for making the program more efficient, improving the program, or modifying livestock inspection fees to cover the costs of the program. The report must also address the financial status of the program, including whether there is a need to review fees so that the program continues to be supported by fees.

(2) This section expires July 1, 2023.

**Sec. 15.** RCW 16.58.130 and 2006 c 156 s 2 are each amended to read as follows:

Each licensee shall pay to the director a fee of ~~((twenty five))~~ forty cents for each head of cattle handled through the licensee's feed lot. The licensee must pay a call out fee of twenty dollars to the department for each day and for each livestock inspector, certified veterinarian, or field livestock inspector who performs inspections at each certified feed lot. Payment of the fees shall be made by the licensee on a monthly basis. Failure to pay as required shall be grounds for suspension or revocation of a certified feed lot license. The director shall not renew a certified feed lot license if a licensee has failed to make prompt and timely payments.

NEW SECTION. Sec. 16. A new section is added to chapter 16.57 RCW to read as follows:

The department must allow use of credit and debit cards for payment of fees to the department and its agents. The department must establish a convenience fee to be paid by the credit or debit card user whenever a credit or debit card is chosen as the payment method. The fee must be sufficient to offset, but may not exceed, the charges imposed on the department and its agents by credit and debit card companies. In no event may the use of credit or debit cards authorized by this section create a loss of revenue to the state.

NEW SECTION. Sec. 17. A new section is added to chapter 16.58 RCW to read as follows:

The department must allow use of credit and debit cards for payment of fees to the department and its agents. The department must establish a convenience fee to be paid by the credit or debit card user whenever a credit or debit card is chosen as the payment method. The fee must be sufficient to offset, but may not exceed, the charges imposed on the department and its agents by credit and debit card companies. In no event may the use of credit or debit cards

authorized by this section create a loss of revenue to the state.

NEW SECTION. Sec. 18. A new section is added to chapter 16.65 RCW to read as follows:

The department must allow use of credit and debit cards for payment of fees to the department and its agents. The department must establish a convenience fee to be paid by the credit or debit card user whenever a credit or debit card is chosen as the payment method. The fee must be sufficient to offset, but may not exceed, the charges imposed on the department and its agents by credit and debit card companies. In no event may the use of credit or debit cards authorized by this section create a loss of revenue to the state.

NEW SECTION. Sec. 19. A new section is added to chapter 16.57 RCW to read as follows:

(1) The department shall track the revenues, expenditures, and fund balance that result from the livestock inspection program under this chapter, chapter 16.58 RCW, and chapter 16.65 RCW, and shall maintain a fund balance for the program that is equivalent to no more than eight months of operating expenditures.

(2) The department may reduce livestock inspection fees established in this chapter by rule if conditions warrant or if reductions are necessary to maintain a fund balance that is equivalent to no more than eight months of operating expenditures.

NEW SECTION. Sec. 20. Sections 2, 6, 12, and 15 of this act expire July 1, 2023."

Correct the title.

Signed by Representatives Springer; Pettigrew; Orcutt; Kretz; Fitzgibbon; Dye; Chapman; Dent, Assistant Ranking Minority Member Blake, Chair.

MINORITY recommendation: Without recommendation. Signed by Representatives Shewmake, Vice Chair; Lekanoff and Walsh.

MINORITY recommendation: Do not pass. Signed by Representatives Ramos and Schmick.

Referred to Committee on Appropriations.

There being no objection, the bills listed on the day's committee reports and 1<sup>st</sup> and 2<sup>nd</sup> supplemental committee reports under the fifth order of business were referred to the committees so designated.

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

## MOTIONS

There being no objection, the Committee on Rules was relieved of the following bills and the bills were placed on the second reading calendar:

HOUSE BILL NO. 2015  
SUBSTITUTE SENATE BILL NO. 5023  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5027  
SENATE BILL NO. 5122  
SENATE BILL NO. 5162  
SENATE BILL NO. 5177  
SENATE BILL NO. 5205  
ENGROSSED SENATE BILL NO. 5210  
SUBSTITUTE SENATE BILL NO. 5212  
SUBSTITUTE SENATE BILL NO. 5218  
SENATE BILL NO. 5230  
ENGROSSED SECOND SUBSTITUTE SENATE  
BILL NO. 5290  
SUBSTITUTE SENATE BILL NO. 5403  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5410  
SUBSTITUTE SENATE BILL NO. 5461  
SUBSTITUTE SENATE BILL NO. 5474  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5480  
SENATE BILL NO. 5503

There being no objection, the Committee on Appropriations was relieved of SENATE BILL NO. 5714, and the bill was referred to the Committee on Rules.

There being no objection, the House adjourned until 1:30 p.m., April 4, 2019, the 81st Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## EIGHTY FIRST DAY

House Chamber, Olympia, Thursday, April 4, 2019

The House was called to order at 1:30 p.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

April 3, 2019

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Lex Smith and Heer Patal. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Tammy Stampfli, The United Churches, Olympia, Washington.

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

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

## MESSAGES FROM THE SENATE

April 3, 2019

MR. SPEAKER:

The Senate has passed:

HOUSE BILL NO. 1412,  
SUBSTITUTE HOUSE BILL NO. 1577,  
HOUSE BILL NO. 1634,  
SUBSTITUTE HOUSE BILL NO. 1764,  
ENGROSSED HOUSE BILL NO. 1777,  
HOUSE BILL NO. 1852,  
SUBSTITUTE HOUSE BILL NO. 1909,  
SUBSTITUTE HOUSE BILL NO. 1949,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

April 3, 2019

MR. SPEAKER:

The President has signed:

HOUSE BILL NO. 1001,  
HOUSE BILL NO. 1011,  
HOUSE BILL NO. 1055,  
HOUSE BILL NO. 1247,  
HOUSE BILL NO. 2072,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

MR. SPEAKER:

The President has signed:

SUBSTITUTE SENATE BILL NO. 5627,

and the same is herewith transmitted.

Brad Hendrickson, Secretary

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

## MESSAGE FROM THE SENATE

March 27, 2019

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1743 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends that the methodology for establishing the prevailing rates of wages under this act applies only to affordable housing, homeless and domestic violence shelters, and low-income weatherization and home rehabilitation programs.

**Sec. 2.** RCW 39.12.015 and 2018 c 248 s 1 and 2018 c 242 s 1 are each reenacted and amended to read as follows:

(1) All determinations of the prevailing rate of wage shall be made by the industrial statistician of the department of labor and industries.

(2) The time period for recovery of any wages owed to a worker affected by the determination is tolled until the prevailing wage determination is final.

(3)(a) Except as provided in section 3 of this act, and notwithstanding RCW 39.12.010(1), the industrial statistician shall establish the prevailing rate of wage by adopting the hourly wage, usual benefits, and overtime paid for the geographic jurisdiction established in collective bargaining agreements for those trades and occupations that have collective bargaining agreements. For trades and

occupations with more than one collective bargaining agreement in the county, the higher rate will prevail.

~~((4))~~ (b) For trades and occupations in which there are no collective bargaining agreements in the county, the industrial statistician shall establish the prevailing rate of wage as defined in RCW 39.12.010 by conducting wage and hour surveys. In instances when there are no applicable collective bargaining agreements and conducting wage and hour surveys is not feasible, the industrial statistician may employ other appropriate methods to establish the prevailing rate of wage.

NEW SECTION. Sec. 3. A new section is added to chapter 39.12 RCW to read as follows:

(1) For residential construction, the industrial statistician shall establish the prevailing rate of wage by conducting wage and hour surveys. If the industrial statistician determines that information received from a survey is insufficient to determine the prevailing rate of wage for a trade under this subsection, the industrial statistician shall employ other appropriate methods to establish the prevailing rate of wage.

(a) The industrial statistician shall conduct the initial surveys required by this subsection (1) as soon as feasible after the effective date of this section. These surveys shall cover fiscal year 2018.

(b) The industrial statistician shall conduct a wage and hour survey following the initial survey or otherwise reestablish a prevailing rate of wage for each trade covered by this section at least every five years, and after the initial survey may stagger the surveys for workload purposes.

(2)(a) Until the industrial statistician has established a prevailing wage rate under subsection (1)(a) of this section and except as provided in (b) of this subsection, the industrial statistician shall establish the wage rate by:

(i) Identifying the residential prevailing wage rate in effect on August 30, 2018, for that trade (rate A);

(ii) Determining the year most recent to 2018, but not earlier than 2007, in which the wage rate for that trade was adjusted (year A);

(iii) Determining the percentage change in the annual average hourly wages reported for construction workers in Washington state, as calculated by the United States bureau of labor statistics' state and area employment, hours, and earnings estimates, from year A to 2019;

(iv) Adding the percentage change from (a)(iii) of this subsection to one hundred percent (percentage A); and

(v) Multiplying rate A by percentage A.

(b) If the residential construction wage rate in effect for a trade on August 31, 2018, is the same as the wage rate in effect on August 30, 2018, the industrial statistician must adopt the wage rate in effect for the trade on August 31, 2018, until a wage rate is established under subsection (1)(a) of this section.

(3) For purposes of this section:

(a) "Residential construction" means construction, alteration, repair, improvement, or maintenance of single-family dwellings, duplexes, apartments, condominiums, and other residential structures not to exceed four stories in height, including the basement, in the following categories:

(i) Affordable housing, including permanent supportive housing and transitional housing, which may include common spaces, community rooms, recreational spaces, a management office, or offices for the purposes of service delivery;

(ii) Weatherization and home rehabilitation programs for low-income households; and

(iii) Homeless shelters and domestic violence shelters.

(b) "Residential construction" does not include the utilities construction, such as water and sewer lines, or work on streets, or work on other structures unrelated to the housing.

NEW SECTION. Sec. 4. The industrial statistician must establish and publish wage rates under section 3(2) of this act within thirty days after the effective date of this section. The wage rates take effect thirty days after publication.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 4 of the title, after "works;" strike the remainder of the title and insert "reenacting and amending RCW 39.12.015; adding a new section to chapter 39.12 RCW; creating new sections; and declaring an emergency."

and the same is herewith transmitted.

Sarah Bannister, Deputy Secretary

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

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1743 and advanced the bill as amended by the Senate to final passage.

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

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

#### **MOTIONS**

On motion of Representative Riccelli, Representatives Goodman and Appleton were excused.

On motion of Representative Jenkin, Representatives Dent, Kretz and Maycumber were excused.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of House Bill No. 1743, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1743, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 93; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

HOUSE BILL NO. 1743, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

There being no objection, the House reverted to the sixth order of business.

### SECOND READING

**SUBSTITUTE SENATE BILL NO. 5023, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Hasegawa, Conway, Frockt, Wellman, Wilson, C. and Saldaña)**

**Concerning an ethnic studies curriculum for public school students. Revised for 1st Substitute: Concerning ethnic studies materials and resources for public school students.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Education was adopted. (For Committee amendment, see Journal, Day 78, April 1, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representative Ortiz-Self spoke in favor of the passage of the bill.

Representative Steele spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5023, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5023, as amended by the House, and the bill passed the House by the following vote: Yeas, 58; Nays, 35; Absent, 0; Excused, 5.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, MacEwen, McCaslin, Mosbrucker, Orcutt, Schmick, Shea, Steele, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SUBSTITUTE SENATE BILL NO. 5023, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5027, by Senate Committee on Law & Justice (originally sponsored by Frockt, Carlyle, Palumbo, Wellman, Pedersen, Keiser, Saldaña, Mullet and O'Ban)**

**Concerning extreme risk protection orders.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Civil Rights & Judiciary was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 79, April 2, 2019).

Representative Irwin moved the adoption of amendment (501) to the committee striking amendment:

On page 5, beginning on line 36 of the striking amendment, after "by" strike "a preponderance of the" and insert "~~((a preponderance of the))~~ clear and convincing"

Representative Irwin spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Jinkins spoke against the adoption of the amendment to the committee striking amendment.

Amendment (501) to the committee striking amendment was not adopted.

Division was demanded on the adoption of the committee striking amendment and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The result was 54 - YEAS; 39 - NAYS.

The committee striking amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

There being no objection, the House deferred action on. ENGROSSED SUBSTITUTE SENATE BILL NO. 5027, and the bill held its place on the third reading calendar.

**SENATE BILL NO. 5032, by Senators Cleveland, Keiser and O'Ban**

**Concerning medicare supplemental insurance policies.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5032.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5032, and the bill passed the House by the following vote: Yeas, 93; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton,

Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SENATE BILL NO. 5032, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5083, by Senators McCoy, Hasegawa and Saldaña**

**Allowing certain records, documents, proceedings, and published laws of federally recognized Indian tribes to be admitted as evidence in courts of Washington state.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Jinkins and Irwin spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5083.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5083, and the bill passed the House by the following vote: Yeas, 93; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SENATE BILL NO. 5083, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5122, by Senators Takko, Short, Honeyford and Hasegawa**

**Addressing insurance coverage for water-sewer district commissioners.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Pollet and Kraft spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5122.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5122, and the bill passed the House by the following vote: Yeas, 81; Nays, 12; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, Doglio, Dolan, Dufault, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkins, Kilduff, Kirby, Kloba, Lekanoff, Lovick, MacEwen, Macri, Mead, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives DeBolt, Dye, Jenkin, Klippert, Kraft, Leavitt, McCaslin, Orcutt, Schmick, Shea, Smith and Walsh.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SENATE BILL NO. 5122, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5162, by Senators Dhingra, Pedersen, Wellman, Das, Keiser, Palumbo, Carlyle, Darneille, Hasegawa, Saldaña and Kuderer**

#### **Clarifying qualifications for jury service.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5162.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5162, and the bill passed the House by the following vote: Yeas, 91; Nays, 2; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jenkins, Kilduff, Kirby, Klippert, Kloba, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Griffey and Kraft.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SENATE BILL NO. 5162, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5233, by Senators Keiser and Conway**

**Creating an alternative process for sick leave benefits for workers represented by collective bargaining agreements.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Labor & Workplace Standards was adopted. (For Committee amendment, see Journal, Day 71, March 25, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5233, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5233, as amended by the House, and the bill passed the House by the following vote: Yeas, 92; Nays, 1; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jenkins, Kilduff, Kirby,

Klippert, Kloba, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representative Kraft.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SENATE BILL NO. 5233, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5333, by Senate Committee on Law & Justice (originally sponsored by Pedersen and Rivers)**

**Making changes related to the uniform parentage act for access to court records, compliance with regulations of the food and drug administration, enacting a repealed section of chapter 26.26 RCW, and correcting citations and terminology. Revised for 1st Substitute: Making changes related to the uniform parentage act for access to court records, entry of protective orders by the court, use of mandatory forms, criteria for notice of a proceeding to adjudicate parentage, compliance with regulations of the food and drug administration, enacting a repealed section of chapter 26.26 RCW, clarifying the crimes included in sexual assault for purposes of preclusion of parentage, and correcting citations and terminology.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Jinkins and Irwin spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5333.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5333, and the bill passed the House by the following vote: Yeas, 65; Nays, 28; Absent, 0; Excused, 5.

Voting yea: Representatives Bergquist, Blake, Boehnke, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Dufault, Entenman, Fey, Fitzgibbon, Frame, Graham, Gregerson, Hansen, Harris, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves,

Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Volz, Walen and Wylie.

Voting nay: Representatives Barkis, Caldier, Chambers, Chandler, Corry, DeBolt, Dye, Eslick, Gildon, Goehner, Griffey, Hoff, Jenkin, Klippert, Kraft, MacEwen, McCaslin, Mosbrucker, Orcutt, Schmick, Shea, Sutherland, Van Werven, Vick, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SUBSTITUTE SENATE BILL NO. 5333, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SENATE BILL NO. 5334, by Senators Pedersen, Padden, Mullet, Fortunato, Carlyle, Rivers, Kuderer, Dhingra, Palumbo, Frockt, Wellman, Salomon, Saldaña, Keiser, O'Ban, Billig, Holy and Darneille**

**Concerning the Washington uniform common interest ownership act.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Civil Rights & Judiciary was adopted. (For Committee amendment, see Journal, Day 72, March 26, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Senn, Irwin and Barkis spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5334, as amended by the House.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5334, as amended by the House, and the bill passed the House by the following vote: Yeas, 93; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Kilduff, Kirby, Klippert, Kloba, Kraft, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton,

Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

ENGROSSED SENATE BILL NO. 5334, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5386, by Senate Committee on Health & Long Term Care (originally sponsored by Becker, Cleveland, Rivers, O'Ban, Short, Braun, Wilson, L., Holy, Brown, Warnick, Bailey, Zeiger, Conway and Van De Wege)**

**Concerning training standards in providing telemedicine services.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5386.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5386, and the bill passed the House by the following vote: Yeas, 93; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SUBSTITUTE SENATE BILL NO. 5386, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5387, by Senators Becker, Cleveland, Rivers, O'Ban, Short, Bailey, Braun, Wilson, L., Warnick, Zeiger, Van De Wege and Keiser**

**Concerning physician credentialing in telemedicine services.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5387.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5387, and the bill passed the House by the following vote: Yeas, 93; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SENATE BILL NO. 5387, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5503, by Senators Das, Fortunato and Takko**

**Concerning state board of health rules regarding on-site sewage systems.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Entenman and Shea spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5503.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5503, and the bill passed the House by the following vote: Yeas, 93; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SENATE BILL NO. 5503, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5508, by Senators Fortunato, Darneille, Saldaña, Pedersen, King, Sheldon, Hobbs, Dhingra, Holy, Wilson and L.**

**Clarifying background check requirements for an application for a concealed pistol license.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Civil Rights & Judiciary was adopted. (For Committee amendment, see Journal, Day 74, March 28, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Irwin and Jinkins spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5508, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5508, as amended by the House, and the bill passed the House by the following vote: Yeas, 93; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris,

Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SENATE BILL NO. 5508, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

**THIRD READING**

The House resumed consideration of ENGROSSED SUBSTITUTE SENATE BILL NO. 5027 on third reading.

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

Representatives Irwin, Walsh, Klippert, Shea and Sutherland spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5027, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5027, as amended by the House, and the bill passed the House by the following vote: Yeas, 56; Nays, 37; Absent, 0; Excused, 5.

Voting yea: Representatives Bergquist, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Walen and Wylie.

Voting nay: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, MacEwen, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Steele, Stokesbary, Sutherland, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5027, as amended by the House, having received the necessary constitutional majority, was declared passed.

There being no objection, the House reverted to the sixth order of business.

## SECOND READING

**SENATE BILL NO. 5622, by Senators Randall, Pedersen, Walsh and Liias**

**Revising the authority of commissioners of courts of limited jurisdiction.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Kilduff and Irwin spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5622.

## ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5622, and the bill passed the House by the following vote: Yeas, 64; Nays, 29; Absent, 0; Excused, 5.

Voting yea: Representatives Bergquist, Blake, Boehnke, Callan, Chambers, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Dufault, Entenman, Fey, Fitzgibbon, Frame, Gildon, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Caldier, Chandler, Corry, DeBolt, Dye, Eslick, Goehner, Graham, Griffey, Jenkin, Klippert, Kraft, MacEwen, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SENATE BILL NO. 5622, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5764, by Senators Randall, Cleveland, Becker, Keiser, Wilson and C.**

**Changing the name of the medical quality assurance commission to the Washington medical commission.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5764.

## ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5764, and the bill passed the House by the following vote: Yeas, 92; Nays, 1; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Leavitt, Lekanoff, Lovick, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representative MacEwen.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SENATE BILL NO. 5764, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5817, by Senators Rivers, Cleveland, Walsh, Randall, Schoesler and Short**

**Concerning senior students in accredited schools of chiropractic.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Health Care & Wellness was adopted. (For Committee amendment, see Journal, Day 78, April 1, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5817, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5817, as amended by the House, and the bill passed the House by the following vote: Yeas, 93; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman, Kretz and Maycumber.

SENATE BILL NO. 5817, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5889, by Senate Committee on Health & Long Term Care (originally sponsored by Dhingra)**

**Concerning insurance communications confidentiality.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Health Care & Wellness was not adopted. (For Committee amendment, see Journal, Day 78, April 1, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Macri and Cody spoke in favor of the passage of the bill.

Representatives Schmick, DeBolt, Chambers, Smith and Smith (again) spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5889.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5889, and the bill passed the

House by the following vote: Yeas, 55; Nays, 39; Absent, 0; Excused, 4.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Dent, Goodman and Maycumber.

SUBSTITUTE SENATE BILL NO. 5889, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5955, by Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Lovelett, Zeiger, Darneille, Walsh, Randall, Nguyen, Wilson and C.)**

**Making necessary changes allowing the department of children, youth, and families to effectively manage a statewide system of care for children, youth, and families.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Human Services & Early Learning was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 74, March 28, 2019).

Representative Senn moved the adoption of amendment (502) to the committee striking amendment:

On page 46, after line 16, insert the following:

"**Sec. 29.** RCW 74.13.270 and 2017 3rd sp.s. c 20 s 1 are each amended to read as follows:

(1) The legislature recognizes the need for temporary short-term relief for foster parents who care for children with emotional, mental, or physical (~~handicaps~~) disabilities. For purposes of this section, respite care means appropriate, temporary, short-term care for these foster children placed with licensed foster parents. The purpose of this care is to give the foster parents temporary relief from the stresses associated with the care of these foster children. The department shall design a program of respite care that will minimize disruptions to the child and will serve foster

parents within these priorities, based on input from foster parents, foster parent associations, and reliable research if available.

(2)(a) For the purposes of this section, and subject to funding appropriated specifically for this purpose, short-term support shall include case aides who provide temporary assistance to foster parents as needed with the overall goal of supporting the parental efforts of the foster parents except that this assistance shall not include overnight assistance. The department shall contract with nonprofit community-based organizations in each region to establish a statewide pool of individuals to provide the support described in this subsection. These individuals shall be ~~((hired by))~~ employees or volunteers with the nonprofit community-based organization and shall have the appropriate training, background checks, and qualifications as determined by the department. Short-term support as described in this subsection shall be available to all licensed foster parents in the state as funding is available and shall be phased in by geographic region. To obtain the assistance of a case aide for this purpose, the foster parent may request the services from the nonprofit community-based organization and the nonprofit community-based organization may offer assistance to licensed foster families. If the requests for the short-term support provided in this subsection exceed the funding available, the nonprofit community-based organization shall have discretion to determine the assignment of case aides. The nonprofit community-based organization shall report all short-term support provided under this subsection to the department.

(b) Subject to funding appropriated specifically for this purpose, the Washington state institute for public policy shall prepare an outcome evaluation of the short-term support described in this subsection. The evaluation will, to the maximum extent possible, assess the impact of the short-term support services described in this subsection on the retention of foster homes and the number of placements a foster child receives while in out-of-home care as well as the return on investment to the state. The institute shall submit a preliminary report to the appropriate committees of the legislature and the governor by December 1, 2018, that describes the initial implementation of these services and descriptive statistics of the families utilizing these services. A final report shall be submitted to the appropriate committees of the legislature by June 30, ~~((2020))~~ 2021. At no cost to the institute, the department shall provide all data necessary to discharge this duty.

(c) Costs associated with case aides as described in this subsection shall not be included in the forecast.

(d) Pursuant to RCW 41.06.142(3), performance-based contracting under (a) of this subsection is expressly mandated by the legislature and is not subject to the processes set forth in RCW 41.06.142 (1), (4), and (5)."

Correct the title.

Representatives Senn and Klippert spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (502) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Senn, Corry and Klippert spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5955, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5955, as amended by the House, and the bill passed the House by the following vote: Yeas, 91; Nays, 3; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives McCaslin, Shea and Walsh.

Excused: Representatives Appleton, Dent, Goodman and Maycumber.

SUBSTITUTE SENATE BILL NO. 5955, as amended by the House, having received the necessary constitutional majority, was declared passed.

### **HOUSE BILL NO. 1107, by Representatives Slatter, Ryu, Macri, Wylie, Bergquist and Santos**

#### **Concerning nonprofit homeownership development.**

The bill was read the second time.

There being no objection, Substitute House Bill No. 1107 was substituted for House Bill No. 1107 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1107 was read the second time.

Representative Slatter moved the adoption of amendment (275):

On page 4, line 31, after "23.86" insert "or 24.06"

Representatives Slatter and Orcutt spoke in favor of the adoption of the amendment.

Amendment (275) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Slatter and Orcutt spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1107.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1107, and the bill passed the House by the following vote: Yeas, 85; Nays, 9; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, Doglio, Dolan, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Graham, Gregerson, Griffey, Hansen, Harris, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Volz, Walen, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives DeBolt, Dufault, Hoff, Jenkin, MacEwen, Shea, Smith, Vick and Walsh.

Excused: Representatives Appleton, Dent, Goodman and Maycumber.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1107, having received the necessary constitutional majority, was declared passed.

There being no objection, the House adjourned until 9:55 a.m., April 5, 2019, the 82nd Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## EIGHTY SECOND DAY

House Chamber, Olympia, Friday, April 5, 2019

The House was called to order at 9:55 a.m. by the Speaker (Representative Orwall presiding).

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

## RESOLUTIONS

**HOUSE RESOLUTION NO. 2019-4631**, by Representative Thai

WHEREAS, Chirag Vedullapalli, an esteemed resident of Sammamish and a student at Mount Si High School, is a distinguished finalist for the 2019 Prudential Spirit of Community Award; and

WHEREAS, This prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Mr. Vedullapalli earned this award by generously giving his time and energy through the creation of "Creative Children for Charity," a youth foundation that has encouraged more than 7,500 kids to donate their time and talent for a social cause, contributing \$27,000 and over 30,000 volunteer hours to a variety of causes; and

WHEREAS, The success of the State of Washington and the strength of our communities depends, in great measure, upon the dedication of young people like Mr. Vedullapalli, who use their considerable talents and resources to serve others;

NOW, THEREFORE, BE IT RESOLVED, That by that the House of Representatives congratulate and honor Mr. Vedullapalli as a recipient of a Prudential Spirit of Community Award, recognize his outstanding record of volunteer service, peer leadership, and community spirit, and extend best wishes for his continued success and happiness; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Chirag Vedullapalli.

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

**HOUSE RESOLUTION NO. 2019-4633**, by Representatives Appleton, Santos, Senn, Mosbrucker, Steele, Cody, Davis, Dufault, Lovick, Shea, Wilcox, Ryu, and Kraft

WHEREAS, Joshua Gortler, a longtime resident of Washington State, has tirelessly shared his experiences as a

Holocaust survivor with citizens of our state, especially students of all ages, in the service of truth and understanding, and has brought honor to Washington State by his visionary leadership of award-winning services to the elderly; and

WHEREAS, Joshua's childhood was disrupted, as a 3-year old Jewish boy, by the Nazi invasion of his Polish hometown, Tomaszow Lubelski, in 1939; and

WHEREAS, Joshua and his family barely escaped one of the most horrific genocides the world has ever known by fleeing across a border, finding refuge in Siberia and Uzbekistan; and

WHEREAS, Joshua and his family tried to return to their home town of Tomaszow but found themselves unwelcome, spent six years in displaced persons camps in Germany, and finally received visas to come to the United States in 1951; and

WHEREAS, After arriving in the United States as a 15-year old with no English skills and limited formal education, Joshua went on to earn his Bachelor's and Master's degrees in social work from Yeshiva University, which granted him an honorary Doctorate in 2014 for his work in elder care; and

WHEREAS, Since 1969, Joshua has served Seattle senior citizens by building the Kline Galland Home and The Summit at First Hill into award-winning facilities. Upon his retirement in 2007 as CEO of The Kline Galland Center and Affiliates, he became President of The Kline Galland Foundation to ensure the continuation of this high-quality care; and

WHEREAS, By volunteering as a speaker for Seattle's Holocaust Center for Humanity, Joshua is sharing with young people, including at-risk youth in detention centers in King and Kitsap Counties, his lifetime experiences as a Holocaust survivor who turned a life of hardship into a successful career as a community leader; and

WHEREAS, Joshua is a living survivor of the Holocaust and is a renowned humanitarian and author who understands the importance of protecting our freedoms and caring for people at risk in our society; and

WHEREAS, Joshua has dedicated his life to helping others who have experienced oppression, and conveyed the message that each person can make a positive difference in this world;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives, on behalf of the people of the State of Washington, recognize and honor the life of Joshua Gortler and his monumental contributions to the understanding of remembrance, freedom, and democracy in our State; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Joshua Gortler.

There being no objection, HOUSE RESOLUTION NO. 4633 was adopted.

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

#### REPORTS OF STANDING COMMITTEES

April 3, 2019

HB 1390 Prime Sponsor, Representative Leavitt: Providing a benefit increase to certain retirees of the public employees' retirement system plan 1 and the teachers' retirement system plan 1. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Volz and Ybarra.

Referred to Committee on Rules for second reading.

April 4, 2019

SB 5337 Prime Sponsor, Senator Takko: Expanding a sales and use tax exemption for personal property sold between political subdivisions to include sales or uses of personal property as a result of a merger or sales or uses of personal property made under contractual consolidations in which the taxpayer that originally paid the sales or use tax continues to benefit from the personal property. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Tarleton, Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Chapman; Frame; Macri; Morris; Orwall; Springer; Stokesbary; Vick and Wylie.

Referred to Committee on Rules for second reading.

April 3, 2019

SB 5350 Prime Sponsor, Senator Conway: Concerning the purchase of an optional life annuity benefit for certain public retirement system members. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; MacEwen, Assistant

Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Cody; Dolan; Dye; Fitzgibbon; Hudgins; Jinkins; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Volz and Ybarra.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chandler; Hoff and Kraft.

Referred to Committee on Rules for second reading.

April 3, 2019

SSB 5355 Prime Sponsor, Committee on Ways & Means: Recovering service credit withdrawn from the public employees' retirement system for certain law enforcement officers and firefighters. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Volz and Ybarra.

Referred to Committee on Rules for second reading.

April 3, 2019

SSB 5894 Prime Sponsor, Committee on Ways & Means: Clarifying that the firefighters' pension levy may continue to be levied to fund benefits under the law enforcement officers' and firefighters' retirement system. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 41.16.060 and 1987 c 319 s 2 are each amended to read as follows:

(1) It (~~shall be~~) is the duty of the legislative authority of each municipality, each year as a part of its annual tax levy, to levy and place in the fund a tax of twenty-two and one-half cents per thousand dollars of assessed value against all the taxable property of such municipality: PROVIDED, That if a report by a qualified actuary on the condition of the fund establishes that the whole or any part of said dollar rate is not necessary to maintain the actuarial soundness of the fund, the levy of said twenty-two and one-half cents per thousand dollars of assessed value may be

omitted, or the whole or any part of ~~((said))~~ such dollar rate may be levied and used for any other municipal purpose.

(2) It ~~((shall be))~~ is the duty of the legislative authority of each municipality, each year as a part of its annual tax levy and in addition to the city levy limit set forth in RCW 84.52.043, to levy and place in the fund an additional tax of twenty-two and one-half cents per thousand dollars of assessed value against all taxable property of such municipality: PROVIDED, That if a report by a qualified actuary establishes that all or any part of the additional twenty-two and one-half cents per thousand dollars of assessed value levy is unnecessary to meet the estimated demands on the fund under this chapter for the ensuing budget year, the levy of said additional twenty-two and one-half cents per thousand dollars of assessed value may be omitted, or the whole or any part of such dollar rate may be levied and used for any other municipal purpose, subject to subsection (4) of this section: PROVIDED FURTHER, That cities that have annexed to library districts according to RCW 27.12.360 through 27.12.395 and/or fire protection districts according to RCW 52.04.061 through 52.04.081 ~~((shall))~~ may not levy this additional tax to the extent that it causes the combined levies to exceed the statutory or constitutional limits.

(3) The amount of a levy under this section allocated to the pension fund may be reduced in the same proportion as the regular property tax levy of the municipality is reduced by chapter 84.55 RCW.

(4) If a municipality no longer has any beneficiaries receiving benefits under this chapter, the whole or any part of such additional levy under subsection (2) of this section may continue to be levied for the payment of benefits provided under RCW 41.26.150(1) or other municipal purpose until such time that the municipality no longer has any beneficiaries receiving benefits under RCW 41.26.150(1)."

Correct the title.

Signed by Representatives Ormsby, Chair; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Volz and Ybarra.

Referred to Committee on Rules for second reading.

There being no objection, the bills listed on the day's committee reports under the fifth order of business were referred to the committees so designated.

The Speaker assumed the chair.

#### **SIGNED BY THE SPEAKER**

The Speaker signed the following bills:

HOUSE BILL NO. 1412  
SUBSTITUTE HOUSE BILL NO. 1577  
HOUSE BILL NO. 1634  
SUBSTITUTE HOUSE BILL NO. 1764  
ENGROSSED HOUSE BILL NO. 1777  
HOUSE BILL NO. 1852  
SUBSTITUTE HOUSE BILL NO. 1909  
SUBSTITUTE HOUSE BILL NO. 1949  
SUBSTITUTE HOUSE BILL NO. 1870  
SUBSTITUTE SENATE BILL NO. 5627

The Speaker called upon Representative Orwall to preside.

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

#### **MOTION**

There being no objection, the Committee on Appropriations was relieved of SENATE BILL NO. 5199 and the bill was referred to the Committee on Rules.

There being no objection, the House adjourned until 9:55 a.m., April 8, 2019, the 85th Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## EIGHTY FIFTH DAY

House Chamber, Olympia, Monday, April 8, 2019

The House was called to order at 9:55 a.m. by the Speaker (Representative Lovick presiding).

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

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

**INTRODUCTION & FIRST READING**

HB 2164 by Representatives Frame, Tarleton, Walen and Springer

AN ACT Relating to establishing tax preference performance metrics and expiration dates for leasehold excise tax exemptions for certain public and entertainment areas; amending RCW 82.29A.130 and 82.29A.130; creating new sections; providing an effective date; providing a contingent effective date; and providing a contingent expiration date.

Referred to Committee on Finance.

HB 2165 by Representative Morris

AN ACT Relating to private road maintenance agreements; adding a new chapter to Title 64 RCW; and providing an effective date.

Referred to Committee on Civil Rights & Judiciary.

There being no objection, the bills listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated.

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

**REPORTS OF STANDING COMMITTEES**

April 5, 2019

SSB 5163 Prime Sponsor, Committee on Law & Justice: Concerning actions for wrongful injury or death. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sullivan; Stanford; Senn; Ryu; Pollet; Pettigrew; Macri; Jinkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Robinson, 1st Vice Chair and Sutherland.

MINORITY recommendation: Do not pass. Signed by Representatives Ybarra; Volz; Steele; Springer; Schmick; Kraft; Hoff; Dye; Chandler; Caldier; Stokesbary, Ranking Minority Member Bergquist, 2nd Vice Chair.

MINORITY recommendation: Without recommendation. Signed by Representatives MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member and Mosbrucker.

Referred to Committee on Rules for second reading.

April 8, 2019

ESSB 5323 Prime Sponsor, Committee on Environment, Energy & Technology: Reducing pollution from plastic bags by establishing minimum state standards for the use of bags at retail establishments. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sullivan; Stanford; Springer; Senn; Ryu; Pollet; Pettigrew; Macri; Jinkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Steele; Schmick; Mosbrucker; Kraft; Hoff; Dye; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Sutherland and Ybarra.

Referred to Committee on Rules for second reading.

April 3, 2019

SB 5506 Prime Sponsor, Senator Hobbs: Concerning parking at rest areas. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 47.38.020 and 1984 c 7 s 205 are each amended to read as follows:

(1) Except where specifically authorized by the department, it is unlawful for any person or persons to stop, stand, or park any vehicle, including but not limited to trailers, campers, and motorcycles, for more than eight hours within a twenty-four hour period, or for any person or persons to camp or to maintain a camp, tent, or other sleeping accommodation or facility, in any ~~((rest area or))~~ safety rest area within the limits of the right-of-way of interstate highways or other state highways or in other areas of state or interstate highways as designated in RCW 47.12.250. ~~((This section does not apply to disabled vehicles.))~~ The department may also designate zones within a safety rest area with shorter parking time limits for the purposes of maximum efficiency and safety. Commercial vehicles may park up to an hour beyond federally mandated rest periods.

(2) Except where specifically authorized by the department, it is unlawful for any person or persons to stop, stand, or park any disabled vehicle, including but not limited to trailers, campers, and motorcycles, in any safety rest area for more than forty-eight hours, after which time the vehicle is subject to mandatory impoundment under RCW 46.55.080(1).

(3) The department shall post appropriate signage consistent with RCW 46.55.070(1) at all safety rest areas regarding the parking time limits in this section.

(4) The Washington state patrol shall enforce this section consistent with RCW 46.55.080(1), and to the maximum extent practicable."

Correct the title.

Signed by Representatives Fey, Chair; Shewmake; Shea; Riccelli; Ramos; Pellicciotti; Paul; Ortiz-Self; Mead; McCaslin; Lovick; Kloba; Irwin; Gregerson; Goehner; Eslick; Entenman; Dufault; Doglio; Chapman; Chambers; Boehnke; Young, Assistant Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Barkis, Ranking Minority Member; Wylie, 1st Vice Chair; Valdez, 2nd Vice Chair; Slatter, 2nd Vice Chair and Van Werven.

MINORITY recommendation: Without recommendation. Signed by Representative Orcutt.

Referred to Committee on Rules for second reading.

April 3, 2019

SSB 5723 Prime Sponsor, Committee on Transportation: Increasing safety on roadways for pedestrians, bicyclists, and other roadway users. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that a number of the collision types that have resulted in a high number of serious injuries and deaths of vulnerable roadway users can be associated with certain types of traffic infractions. To address the heightened risk to vulnerable roadway users when violations of these traffic infractions occur, the legislature intends to: (1) Introduce an additional fine as a penalty for drivers who commit these violations against a vulnerable roadway user; (2) modify when certain vulnerable roadway users may be passed by motor vehicles; and (3) clarify when and how pedestrians and bicyclists may use the roadway. To increase enforcement of all traffic infractions and offenses committed against vulnerable roadway users, the legislature intends for revenue that is collected from the new fine to be dedicated to the education of law enforcement officers, prosecutors, and judges about opportunities for the enforcement of traffic violations committed against vulnerable roadway users, with any remaining funds to be used to increase awareness by the public of the risks and penalties associated with these traffic violations. The goals of this act are to achieve a reduction in the frequency with which drivers violate traffic laws that endanger vulnerable roadway users and to encourage safe sharing of the roadway by drivers, bicyclists, pedestrians, and other vulnerable roadway users.

**Sec. 2.** RCW 46.04.071 and 2018 c 60 s 2 are each amended to read as follows:

"Bicycle" means every device propelled solely by human power, or an electric-assisted bicycle as defined in RCW 46.04.169, upon which a person or persons may ride, having two tandem wheels either of which is sixteen inches or more in diameter, or three wheels, any one of which is ~~((more than))~~ twenty inches or more in diameter.

**Sec. 3.** RCW 46.61.110 and 2005 c 396 s 1 are each amended to read as follows:

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction ~~((; subject to those limitations, exceptions and special rules hereinafter stated))~~:

(1)(a) The driver of a vehicle overtaking other traffic proceeding in the same direction shall pass to the left ~~((thereof))~~ of it at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken traffic.

(b)(i) When the vehicle being overtaken is a motorcycle, motor-driven cycle, or moped, a driver of a motor vehicle found to be in violation of (a) of this subsection must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(ii) The additional fine imposed under (b)(i) of this subsection must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

(2)(a) The driver of a vehicle approaching an individual who is traveling as a pedestrian or on a bicycle ((that)), riding an animal, or using a farm tractor or implement of husbandry without an enclosed shell, and who is ((on)) traveling in the right lane of a roadway or on the right-hand shoulder or bicycle lane of the roadway, shall ((pass to the left at a safe distance to clearly avoid coming into contact with the pedestrian or bicyclist, and shall not again drive to the right side of the roadway until safely clear of the overtaken pedestrian or bicyclist)):

(i) On a roadway with two lanes or more for traffic moving in the direction of travel, before passing and until safely clear of the individual, move completely into a lane to the left of the right lane when it is safe to do so;

(ii) On a roadway with only one lane for traffic moving in the direction of travel:

(A) When there is sufficient room to the left of the individual in the lane for traffic moving in the direction of travel, before passing and until safely clear of the individual:

(I) Reduce speed to a safe speed for passing relative to the speed of the individual; and

(II) Pass at a safe distance, where practicable of at least three feet, to clearly avoid coming into contact with the individual or the individual's vehicle or animal; or

(B) When there is insufficient room to the left of the individual in the lane for traffic moving in the direction of travel to comply with (a)(ii)(A) of this subsection, before passing and until safely clear of the individual, move completely into the lane for traffic moving in the opposite direction when it is safe to do so and in compliance with RCW 46.61.120 and 46.61.125.

(b) A driver of a motor vehicle found to be in violation of this subsection (2) must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(c) The additional fine imposed under (b) of this subsection must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

(d) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.526(11)(c).

(3) Except when overtaking and passing on the right is permitted, overtaken traffic shall give way to the right in favor of an overtaking vehicle on audible signal and shall not increase speed until completely passed by the overtaking vehicle.

**Sec. 4.** RCW 46.61.145 and 1965 ex.s. c 155 s 24 are each amended to read as follows:

(1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(2) The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle drawing

another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

(3) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions.

(4)(a) When the vehicle being followed is a vulnerable user of a public way, a driver of a motor vehicle found to be in violation of this section must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(b) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.526(11)(c).

(5) The additional fine imposed under subsection (4) of this section must be deposited into the vulnerable roadway user education account created in subsection (6) of this section.

(6) The vulnerable roadway user education account is created in the state treasury. All receipts from the additional fine in subsection (4) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only by the Washington traffic safety commission solely to:

(a) Support programs dedicated to increasing awareness by law enforcement officers, prosecutors, and judges of opportunities for the enforcement of traffic infractions and offenses committed against vulnerable roadway users; and

(b) With any funds remaining once the program support specified in (a) of this subsection has been provided, support programs dedicated to increasing awareness by the public of the risks and penalties associated with traffic infractions and offenses committed against vulnerable roadway users.

**Sec. 5.** RCW 46.61.180 and 1975 c 62 s 26 are each amended to read as follows:

(1) When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(2) The right-of-way rule declared in subsection (1) of this section is modified at arterial highways and otherwise as stated in this chapter.

(3)(a) When the vehicle on the right approaching the intersection is a vulnerable user of a public way, a driver of a motor vehicle found to be in violation of this section must be assessed an additional fine equal to the base penalty

assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(b) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.526(11)(c).

(4) The additional fine imposed under subsection (3) of this section must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

**Sec. 6.** RCW 46.61.185 and 1965 ex.s. c 155 s 29 are each amended to read as follows:

(1) The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

(2)(a) When the vehicle approaching from the opposite direction within the intersection or so close that it constitutes an immediate hazard is a vulnerable user of a public way, a driver of a motor vehicle found to be in violation of this section must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(b) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.526(11)(c).

(3) The additional fine imposed under subsection (2) of this section must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

**Sec. 7.** RCW 46.61.190 and 2000 c 239 s 5 are each amended to read as follows:

(1) Preferential right-of-way may be indicated by stop signs or yield signs as authorized in RCW 47.36.110.

(2) Except when directed to proceed by a duly authorized flagger, or a police officer, or a firefighter vested by law with authority to direct, control, or regulate traffic, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering a marked crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the roadway, and after having stopped shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.

(3) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if

none, before entering a marked crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the roadway, and then after slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways: PROVIDED, That if such a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of the driver's failure to yield right-of-way.

(4)(a) When right-of-way has not been yielded in accordance with this section to a vehicle that is a vulnerable user of a public way, a driver of a motor vehicle found to be in violation of this section must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(b) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.526(11)(c).

(5) The additional fine imposed under subsection (4) of this section must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

**Sec. 8.** RCW 46.61.205 and 1990 c 250 s 88 are each amended to read as follows:

(1) The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right-of-way to all vehicles lawfully approaching on said highway.

(2)(a) When right-of-way has not been yielded in accordance with this section to a vehicle that is a vulnerable user of a public way, a driver of a motor vehicle found to be in violation of this section must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(b) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.526(11)(c).

(3) The additional fine imposed under subsection (2) of this section must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

**Sec. 9.** RCW 46.61.250 and 1990 c 241 s 6 are each amended to read as follows:

(1) Where sidewalks are provided and are accessible, it is unlawful for any pedestrian to walk or otherwise move along and upon an adjacent roadway. Where sidewalks are provided but wheelchair access is not

available, ~~((disabled))~~ persons with disabilities who require such access may walk or otherwise move along and upon an adjacent roadway until they reach an access point in the sidewalk.

(2) Where sidewalks are not provided ~~((any))~~ or are inaccessible, a pedestrian walking or otherwise moving along and upon a highway shall~~((:))~~:

(a) When ~~((practicable))~~ shoulders are provided and are accessible, walk ~~((or move only))~~ on the ~~((left side of the roadway or its))~~ shoulder ~~((facing traffic which may approach from the opposite direction and))~~ of the roadway as far as is practicable from the edge of the roadway, facing traffic when a shoulder is available in this direction; or

(b) When shoulders are not provided or are inaccessible, walk as near as is practicable to the outside edge of the roadway facing traffic, and when practicable, move clear of the roadway upon meeting an oncoming vehicle ~~((shall move clear of the roadway))~~.

(3) A pedestrian traveling to the nearest emergency reporting device on a one-way roadway of a controlled access highway is not required to travel facing traffic as otherwise required by subsection (2) of this section.

**Sec. 10.** RCW 46.61.770 and 1982 c 55 s 7 are each amended to read as follows:

(1) Every person operating a bicycle upon a roadway at a rate of speed less than the normal flow of traffic at the particular time and place shall ride as near to the right side of the right through lane as is safe except ~~((as may be appropriate))~~:

(a) While preparing to make or while making turning movements~~((, or))~~ at an intersection or into a private road or driveway;

(b) When approaching an intersection where right turns are permitted and there is a dedicated right turn lane, in which case a person may operate a bicycle in this lane even if the operator does not intend to turn right;

(c) While overtaking and passing another bicycle or vehicle proceeding in the same direction; and

(d) When reasonably necessary to avoid unsafe conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicyclists, pedestrians, animals, and surface hazards.

(2) A person operating a bicycle upon a roadway or highway other than a limited-access highway, which roadway or highway carries traffic in one direction only and has two or more marked traffic lanes, may ride as near to the left side of the left through lane as is safe.

(3) A person operating a bicycle upon a roadway may use the shoulder of the roadway or any specially designated bicycle lane ~~((if such exists))~~.

~~((2))~~ (4) When the operator of a bicycle is using the travel lane of a roadway with only one lane for traffic moving in the direction of travel and it is wide enough for a bicyclist and a vehicle to travel safely side-by-side within it, the bicycle operator shall operate far enough to the right to facilitate the movement of an overtaking vehicle unless other conditions make it unsafe to do so or unless the bicyclist is preparing to make a turning movement or while making a turning movement.

(5) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

**Sec. 11.** RCW 3.62.090 and 2004 c 15 s 5 are each amended to read as follows:

(1) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions, by all courts organized under Title 3 or 35 RCW a public safety and education assessment equal to seventy percent of such fines, forfeitures, or penalties, which shall be remitted as provided in chapters 3.46, 3.50, 3.62, and 35.20 RCW. The assessment required by this section shall not be suspended or waived by the court.

(2) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions and for fines levied under RCW 46.61.5055, and in addition to the public safety and education assessment required under subsection (1) of this section, by all courts organized under Title 3 or 35 RCW, an additional public safety and education assessment equal to fifty percent of the public safety and education assessment required under subsection (1) of this section, which shall be remitted to the state treasurer and deposited as provided in RCW 43.08.250. The additional assessment required by this subsection shall not be suspended or waived by the court.

(3) This section does not apply to the fee imposed under RCW 46.63.110(7), the penalty imposed under RCW 46.63.110(8), the additional fine imposed under RCW 46.61.110, 46.61.145, 46.61.180, 46.61.185, 46.61.190, and 46.61.205, or the penalty assessment imposed under RCW 10.99.080.

**Sec. 12.** RCW 2.68.040 and 1994 c 8 s 2 are each amended to read as follows:

(1) To support the judicial information system account provided for in RCW 2.68.020, the supreme court may provide by rule for an increase in fines, penalties, and assessments, and the increased amount shall be forwarded to the state treasurer for deposit in the account:

(a) Pursuant to the authority of RCW 46.63.110~~((2))~~ (3), the sum of ten dollars to any penalty collected by a court pursuant to supreme court infraction rules for courts of limited jurisdiction;

(b) Pursuant to RCW 3.62.060, a mandatory appearance cost in the initial sum of ten dollars to be assessed on all defendants; and

(c) Pursuant to RCW 46.63.110~~((5))~~ (6), a ten-dollar assessment for each account for which a person requests a time payment schedule.

(2) Notwithstanding a provision of law or rule to the contrary, the assessments provided for in this section may not be waived or suspended and shall be immediately due and payable upon forfeiture, conviction, deferral of prosecution, or request for time payment, as each shall occur.

(3) The supreme court is requested to adjust these assessments for inflation.

(4) This section does not apply to the additional monetary fine under RCW 46.61.110, 46.61.145, 46.61.180, 46.61.185, 46.61.190, and 46.61.205.

**Sec. 13.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter, it is immediately payable and is enforceable as a civil judgment under Title 6 RCW. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a

community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation for civil enforcement until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the court has entered into a new time payment or community restitution agreement with the person. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privileges.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation to a collections agency until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's delinquency, and the department shall suspend the person's driver's license or driving privileges.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

(11) The additional monetary fine for a violation of RCW 46.61.110, 46.61.145, 46.61.180, 46.61.185, 46.61.190, and 46.61.205 is not subject to assessments or fees provided under this section.

**Sec. 14.** RCW 43.84.092 and 2018 c 287 s 7, 2018 c 275 s 10, and 2018 c 203 s 14 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 aircraft search and rescue 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 Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin 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 licensing tuition recovery trust fund, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving 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 high capacity transportation account, the state higher

education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund 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 mobile home park relocation fund, 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 natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance 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 beginning July 1, 2004, 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 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 employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the statewide tourism marketing account, the student achievement council tuition recovery trust fund, 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 tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building 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 health insurance pool 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, the state university permanent fund, and the state reclamation revolving account 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.

**NEW SECTION. Sec. 15.** This act takes effect January 1, 2020."

Correct the title.

Signed by Representatives Valdez, 2nd Vice Chair; Wylie, 1st Vice Chair; Barkis, Ranking Minority Member; Chapman; Doglio; Entenman; Goehner; Gregerson; Irwin; Kloba; Lovick; Mead; Ortiz-Self; Paul; Pellicciotti; Ramos; Riccelli; Shewmake; Van Werven; Slatter, 2nd Vice Chair Fey, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Shea; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke; Chambers; Dufault; Eslick; McCaslin and Orcutt.

Referred to Committee on Rules for second reading.

April 5, 2019

SSB 5748

Prime Sponsor, Committee on Ways & Means: Creating an account to support necessary infrastructure nearby military

installations. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.330 RCW to read as follows:

(1) The defense community compatibility account is created in the state treasury. Revenues to the account consist of appropriations by the legislature, private contributions, and all other sources deposited in the account.

(2)(a) Expenditures from the account may only be used for grants to local governments or entities who have entered into an agreement with a military installation in the state under the United States department of defense readiness and environmental protection integration program for purposes of the programs established in subsection (3) of this section, including administrative expenses. Priority must be given for grant applications accompanied by express support from nonprofit community or neighborhood-based organizations, public development authorities, federally recognized Indian tribes in the state, or other community partners. Only the director or the director's designee, may authorize expenditures. In order for the director or the director's designee to authorize an expenditure for the purpose identified in subsection (3) of this section, both federal and applicant funds must be committed to the same purposes or project as the state expenditure.

(b) An applicant must submit an application to the department in order to be eligible for funding under this subsection, and the department may not expend money on a project for which an applicant has not applied to the department to carry out the project.

(3)(a) The department may expend moneys from the account to provide state funds for projects identified by applicants to address incompatible development connected to Washington state military installations. For purposes of this section, "incompatible development" includes land development and military operations that impact the economy, environment, or quality of life opportunities for local communities.

(b) The department must evaluate and rank applications using objective criteria such as a community cost-benefit analysis, must consider recommendations from a citizens advisory commission comprised of representatives of community stakeholders impacted by military installations or their operations, must hold public hearings at least ninety days prior to any funding decision, and may consider the degree to which each project is compatible with the criteria established in the United States department of defense's readiness and environmental protection integration program.

(c) Eligible projects may include:

(i) Acquisition of real property or real property interests to eliminate an existing incompatible use;

(ii) Projects to jointly assist in the recovery or protection of endangered species dependent on military installation property for habitat;

(iii) Projects or programs to increase the availability of housing affordable to enlisted military personnel and nonmilitary residents in the local community;

(iv) Projects to retrofit existing uses to increase their compatibility with existing or future military operations;

(v) Projects to enable local communities heavily dependent on a nearby military installation to diversify the local economy so as to reduce the economic dependence on the military base;

(vi) Projects that aid communities to replace jobs lost in the event of a reduction of the military presence; and

(vii) Projects that improve or enhance aspects of the local economy, environment, or quality of life impacted by the presence of military activities.

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

NEW SECTION. Sec. 2. A new section is added to chapter 43.330 RCW to read as follows:

(1) The department must produce a biennial report identifying a list of projects to address incompatible developments near military installations.

(a) The list must include a description of each project, the estimated cost of the project, the amount of recommended state funding, and the amount of any federal or local funds documented to be available to be used for the project.

(b) Projects on the list must be prioritized with consideration given to:

(i) The recommendations of the recent United States department of defense base realignment and closure (BRAC) processes, joint land use studies, or other federally initiated land use processes; and

(ii) Whether a branch of the United States armed forces has identified the project as increasing the viability of military installations for current or future missions.

(c) The department may consult with the commanders of United States military installations in Washington to understand impacts and identify the viability of community identified projects to reduce incompatibility.

(2) The department must submit the report to appropriate committees of the house of representatives and the senate, including the joint committee on veterans' and military affairs and the house of representatives capital budget committee, by January 1, 2020, and every two years thereafter."

Correct the title.

Signed by Representatives Peterson, Vice Chair; DeBolt, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Steele, Assistant Ranking Minority Member; Callan; Corry; Davis; Dye; Eslick; Gildon; Leavitt; Lekanoff; Morgan; Riccelli; Santos; Sells; Stonier; Doglio, Vice Chair Tharinger, Chair.

MINORITY recommendation: Do not pass. Signed by Representative Walsh.

Referred to Committee on Rules for second reading.

April 3, 2019

SB 5881 Prime Sponsor, Senator King: Addressing the installation of safety glazing or film sunscreening materials. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.37.435 and 1990 c 95 s 2 are each amended to read as follows:

~~((From June 7, 1990,)) (1) A person ((who)) is guilty of unlawful installation of safety glazing or film sunscreening material if he or she knowingly installs safety glazing or film sunscreening material in violation of RCW 46.37.430 ((is guilty of)). Unlawful installation of safety glazing or film sunscreening material((s. Unlawful installation)) is a misdemeanor.~~

(2) A person is guilty of unlawful purchase or sale of safety glazing or film sunscreening material installation services if he or she provides or receives compensation with the knowledge that such compensation is for the purpose of installing safety glazing or film sunscreening material in violation of RCW 46.37.430. Unlawful purchase or sale of safety glazing or film sunscreening material installation services is a gross misdemeanor.

Correct the title.

Signed by Representatives Young, Assistant Ranking Minority Member; Van Werven; Shewmake; Riccelli; Ramos; Pellicciotti; Paul; Ortiz-Self; Orcutt; Mead; Lovick; Kloba; Irwin; Gregerson; Goehner; Entenman; Dufault; Doglio; Chapman; Chambers; Boehnke; Barkis, Ranking Minority Member; Wylie, 1st Vice Chair; Valdez, 2nd Vice Chair; Slatter, 2nd Vice Chair Fey, Chair.

MINORITY recommendation: Without recommendation. Signed by Representative Walsh, Assistant Ranking Minority Member.

MINORITY recommendation: Do not pass. Signed by Representatives Eslick; McCaslin and Shea.

Referred to Committee on Rules for second reading.

April 3, 2019

SSB 5919 Prime Sponsor, Committee on Transportation: Creating a San Juan Islands stewardship special license plate. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Representatives Van Werven; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Wylie, 1st Vice Chair; Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke; Chambers; Chapman; Doglio; Dufault; Entenman; Eslick; Goehner; Gregerson; Irwin; Kloba; Lovick; McCaslin; Mead; Ortiz-Self; Paul; Pellicciotti; Ramos; Riccelli; Shea; Shewmake Fey, Chair.

MINORITY recommendation: Do not pass. Signed by Representative Orcutt.

Referred to Committee on Rules for second reading.

There being no objection, the bills listed on the day's committee reports under the fifth order of business were referred to the committees so designated.

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

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

**MOTION**

There being no objection, the Committee on Appropriations was relieved of SENATE BILL NO. 5323, and the bill was referred to the Committee on Rules.

The Speaker (Representative Blake presiding) called upon Representative Kloba to preside.

There being no objection, the Committee on Rules was relieved of the following bills and the bills were placed on the second reading calendar:

- ENGROSSED SUBSTITUTE SENATE BILL NO. 5001
- SUBSTITUTE SENATE BILL NO. 5004
- SENATE BILL NO. 5088
- SENATE BILL NO. 5132
- SENATE BILL NO. 5145
- SUBSTITUTE SENATE BILL NO. 5163
- SUBSTITUTE SENATE BILL NO. 5166
- SUBSTITUTE SENATE BILL NO. 5265
- SENATE BILL NO. 5300
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5322
- SUBSTITUTE SENATE BILL NO. 5355
- SENATE BILL NO. 5367
- SUBSTITUTE SENATE BILL NO. 5405
- ENGROSSED SENATE BILL NO. 5496
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5579
- SUBSTITUTE SENATE BILL NO. 5612
- SENATE BILL NO. 5641
- SENATE BILL NO. 5649
- SUBSTITUTE SENATE BILL NO. 5689
- SUBSTITUTE SENATE BILL NO. 5723

SUBSTITUTE SENATE BILL NO. 5885  
ENGROSSED SENATE BILL NO. 5887  
SENATE BILL NO. 5895  
ENGROSSED SENATE BILL NO. 5958

There being no objection, the House adjourned until 9:00 a.m., April 9, 2019, the 86th Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## EIGHTY SIXTH DAY

House Chamber, Olympia, Tuesday, April 9, 2019

The House was called to order at 9:00 a.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Mia Carlton and Lucas Tweedy. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Tim Heffer, Hidden Creek Community Church, Olympia, Washington.

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

**SPEAKER'S PRIVILEGE**

The Speaker (Representative Lovick presiding) introduced Mandy Manning, 2018 National Teacher of the Year from the Newcomer Center at Ferris High School in Spokane, previously recognized by House Resolution 4604, and asked the Chamber to acknowledge her.

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

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

**MESSAGES FROM THE SENATE**

April 8, 2019

MR. SPEAKER:

The Senate has passed:

HOUSE BILL NO. 1020,  
ENGROSSED SUBSTITUTE HOUSE BILL NO.  
1138,  
HOUSE BILL NO. 1431,  
HOUSE BILL NO. 2038,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

April 8, 2019

MR. SPEAKER:

The President has signed:

HOUSE BILL NO. 1412,

SUBSTITUTE HOUSE BILL NO. 1577,  
HOUSE BILL NO. 1634,  
SUBSTITUTE HOUSE BILL NO. 1764,  
ENGROSSED HOUSE BILL NO. 1777,  
HOUSE BILL NO. 1852,  
SUBSTITUTE HOUSE BILL NO. 1870,  
SUBSTITUTE HOUSE BILL NO. 1909,  
SUBSTITUTE HOUSE BILL NO. 1949,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

April 8, 2019

MR. SPEAKER:

The President has signed:

SENATE BILL NO. 5032,  
SENATE BILL NO. 5083,  
SENATE BILL NO. 5122,  
SUBSTITUTE SENATE BILL NO. 5333,  
SUBSTITUTE SENATE BILL NO. 5386,  
SENATE BILL NO. 5387,  
SENATE BILL NO. 5503,  
SENATE BILL NO. 5622,  
SENATE BILL NO. 5764,  
SUBSTITUTE SENATE BILL NO. 5889,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

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

**SECOND READING**

**HOUSE BILL NO. 2015, by Representatives Doglio, DeBolt, Dolan, Walsh, Blake, Springer, Tarleton and Pollet**

**Providing funding for the Washington state library-archives building and operations of library and archives facilities.**

The bill was read the second time.

There being no objection, Substitute House Bill No. 2015 was substituted for House Bill No. 2015 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 2015 was read the second time.

With the consent of the house, amendment (259) was withdrawn.

Representative Doglio moved the adoption of amendment (068):

On page 1, line 8, after "**Sec. 1.**" insert "(1)"

On page 1, at the beginning of line 15, insert "(2)"

Beginning on page 1, line 20, after "accomplished by" strike all material through "debt" on page 2, line 1 and insert "constructing a new building funded by a financing contract entered into by the secretary of state pursuant to chapter 39.94 RCW. The principal and interest requirements of the financing contract"

On page 2, at the beginning of line 3, insert "(3)"

On page 2, beginning on line 10, after "state" strike all material through "debt" on line 11

On page 3, beginning on line 34, after "until the" strike "certificate of participation" and insert "financing contract entered into by the secretary of state for the Washington state library-archives building"

On page 6, beginning on line 1, after "of the" strike "certificate of participation issued" and insert "financing contract entered into by the secretary of state"

On page 8, beginning on line 8, after "of the" strike "certificate of participation issued" and insert "financing contract entered into by the secretary of state"

On page 8, line 36, after "of the" strike "certificate of participation issued" and insert "~~((certificate of participation issued))~~ financing contract entered into by the secretary of state"

On page 10, line 16, after "of the" strike "certificate of participation issued" and insert "financing contract entered into by the secretary of state"

Representative Doglio spoke in favor of the adoption of the amendment.

Amendment (068) was adopted.

Representative Orcutt moved the adoption of amendment (245):

On page 3, beginning on line 29, strike all material through "(13)" on line 36 and insert "(11) For recording instruments, a three dollar surcharge to be deposited into the Washington state (~~heritage center~~) library-archives account created in (~~RCW 43.07.129~~) section 9 of this act until the financing contract is paid in full;

(12)"

Renumber the remaining subsections consecutively.

Representative Orcutt spoke in favor of the adoption of the amendment.

Representative Tharinger spoke against the adoption of the amendment.

Amendment (245) was not adopted.

Representative Orcutt moved the adoption of amendment (260):

On page 12, after line 35, insert the following:

"NEW SECTION. Sec. 13. If specific financing for the alternative financing contract for the library-archives building in section 2 of this act is not authorized by June 30, 2019, in the omnibus capital appropriations act, this act is null and void."

Representatives Orcutt and Tharinger spoke in favor of the adoption of the amendment.

Amendment (260) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Doglio and DeBolt spoke in favor of the passage of the bill.

#### MOTION

On motion of Representative Riccelli, Representative Appleton was excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2015.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2015, and the bill passed the House by the following vote: Yeas, 92; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Voting nay: Representatives Dufault, Mead, Orcutt, Paul and Young.

Excused: Representative Appleton.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2015, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5710, by Senate Committee on Transportation (originally sponsored by Lias, Saldaña, Cleveland, Takko, Billig, King, Nguyen and Dhingra)**

**Establishing the active transportation safety advisory council. Revised for 1st Substitute: Establishing the Cooper Jones active transportation safety council.**

The bill was read the second time.

Representative Eslick moved the adoption of amendment (504):

On page 4, line 31, after "who" strike "are" and insert "is"

On page 4, at the beginning of line 40, strike "~~((42) This section expires June 30, 2019.))~~" and insert "~~(12) This section expires ((June 30, 2019)) July 1, 2024.~~"

Representatives Eslick and Orcutt spoke in favor of the adoption of the amendment.

Representatives Kloba and Riccelli spoke against the adoption of the amendment.

Amendment (504) was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

Representatives Barkis and McCaslin spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5710.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5710, as amended by the House, and the bill passed the House by the following vote: Yeas, 68; Nays, 29; Absent, 0; Excused, 1.

Voting yea: Representatives Bergquist, Blake, Callan, Chandler, Chapman, Cody, Davis, Doglio, Dolan, Entenman, Eslick, Fey, Fitzgibbon, Frame, Goodman, Graham, Gregerson, Hansen, Hudgins, Jenkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford,

Steele, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Volz, Walen, Wylie, Ybarra and Mr. Speaker.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Corry, DeBolt, Dent, Dufault, Dye, Gildon, Goehner, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Schmick, Shea, Sutherland, Vick, Walsh, Wilcox and Young.

Excused: Representative Appleton.

SUBSTITUTE SENATE BILL NO. 5710, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5588, by Senate Committee on Environment, Energy & Technology (originally sponsored by Hawkins, Palumbo, Ericksen, Van De Wege, Fortunato, Short, Billig, Hobbs, Braun, Takko, Warnick, Sheldon, Wagoner, Hunt, Das, Zeiger, Wellman, King, Nguyen, Hasegawa, Kuderer, Bailey, Rivers, Holy, Wilson, L., Padden, Walsh, Dhingra, Frockt, Keiser, Lias, O'Ban, Wilson and C.)**

**Authorizing the production, distribution, and sale of renewable hydrogen.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Fitzgibbon and Shea spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5588.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5588, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jenkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representative Appleton.

SUBSTITUTE SENATE BILL NO. 5588, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5010, by Senate Committee on Local Government (originally sponsored by Rolfes, Van De Wege and Ranker)**

**Concerning protected lands not being assessed local fire district levies.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Local Government was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 68, March 22, 2019).

Representative Peterson moved the adoption of amendment (519) to the committee striking amendment:

On page 2, line 35 of the striking amendment, after "be" strike "completed" and insert "initiated"

On page 2, line 37 of the striking amendment, after "city," insert "or"

On page 2, line 38 of the striking amendment, after "town" strike ", or port district"

On page 3, beginning on line 4 of the striking amendment, strike all of subsection (11)

Representatives Peterson and Kraft spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (519) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Peterson and Kraft spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5010, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5010, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon,

Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representative Appleton.

SUBSTITUTE SENATE BILL NO. 5010, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5355, by Senate Committee on Ways & Means (originally sponsored by Holy and Van De Wege)**

**Recovering service credit withdrawn from the public employees' retirement system for certain law enforcement officers and firefighters.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Volz and Bergquist spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5355.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5355, and the bill passed the House by the following vote: Yeas, 95; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Voting nay: Representatives McCaslin and Shea.

Excused: Representative Appleton.

SUBSTITUTE SENATE BILL NO. 5355, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5088, by Senators Wellman, Palumbo and Mullet**

**Awarding credits for computer science.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Education was adopted. (For Committee amendment, see Journal, Day 78, April 1, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Santos and Steele spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5088, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5088, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Voting nay: Representative Paul.

Excused: Representative Appleton.

SENATE BILL NO. 5088, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5132, by Senators Takko and Short**

**Addressing noncollection of taxes by county treasurers.**

The bill was read the second time.

Representative Griffey moved the adoption of amendment (500):

On page 1, at the beginning of line 6, insert "(1)"

On page 1, after line 13, insert the following:

"(2) By June 30 of each year, each county treasurer must report the amount of uncollected personal property and real property taxes from the previous calendar year, where a treasurer refused to collect such taxes under subsection (1) of this section, to the department of commerce. The department of commerce must submit a summarized list of uncollected taxes by county to the legislature by July 15 of each year."

Representatives Griffey and Pollet spoke in favor of the adoption of the amendment.

Amendment (500) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Pollet and Kraft spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5132, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5132, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representative Appleton.

SENATE BILL NO. 5132, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5017, by Senate Committee on Law & Justice (originally sponsored by Salomon, Van De Wege and Pedersen)**

**Concerning the uniform unsworn declarations act.**

The bill was read the second time.

With the consent of the house the committee striking amendment by the Committee on Civil Rights & Judiciary was not adopted.

Representative Jinkins moved the adoption of the striking amendment (514):

Strike everything after the enacting clause and insert the following:

**Sec. 1.** RCW 5.50.010 and 2011 c 22 s 2 are each amended to read as follows:

In this chapter:

(1) ("~~Boundaries of the United States~~" means the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

(2)) "Law" includes (~~the federal or a state Constitution,~~) a (~~federal or state~~) statute, ((a)) judicial decision or order, ((a)) rule of court, ((a)) executive order, and ((a)) administrative rule, regulation, or order.

((3)) (2) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

((4)) (3) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; ((or))

(b) To attach to or logically associate with the record an electronic symbol, sound, or process;

(c) To affix or place the declarant's signature as defined in RCW 9A.04.110 on the record;

(d) To attach or logically associate the declarant's digital signature or electronic signature as defined in RCW 19.34.020 to the record;

(e) To affix or logically associate the declarant's signature in the manner described in general rule 30 to the record if he or she is a licensed attorney; or

(f) To affix or logically associate the declarant's full name, department or agency, and badge or personnel number to any record that is electronically submitted to a court, a prosecutor, or a magistrate from an electronic device that is owned, issued, or maintained by a criminal justice agency if the declarant is a law enforcement officer.

((5)) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin

Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(6)) (4) "Sworn declaration" means a declaration in a signed record given under oath. The term includes a sworn statement, verification, certificate, and affidavit.

((7)) (5) "Unsworn declaration" means a declaration in a signed record (~~that is~~) not given under oath(~~s~~) but (~~is~~) given under penalty of perjury. The term includes an unsworn statement, verification, and certificate.

**Sec. 2.** RCW 5.50.020 and 2011 c 22 s 3 are each amended to read as follows:

This chapter applies to an unsworn declaration by a declarant who at the time of making the declaration is physically located within or outside the boundaries of the United States, whether or not the location is subject to the jurisdiction of the United States. (~~This chapter does not apply to a declaration by a declarant who is physically located on property that is within the boundaries of the United States and subject to the jurisdiction of another country or a federally recognized Indian tribe.~~)

**Sec. 3.** RCW 5.50.050 and 2011 c 22 s 6 are each amended to read as follows:

An unsworn declaration under this chapter must be in substantially the following form:

I declare under penalty of perjury under the law of Washington that the foregoing is true and correct(~~and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States~~).

((Executed)) Signed on the . . . . day of . . . . , . . .

" (date) (month) (year)

at . . . . .((~~-----~~)) (city or other location, and state or country) ((~~country~~))

..... (printed name)

..... (signature)

**Sec. 4.** RCW 5.50.900 and 2011 c 22 s 1 are each amended to read as follows:

This chapter may be cited as the uniform unsworn (~~foreign~~) declarations act.

**Sec. 5.** RCW 5.50.901 and 2011 c 22 s 7 are each amended to read as follows:

In applying and construing this uniform act and chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. **Sec. 6.** RCW 9A.72.085

(Unsworn statements, certification—Standards for

subscribing to an unsworn statement) and 2014 c 93 s 4 & 1981 c 187 s 3, as now existing or hereafter amended, are each repealed, effective July 1, 2021.

### CONFORMING AMENDMENTS

**Sec. 7.** RCW 7.64.020 and 2004 c 74 s 1 are each amended to read as follows:

(1) At the time of filing the complaint or any time thereafter, the plaintiff may apply to the judge or court commissioner to issue an order directing the defendant to appear and show cause why an order putting the plaintiff in immediate possession of the personal property should not be issued.

(2) In support of the application, the plaintiff, or someone on the plaintiff's behalf, shall make an affidavit, or a declaration as permitted under (~~RCW 9A.72.085~~) chapter 5.50 RCW, showing:

(a) That the plaintiff is the owner of the property or is lawfully entitled to the possession of the property by virtue of a special property interest, including a security interest, specifically describing the property and interest;

(b) That the property is wrongfully detained by defendant;

(c) That the property has not been taken for a tax, assessment, or fine pursuant to a statute and has not been seized under an execution or attachment against the property of the plaintiff, or if so seized, that it is by law exempt from such seizure; and

(d) The approximate value of the property.

(3) The order to show cause shall state the date, time, and place of the hearing and contain a notice to the defendant that failure to promptly turn over possession of the property to the plaintiff or the sheriff, if an order awarding possession is issued under RCW 7.64.035(1), may subject the defendant to being held in contempt of court.

(4) A certified copy of the order to show cause, with a copy of the plaintiff's affidavit or declaration attached, shall be served upon the defendant no later than five days before the hearing date.

**Sec. 8.** RCW 7.70.065 and 2017 c 275 s 1 are each amended to read as follows:

(1) Informed consent for health care for a patient who is not competent, as defined in RCW 11.88.010(1)(e), to consent may be obtained from a person authorized to consent on behalf of such patient.

(a) Persons authorized to provide informed consent to health care on behalf of a patient who is not competent to consent, based upon a reason other than incapacity as defined in RCW 11.88.010(1)(d), shall be a member of one of the following classes of persons in the following order of priority:

(i) The appointed guardian of the patient, if any;

(ii) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;

(iii) The patient's spouse or state registered domestic partner;

(iv) Children of the patient who are at least eighteen years of age;

(v) Parents of the patient; and

(vi) Adult brothers and sisters of the patient.

(b) If the health care provider seeking informed consent for proposed health care of the patient who is not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

(i) If a person of higher priority under this section has refused to give such authorization; or

(ii) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

(c) Before any person authorized to provide informed consent on behalf of a patient not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, exercises that authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.

(2) Informed consent for health care, including mental health care, for a patient who is not competent, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, may be obtained from a person authorized to consent on behalf of such a patient.

(a) Persons authorized to provide informed consent to health care, including mental health care, on behalf of a patient who is incapacitated, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent, shall be a member of one of the following classes of persons in the following order of priority:

(i) The appointed guardian, or legal custodian authorized pursuant to Title 26 RCW, of the minor patient, if any;

(ii) A person authorized by the court to consent to medical care for a child in out-of-home placement pursuant to chapter 13.32A or 13.34 RCW, if any;

(iii) Parents of the minor patient;

(iv) The individual, if any, to whom the minor's parent has given a signed authorization to make health care decisions for the minor patient; and

(v) A competent adult representing himself or herself to be a relative responsible for the health care of such minor patient or a competent adult who has signed and dated a declaration under penalty of perjury pursuant to ~~((RCW 9A.72.085))~~ chapter 5.50 RCW stating that the adult person is a relative responsible for the health care of the minor patient. Such declaration shall be effective for up to six months from the date of the declaration.

(b)(i) Informed consent for health care on behalf of a patient who is incapacitated, as defined in RCW 11.88.010(1)(e), because he or she is under the age of majority and who is not otherwise authorized to provide informed consent may be obtained from a school nurse, school counselor, or homeless student liaison when:

(A) Consent is necessary for nonemergency, outpatient, primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries;

(B) The minor patient meets the definition of a "homeless child or youth" under the federal McKinney-Vento homeless education assistance improvements act of 2001, P.L. 107-110, January 8, 2002, 115 Stat. 2005; and

(C) The minor patient is not under the supervision or control of a parent, custodian, or legal guardian, and is not in the care and custody of the department of social and health services.

(ii) A person authorized to consent to care under this subsection (2)(b) and the person's employing school or school district are not subject to administrative sanctions or civil damages resulting from the consent or nonconsent for care, any care, or payment for any care, rendered pursuant to this section. Nothing in this section prevents a health care facility or a health care provider from seeking reimbursement from other sources for care provided to a minor patient under this subsection (2)(b).

(iii) Upon request by a health care facility or a health care provider, a person authorized to consent to care under this subsection (2)(b) must provide to the person rendering care a declaration signed and dated under penalty of perjury pursuant to ~~((RCW 9A.72.085))~~ chapter 5.50 RCW stating that the person is a school nurse, school counselor, or homeless student liaison and that the minor patient meets the elements under (b)(i) of this subsection. The declaration must also include written notice of the exemption from liability under (b)(ii) of this subsection.

(c) A health care provider may, but is not required to, rely on the representations or declaration of a person claiming to be a relative responsible for the care of the minor patient, under (a)(v) of this subsection, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection, if the health care provider does not have actual notice of the falsity of any of the statements made by the person claiming to be a relative responsible for the health care of the minor patient, or person claiming to be authorized to consent to the health care of the minor patient.

(d) A health care facility or a health care provider may, in its discretion, require documentation of a person's claimed status as being a relative responsible for the health care of the minor patient, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection. However, there is no obligation to require such documentation.

(e) The health care provider or health care facility where services are rendered shall be immune from suit in any action, civil or criminal, or from professional or other disciplinary action when such reliance is based on a declaration signed under penalty of perjury pursuant to ~~((RCW 9A.72.085))~~ chapter 5.50 RCW stating that the adult person is a relative responsible for the health care of the minor patient under (a)(v) of this subsection, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection.

(3) For the purposes of this section, "health care," "health care provider," and "health care facility" shall be defined as established in RCW 70.02.010.

**Sec. 9.** RCW 9A.04.030 and 1999 c 349 s 1 are each amended to read as follows:

The following persons are liable to punishment:

(1) A person who commits in the state any crime, in whole or in part.

(2) A person who commits out of the state any act which, if committed within it, would be theft and is afterward found in the state with any of the stolen property.

(3) A person who being out of the state, counsels, causes, procures, aids, or abets another to commit a crime in this state.

(4) A person who, being out of the state, abducts or kidnaps by force or fraud, any person, contrary to the laws of the place where the act is committed, and brings, sends, or conveys such person into this state.

(5) A person who commits an act without the state which affects persons or property within the state, which, if committed within the state, would be a crime.

(6) A person who, being out of the state, makes a statement, declaration, verification, or certificate under ~~((RCW 9A.72.085))~~ chapter 5.50 RCW which, if made within the state, would be perjury.

(7) A person who commits an act onboard a conveyance within the state of Washington, including the



matter will require the involvement of . . . . . (name of person or class of persons), who is/are (minors), (incapacitated and without an appointed guardian), (unborn or unascertained) (whose identity or address is unknown).

UNDER RCW 11.96A.250

THIS MATTER having come on for hearing before this Court on Petition for Appointment of Special Representative filed herein, and it appearing that it would be in the best interests of the parties related to the matter described in the Petition to appoint a special representative to address the issues that have arisen in the matter and the Court finding that the facts stated in the Petition are true, now, therefore,

4. Special Representative. The nominated special representative . . . is a lawyer licensed to practice before the courts of this state or an individual with special skill or training in the administration of estates or trusts. The nominated special representative does not have an interest in the matter and is not related to any person interested in the matter. The nominated special representative is willing to serve. The petitioner has no reason to believe that the nominated special representative will not act in an independent and prudent manner and in the best interests of the represented parties. (It is recommended that the petitioner also include information specifying the particular skills of the nominated special representative that relate to the matter in issue.)

IT IS ORDERED that . . . is appointed under RCW 11.96A.250 as special representative (describe party or parties being represented) who is/are (minors), (incapacitated and without an appointed guardian), (unborn or unascertained) (whose identity or address is unknown), to represent their respective interests in the matter as provided in RCW 11.96A.250. The special representative shall be discharged of responsibility with respect to the matter as provided in RCW 11.96A.250. The special representative is discharged of responsibility with respect to the matter at such time as a written agreement is executed resolving the present issues, all as provided in that statute, or if an agreement is not reached within six months from entry of this Order, the special representative appointed under this Order is discharged of responsibility, subject to subsequent reappointment under RCW 11.96A.250.

5. Resolution. Petitioner desires to achieve a resolution of the questions that have arisen in this matter. Petitioner believes that proceeding in accordance with the procedures permitted under RCW 11.96A.210 through 11.96A.250 would be in the best interests of the parties, including the party requiring a special representative.

6. Request of Court. Petitioner requests that . . . . . an attorney licensed to practice in the State of Washington,

DONE IN OPEN COURT this . . . day of . . . . .

(OR)

. . . . . an individual with special skill or training in the administration of estates or trusts

. . . . .

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COURT COMMISSIONER

be appointed special representative for . . . (describe party or parties being represented), who is/are (minors), (incapacitated and without an appointed guardian), (unborn or unascertained) (whose identity or address is unknown), as provided under RCW 11.96A.250.

(2) Upon appointment by the court, the special representative must file a certification made under penalty of perjury in accordance with ((~~RCW 9A.72.085~~)) chapter 5.50 RCW that he or she (a) is not interested in the matter; (b) is not related to any person interested in the matter; (c) is willing to serve; and (d) will act independently, prudently, and in the best interests of the represented parties.

DATED this . . . day of . . . . .

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titioner)

(3) The special representative must be a lawyer licensed to practice before the courts of this state or an individual with special skill or training in the administration of estates or trusts. The special representative may not have an interest in the matter, and may not be related to a person interested in the matter. The special representative is entitled to reasonable compensation for services that must be paid from the principal of an asset involved in the matter.

VERIFICATION

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED . . . . ., ((20--)) . . . . . (year), at . . . . ., Washington.

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(4) The special representative is discharged from any responsibility and will have no further duties with respect to the matter or with respect to any party, on the earlier of: (a) The expiration of six months from the date the special representative was appointed unless the order appointing the special representative provides otherwise, or (b) the execution of the written agreement by all parties or their virtual representatives. Any action against a special representative must be brought within the time limits provided by RCW 11.96A.070(3)(c)(i).

CAPTION PETITION FOR APPOINTMENT

OF CASE OF SPECIAL REPRESENTATIVE

Sec. 13. RCW 18.104.093 and 1993 c 387 s 13 are each amended to read as follows:

The department may issue a water well construction operator's training license if the person:

(1) Has submitted a completed application to the department on forms provided by the department and has paid to the department the application fee required by rules adopted pursuant to this chapter;

(2) Has acquired field experience and educational training required by rules adopted pursuant to this chapter;

(3) Has passed a written examination as provided for in RCW 18.104.080;

(4) Has passed an on-site examination by the department; and

(5) Presents a statement by a person licensed under this chapter, other than a trainee, signed under penalty of perjury as provided in (~~RCW 9A.72.085~~) chapter 5.50 RCW, verifying that the applicant has the field experience required by rules adopted pursuant to this chapter and assuming liability for any and all well construction activities of the person seeking the training license.

A person with a water well construction operator's training license may operate a drilling rig without the direct supervision of a licensed operator if a licensed operator is available by radio, telephone, or other means of communication.

**Sec. 14.** RCW 18.104.097 and 1993 c 387 s 15 are each amended to read as follows:

The department may issue a resource protection well operator's training license if the person:

(1) Has submitted a completed application to the department on forms provided by the department and has paid to the department the application fee required by rules adopted pursuant to this chapter;

(2) Has acquired field experience and educational training required by rules adopted pursuant to this chapter;

(3) Has passed a written examination as provided for in RCW 18.104.080;

(4) Has passed an on-site examination by the department; and

(5) Presents a statement by a person licensed under this chapter, other than a trainee, signed under penalty of perjury as provided in (~~RCW 9A.72.085~~) chapter 5.50 RCW, verifying that the applicant has the field experience required by rules adopted pursuant to this chapter and assuming liability for any and all well construction activities of the person seeking the training license.

A person with a resource protection well construction operator's training license may operate a drilling rig without direct supervision of a licensed operator if a licensed operator is accessible by radio, telephone, or other means of communication.

**Sec. 15.** RCW 39.04.350 and 2018 c 243 s 1 are each amended to read as follows:

(1) Before award of a public works contract, a bidder must meet the following responsibility criteria to be considered a responsible bidder and qualified to be awarded a public works project. The bidder must:

(a) At the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW;

(b) Have a current state unified business identifier number;

(c) If applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW;

(d) Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3);

(e) If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation;

(f) Have received training on the requirements related to public works and prevailing wage under this chapter and chapter 39.12 RCW. The bidder must designate a person or persons to be trained on these requirements. The training must be provided by the department of labor and industries or by a training provider whose curriculum is approved by the department. The department, in consultation with the prevailing wage advisory committee, must determine the length of the training. Bidders that have completed three or more public works projects and have had a valid business license in Washington for three or more years are exempt from this subsection. The department of labor and industries must keep records of entities that have satisfied the training requirement or are exempt and make the records available on its web site. Responsible parties may rely on the records made available by the department regarding satisfaction of the training requirement or exemption; and

(g) Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW.

(2) Before award of a public works contract, a bidder shall submit to the contracting agency a signed statement in accordance with (~~RCW 9A.72.085~~) chapter 5.50 RCW verifying under penalty of perjury that the bidder is in compliance with the responsible bidder criteria requirement of subsection (1)(g) of this section. A contracting agency

may award a contract in reasonable reliance upon such a sworn statement.

(3) In addition to the bidder responsibility criteria in subsection (1) of this section, the state or municipality may adopt relevant supplemental criteria for determining bidder responsibility applicable to a particular project which the bidder must meet.

(a) Supplemental criteria for determining bidder responsibility, including the basis for evaluation and the deadline for appealing a determination that a bidder is not responsible, must be provided in the invitation to bid or bidding documents.

(b) In a timely manner before the bid submittal deadline, a potential bidder may request that the state or municipality modify the supplemental criteria. The state or municipality must evaluate the information submitted by the potential bidder and respond before the bid submittal deadline. If the evaluation results in a change of the criteria, the state or municipality must issue an addendum to the bidding documents identifying the new criteria.

(c) If the bidder fails to supply information requested concerning responsibility within the time and manner specified in the bid documents, the state or municipality may base its determination of responsibility upon any available information related to the supplemental criteria or may find the bidder not responsible.

(d) If the state or municipality determines a bidder to be not responsible, the state or municipality must provide, in writing, the reasons for the determination. The bidder may appeal the determination within the time period specified in the bidding documents by presenting additional information to the state or municipality. The state or municipality must consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, the state or municipality may not execute a contract with any other bidder until two business days after the bidder determined to be not responsible has received the final determination.

(4) The capital projects advisory review board created in RCW 39.10.220 shall develop suggested guidelines to assist the state and municipalities in developing supplemental bidder responsibility criteria. The guidelines must be posted on the board's web site.

**Sec. 16.** RCW 39.26.160 and 2017 c 258 s 3 are each amended to read as follows:

(1)(a) After bids that are submitted in response to a competitive solicitation process are reviewed by the awarding agency, the awarding agency may:

(i) Reject all bids and rebid or cancel the competitive solicitation;

(ii) Request best and final offers from responsive and responsible bidders; or

(iii) Award the purchase or contract to the lowest responsive and responsible bidder.

(b) The agency may award one or more contracts from a competitive solicitation.

(2) In determining whether the bidder is a responsible bidder, the agency must consider the following elements:

(a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws relating to the contract or services;

(f) Whether, within the three-year period immediately preceding the date of the bid solicitation, the bidder has been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW; and

(g) Such other information as may be secured having a bearing on the decision to award the contract.

(3) In determining the lowest responsive and responsible bidder, an agency may consider best value criteria, including but not limited to:

(a) Whether the bid satisfies the needs of the state as specified in the solicitation documents;

(b) Whether the bid encourages diverse contractor participation;

(c) Whether the bid provides competitive pricing, economies, and efficiencies;

(d) Whether the bid considers human health and environmental impacts;

(e) Whether the bid appropriately weighs cost and noncost considerations; and

(f) Life-cycle cost.

(4) The solicitation document must clearly set forth the requirements and criteria that the agency will apply in evaluating bid submissions. Before award of a contract, a bidder shall submit to the contracting agency a signed statement in accordance with ((RCW 9A.72.085)) chapter 5.50 RCW verifying under penalty of perjury that the bidder is in compliance with the responsible bidder criteria requirement of subsection (2)(f) of this section. A contracting agency may award a contract in reasonable reliance upon such a sworn statement.

(5) The awarding agency may at its discretion reject the bid of any contractor who has failed to perform satisfactorily on a previous contract with the state.

(6) After reviewing all bid submissions, an agency may enter into negotiations with the lowest responsive and responsible bidder in order to determine if the bid may be improved. An agency may not use this negotiation opportunity to permit a bidder to change a nonresponsive bid into a responsive bid.

(7) The procuring agency must enter into the state's enterprise vendor registration and bid notification system the name of each bidder and an indication as to the successful bidder.

**Sec. 17.** RCW 46.09.320 and 2016 c 84 s 2 are each amended to read as follows:

(1) The application for a certificate of title of an off-road vehicle must be made by the owner or owner's representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the off-road vehicle, including make, model, vehicle identification number or engine serial number if no vehicle identification number exists, type of body, and model year of the vehicle;

(b) The name and address of the person who is the registered owner of the off-road vehicle and, if the off-road vehicle is subject to a security interest, the name and address of the secured party; and

(c) Other information the department may require.

(2) The application for a certificate of title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under ~~((RCW 9A.72.085))~~ chapter 5.50 RCW.

(3) The owner must pay the fee established under RCW 46.17.100.

(4) Issuance of the certificate of title does not qualify the off-road vehicle for registration under chapter 46.16A RCW.

**Sec. 18.** RCW 46.12.530 and 2017 c 147 s 3 are each amended to read as follows:

(1) The application for a certificate of title of a vehicle must be made by the owner or owner's representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vehicle, including make, model, vehicle identification number, type of body, and the odometer reading at the time of delivery of the vehicle;

(b) The name and address of the person who is to be the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party; and

(c) Other information the department may require.

(2) The department may require additional information and a physical examination of the vehicle or of any class of vehicles, or either.

(3) The application for a certificate of title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under ~~((RCW 9A.72.085))~~ chapter 5.50 RCW. The department shall keep the application in the original, computer, or photostatic form.

(4) The application for an original certificate of title must be accompanied by:

(a) A draft, money order, certified bank check, or cash for all fees and taxes due for the application for certificate of title; and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(5) Once issued, a certificate of title is not subject to renewal.

(6) Whenever any person, after applying for or receiving a certificate of title, moves from the address named in the application or in the certificate of title issued to him or her, or changes his or her name of record, the person shall, within ten days thereafter, notify the department of the name or address change as provided in RCW 46.08.195.

**Sec. 19.** RCW 46.12.555 and 2014 c 12 s 1 are each amended to read as follows:

(1) The application for a quick title of a vehicle must be submitted by the owner or the owner's representative to the department, participating county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vehicle, including make, model, vehicle identification number, type of body, and the odometer reading at the time of delivery of the vehicle, when required;

(b) The name and address of the person who is to be the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party; and

(c) Other information as may be required by the department.

(2) The application for a quick title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under ~~((RCW 9A.72.085))~~ chapter 5.50 RCW. The department must keep a copy of the application.

(3) The application for a quick title must be accompanied by:

(a) All fees and taxes due for an application for a certificate of title, including a quick title service fee under RCW 46.17.160; and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(4) All applications for quick title must meet the requirements established by the department.

(5) For the purposes of this section, "quick title" means a certificate of title printed at the time of application.

(6) The quick title process authorized under this section may not be used to obtain the first title issued to a vehicle previously designated as a salvage vehicle as defined in RCW 46.04.514.

(7) A subagent may process a quick title under this section in accordance with rules adopted by the department.

**Sec. 20.** RCW 46.16A.435 and 2011 c 121 s 3 are each amended to read as follows:

(1) The department shall establish a declaration subject to the requirements of (~~RCW 9A.72.085~~) chapter 5.50 RCW, which must be submitted by an off-road motorcycle owner when applying for on-road registration of the off-road motorcycle. In order to be registered for on-road use, an off-road motorcycle must travel on two wheels with a seat designed to be straddled by the operator and with handlebar-type steering control.

(2) Registration for on-road use of an off-road motorcycle is prohibited for dune buggies, snowmobiles, trimobles, mopeds, pocket bikes, motor vehicles registered by the department, side-by-sides, utility vehicles, grey-market vehicles, off-road three-wheeled vehicles, and, as determined by the department, any other vehicles that were not originally certified by the manufacturer for use on public roads.

(3) The declaration must include the following:

(a) Documentation of a safety inspection to be completed by a licensed motorcycle dealer or repair shop in the state of Washington that must outline the vehicle information and certify that all off-road to on-road motorcycle equipment as required under RCW 46.61.705 meets the requirements outlined in state and federal law;

(b) Documentation that the licensed motorcycle dealer or repair shop did not charge more than one hundred dollars per safety inspection and that the entire safety inspection fee is paid directly and only to the licensed motorcycle dealer or repair shop;

(c) A statement that the licensed motorcycle dealer or repair shop is entitled to the full amount charged for the motorcycle safety inspection;

(d) A vehicle identification number verification that must be completed by a licensed motorcycle dealer or repair shop in the state of Washington; and

(e) A release signed by the owner of the off-road motorcycle and verified by the department, county auditor or other agent, or subagent appointed by the director that releases the state from any liability and outlines that the owner understands that the original off-road motorcycle was not manufactured for on-road use and that it has been modified for use on public roads.

(4) The department must track off-road motorcycles in a separate registration category for reporting purposes.

**Sec. 21.** RCW 46.20.308 and 2016 c 203 s 15 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath for the purpose of determining the alcohol concentration in his or her breath if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. Prior to administering a breath test pursuant to this section, the officer shall inform the person of his or her right under this section to refuse the breath test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver, in substantially the following language, that:

(a) If the driver refuses to take the test, the driver's license, permit, or privilege to drive will be revoked or denied for at least one year; and

(b) If the driver refuses to take the test, the driver's refusal to take the test may be used in a criminal trial; and

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if:

(i) The driver is age twenty-one or over and the test indicates either that the alcohol concentration of the driver's breath is 0.08 or more; or

(ii) The driver is under age twenty-one and the test indicates either that the alcohol concentration of the driver's breath is 0.02 or more; or

(iii) The driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

(d) If the driver's license, permit, or privilege to drive is suspended, revoked, or denied the driver may be eligible to immediately apply for an ignition interlock driver's license.

(3) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested exercises the right, granted herein, by refusing upon the request of a law enforcement officer to submit to a test or tests of his or her breath, no test shall be given except as otherwise authorized by law.

(4) Nothing in subsection (1), (2), or (3) of this section precludes a law enforcement officer from obtaining a person's blood to test for alcohol, marijuana, or any drug,

pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law. Any blood drawn for the purpose of determining the person's alcohol, marijuana levels, or any drug, is drawn pursuant to this section when the officer has reasonable grounds to believe that the person is in physical control or driving a vehicle under the influence or in violation of RCW 46.61.503.

(5) If, after arrest and after any other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more, or the THC concentration of the person's blood is 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood is 0.02 or more, or the THC concentration of the person's blood is above 0.00, if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive as required by subsection (6) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (7) of this section;

(c) Serve notice in writing that the license or permit, if any, is a temporary license that is valid for thirty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (7) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(d) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by ((RCW 9A.72.085)) chapter 5.50 RCW that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol or THC concentration in violation of RCW 46.61.503;

(ii) That after receipt of any applicable warnings required by subsection (2) of this section the person refused to submit to a test of his or her breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was

5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(6) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by ((RCW 9A.72.085)) chapter 5.50 RCW under subsection (5)(d) of this section, shall suspend, revoke, or deny the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, or denial to be effective beginning thirty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (7) of this section, whichever occurs first.

(7) A person receiving notification under subsection (5)(b) of this section may, within seven days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of three hundred seventy-five dollars as part of the request. If the request is mailed, it must be postmarked within seven days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required three hundred seventy-five dollar fee, the department shall afford the person an opportunity for a hearing. The department may waive the required three hundred seventy-five dollar fee if the person is an indigent as defined in RCW 10.101.010. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within thirty days, excluding Saturdays, Sundays, and legal holidays, following the date of timely receipt of such request for a formal hearing before the department or thirty days, excluding Saturdays, Sundays, and legal holidays following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license under subsection (5) of this section extended, if the person is otherwise eligible for licensing. Unless otherwise agreed to by the department and the person, the department must give five days notice of the hearing to the person. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, if the person was under the age of twenty-one, whether the person was

placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person was age twenty-one or over at the time of the arrest, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person was under the age of twenty-one at the time of the arrest. Where a person is found to be in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was under the age of twenty-one at the time of the arrest and was in physical control of a motor vehicle while having alcohol in his or her system in a concentration of 0.02 or THC concentration above 0.00, the person may petition the hearing officer to apply the affirmative defense found in RCW 46.61.504(3) and 46.61.503(2). The driver has the burden to prove the affirmative defense by a preponderance of the evidence. The sworn report or report under a declaration authorized by ((RCW 9A.72.085)) chapter 5.50 RCW submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by ((RCW 9A.72.085)) chapter 5.50 RCW of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, or denial either be rescinded or sustained.

(8) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license,

privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law. The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b) that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

(9)(a) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, or denied under subsection (6) of this section, other than as a result of a breath test refusal, and who has not committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (6) of this section, or notifies the department of licensing of the intent to seek such a deferred prosecution, then the license suspension or revocation shall be stayed pending entry of the deferred prosecution. The stay shall not be longer than one hundred fifty days after the date charges are filed, or two years after the date of the arrest, whichever time period is shorter. If the court stays the suspension, revocation, or denial, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license under subsection (5) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the

stay and any temporary license or extension of a temporary license issued under this subsection.

(b) A suspension, revocation, or denial imposed under this section, other than as a result of a breath test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(c) The provisions of (b) of this subsection relating to a stay of a suspension, revocation, or denial and the cancellation of any suspension, revocation, or denial do not apply to the suspension, revocation, denial, or disqualification of a person's commercial driver's license or privilege to operate a commercial motor vehicle.

(10) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

**Sec. 22.** RCW 46.20.720 and 2017 c 336 s 5 are each amended to read as follows:

(1) **Ignition interlock restriction.** The department shall require that a person may drive only a motor vehicle equipped with a functioning ignition interlock device:

(a) **Pretrial release.** Upon receipt of notice from a court that an ignition interlock device restriction has been imposed under RCW 10.21.055;

(b) **Ignition interlock driver's license.** As required for issuance of an ignition interlock driver's license under RCW 46.20.385;

(c) **Deferred prosecution.** Upon receipt of notice from a court that the person is participating in a deferred prosecution program under RCW 10.05.020 for a violation of:

(i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance; or

(ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance if the person would be required under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an ignition interlock device on all vehicles operated by the person in the event of a conviction;

(d) **Post conviction.** After any applicable period of suspension, revocation, or denial of driving privileges:

(i) Due to a conviction of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance; or

(ii) Due to a conviction of a violation of RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance if the person is required under RCW 46.61.5249(4) or

46.61.500(3) (a) or (b) to install an ignition interlock device on all vehicles operated by the person; or

(e) **Court order.** Upon receipt of an order by a court having jurisdiction that a person charged or convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the ignition interlock will prevent the vehicle from being started. The court shall also establish the period of time for which ignition interlock use will be required.

(2) **Calibration.** Unless otherwise specified by the court for a restriction imposed under subsection (1)(e) of this section, the ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more.

(3) **Duration of restriction.** A restriction imposed under:

(a) Subsection (1)(a) of this section shall remain in effect until:

(i) The court has authorized the removal of the device under RCW 10.21.055; or

(ii) The department has imposed a restriction under subsection (1)(b), (c), or (d) of this section arising out of the same incident.

(b) Subsection (1)(b) of this section remains in effect during the validity of any ignition interlock driver's license that has been issued to the person.

(c) Subsection (1)(c)(i) or (d)(i) of this section shall be for no less than:

(i) For a person who has not previously been restricted under this subsection, a period of one year;

(ii) For a person who has previously been restricted under (c)(i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under (c)(ii) of this subsection, a period of ten years.

The restriction of a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and who committed the offense while a passenger under the age of sixteen was in the vehicle shall be extended for an additional six-month period as required by RCW 46.61.5055(6)(a).

(d) Subsection (1)(c)(ii) or (d)(ii) of this section shall be for a period of no less than six months.

(e) Subsection (1)(e) of this section shall remain in effect for the period of time specified by the court.

The period of restriction under (c) and (d) of this subsection based on incidents occurring on or after June 9, 2016, must be tolled for any period in which the person does not have an ignition interlock device installed on a vehicle owned or operated by the person unless the person receives

a determination from the department that the person is unable to operate an ignition interlock device due to a physical disability. The department's determination that a person is unable to operate an ignition interlock device must be reasonable and be based upon good and substantial evidence. This determination is subject to review by a court of competent jurisdiction. The department may charge a person seeking a medical exemption under this subsection a reasonable fee for the assessment.

**(4) Requirements for removal.** A restriction imposed under subsection (1)(c) or (d) of this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying that there have been none of the following incidents in the one hundred eighty consecutive days prior to the date of release:

(a) Any attempt to start the vehicle with a breath alcohol concentration of 0.04 or more unless a subsequent test performed within ten minutes registers a breath alcohol concentration lower than 0.04 and the digital image confirms the same person provided both samples;

(b) Failure to take any random test unless a review of the digital image confirms that the vehicle was not occupied by the driver at the time of the missed test;

(c) Failure to pass any random retest with a breath alcohol concentration of 0.025 or lower unless a subsequent test performed within ten minutes registers a breath alcohol concentration lower than 0.025, and the digital image confirms the same person provided both samples; or

(d) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.

**(5) Day-for-day credit.** (a) The time period during which a person has an ignition interlock device installed in order to meet the requirements of subsection (1)(b) of this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is imposed under subsection (1)(c) or (d) of this section arising out of the same incident.

(b) The department must also give the person a day-for-day credit for any time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates, other than those subject to the employer exemption under subsection (6) of this section.

(c) If the day-for-day credit granted under this subsection equals or exceeds the period of time the ignition interlock device restriction is imposed under subsection (1)(c) or (d) of this section arising out of the same incident, and the person has already met the requirements for removal of the device under subsection (4) of this section, the department may waive the requirement that a device be installed or that the person again meet the requirements for removal.

**(6) Employer exemption.** (a) Except as provided in (b) of this subsection, the installation of an ignition interlock

device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to (~~RCW 9A.72.085~~) chapter 5.50 RCW from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(b) The employer exemption does not apply when the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment.

**(7) Ignition interlock device revolving account.** In addition to any other costs associated with the use of an ignition interlock device imposed on the person restricted under this section, the person shall pay an additional fee of twenty dollars per month. Payments must be made directly to the ignition interlock company. The company shall remit the additional fee to the department to be deposited into the ignition interlock device revolving account, except that the company may retain twenty-five cents per month of the additional fee to cover the expenses associated with administering the fee. The department may waive the monthly fee if the person is indigent under RCW 10.101.010.

**(8) Foreign jurisdiction.** For a person restricted under this section who is residing outside of the state of Washington, the department may accept verification of installation of an ignition interlock device by an ignition interlock company authorized to do business in the jurisdiction in which the person resides, provided the device meets any applicable requirements of that jurisdiction. The department may waive the monthly fee required by subsection (7) of this section if collection of the fee would be impractical in the case of a person residing in another jurisdiction.

**Sec. 23.** RCW 47.68.250 and 2017 3rd sp.s. c 25 s 44 are each amended to read as follows:

(1) Every aircraft must be registered with the department for each calendar year in which the aircraft is operated or is based within this state. A fee of fifteen dollars is charged for each such registration and each annual renewal thereof.

(2) Possession of the appropriate effective federal certificate, permit, rating, or license relating to ownership and airworthiness of the aircraft, and payment of the excise tax imposed by Title 82 RCW for the privilege of using the aircraft within this state during the year for which the registration is sought, and payment of the registration fee required by this section are the only requisites for registration of an aircraft under this section.

(3) The registration fee imposed by this section is payable to and collected by the secretary. The fee for any calendar year must be paid during the month of January, and must be collected by the secretary at the time of the collection by him or her of the excise tax. If the secretary is satisfied that the requirements for registration of the aircraft

have been met, he or she must issue to the owner of the aircraft a certificate of registration therefor. The secretary must pay to the state treasurer the registration fees collected under this section, which registration fees must be credited to the aeronautics account.

(4) It is not necessary for the registrant to provide the secretary with originals or copies of federal certificates, permits, ratings, or licenses. The secretary must issue certificates of registration, or such other evidences of registration or payment of fees as he or she may deem proper; and in connection therewith may prescribe requirements for the possession and exhibition of such certificates or other evidences.

(5) The provisions of this section do not apply to:

(a) An aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(b) An aircraft registered under the laws of a foreign country;

(c) An aircraft that is owned by a nonresident if:

(i) The aircraft remains in this state or is based in this state, or both, for a period less than ninety days; or

(ii) The aircraft is a large private airplane as defined in RCW 82.08.215 and remains in this state for a period of ninety days or longer, but only when:

(A) The airplane is in this state exclusively for the purpose of repairs, alterations, or reconstruction, including any flight testing related to the repairs, alterations, or reconstruction, or for the purpose of continual storage of not less than one full calendar year;

(B) An employee of the facility providing these services is on board the airplane during any flight testing; and

(C) Within ninety days of the date the airplane first arrived in this state during the calendar year, the nonresident files a written statement with the department indicating that the airplane is exempt from registration under this subsection (5)(c)(ii). The written statement must be filed in a form and manner prescribed by the department and must include such information as the department requires. The department may require additional periodic verification that the airplane remains exempt from registration under this subsection (5)(c)(ii) and that written statements conform with the provisions of (~~RCW 9A.72.085~~) chapter 5.50 RCW;

(d) An aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce;

(e) An aircraft owned by the commercial manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

(f) An aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under Title 14 RCW; and

(g) An aircraft based within the state that is in an unairworthy condition, is not operated within the registration period, and has obtained a written exemption issued by the secretary.

(6) The secretary must be notified within thirty days of any change in ownership of a registered aircraft. The notification must contain the N, NC, NR, NL, or NX number of the aircraft, the full name and address of the former owner, and the full name and address of the new owner. For failure to so notify the secretary, the registration of that aircraft may be canceled by the secretary, subject to reinstatement upon application and payment of a reinstatement fee of ten dollars by the new owner.

(7) A municipality or port district that owns, operates, or leases an airport, as defined in RCW 47.68.020, with the intent to operate, must require from an aircraft owner proof of aircraft registration as a condition of leasing or selling tiedown or hangar space for an aircraft. It is the responsibility of the lessee or purchaser to register the aircraft. Proof of registration must be provided according to the following schedule:

(a) For the purchase of tiedown or hangar space, the municipality or port district must allow the purchaser thirty days from the date of the application for purchase to produce proof of aircraft registration.

(b) For the lease of tiedown or hangar space that extends thirty days or more, the municipality or port district must allow the lessee thirty days to produce proof of aircraft registration from the date of the application for lease of tiedown or hangar space.

(c) For the lease of tiedown or hangar space that extends less than thirty days, the municipality or port district must allow the lessee to produce proof of aircraft registration at any point prior to the final day of the lease.

(8) The airport must work with the aviation division to assist in its efforts to register aircraft by providing information about based aircraft on an annual basis as requested by the division.

**Sec. 24.** RCW 59.18.030 and 2016 c 66 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Certificate of inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of (~~RCW 9A.72.085~~) chapter 5.50 RCW by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under RCW 59.18.060 that endangers or impairs the health or safety of a tenant, including (a) structural members that are of insufficient size or strength to carry imposed loads with safety, (b) exposure of the occupants to the weather, (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (d) not providing facilities adequate to supply heat and water and

hot water as reasonably required by the tenant, (e) providing heating or ventilation systems that are not functional or are hazardous, (f) defective, hazardous, or missing electrical wiring or electrical service, (g) defective or hazardous exits that increase the risk of injury to occupants, and (h) conditions that increase the risk of fire.

(2) "Commercially reasonable manner," with respect to a sale of a deceased tenant's personal property, means a sale where every aspect of the sale, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a landlord may sell the tenant's property by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) "Comprehensive reusable tenant screening report" means a tenant screening report prepared by a consumer reporting agency at the direction of and paid for by the prospective tenant and made available directly to a prospective landlord at no charge, which contains all of the following: (a) A consumer credit report prepared by a consumer reporting agency within the past thirty days; (b) the prospective tenant's criminal history; (c) the prospective tenant's eviction history; (d) an employment verification; and (e) the prospective tenant's address and rental history.

(4) "Criminal history" means a report containing or summarizing (a) the prospective tenant's criminal convictions and pending cases, the final disposition of which antedates the report by no more than seven years, and (b) the results of a sex offender registry and United States department of the treasury's office of foreign assets control search, all based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(5) "Designated person" means a person designated by the tenant under RCW 59.18.590.

(6) "Distressed home" has the same meaning as in RCW 61.34.020.

(7) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(8) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(9) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes.

(10) "Eviction history" means a report containing or summarizing the contents of any records of unlawful detainer actions concerning the prospective tenant that are reportable in accordance with state law, are lawful for landlords to consider, and are obtained after a search based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(11) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(12) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

(13) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed property conveyance.

(14) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

(15) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(16) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(17) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(18) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(19) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(20) "Prospective landlord" means a landlord or a person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(21) "Prospective tenant" means a tenant or a person who has applied for residential housing that is governed under this chapter.

(22) "Qualified inspector" means a United States department of housing and urban development certified inspector; a Washington state licensed home inspector; an American society of home inspectors certified inspector; a private inspector certified by the national association of housing and redevelopment officials, the American association of code enforcement, or other comparable professional association as approved by the local municipality; a municipal code enforcement officer; a Washington licensed structural engineer; or a Washington licensed architect.

(23) "Reasonable attorneys' fees," where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

(24) "Reasonable manner," with respect to disposing of a deceased tenant's personal property, means to dispose of the property by donation to a not-for-profit charitable organization, by removal of the property by a trash hauler or recycler, or by any other method that is reasonable under the circumstances.

(25) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

(26) A "single-family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single-family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

(27) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

(28) "Tenant representative" means:

(a) A personal representative of a deceased tenant's estate if known to the landlord;

(b) If the landlord has no knowledge that a personal representative has been appointed for the deceased tenant's estate, a person claiming to be a successor of the deceased tenant who has provided the landlord with proof of death and an affidavit made by the person that meets the requirements of RCW 11.62.010(2);

(c) In the absence of a personal representative under (a) of this subsection or a person claiming to be a successor under (b) of this subsection, a designated person; or

(d) In the absence of a personal representative under (a) of this subsection, a person claiming to be a successor under (b) of this subsection, or a designated person under (c) of this subsection, any person who provides the landlord with reasonable evidence that he or she is a successor of the deceased tenant as defined in RCW 11.62.005. The landlord has no obligation to identify all of the deceased tenant's successors.

(29) "Tenant screening" means using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.

(30) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service.

**Sec. 25.** RCW 71.09.070 and 2015 c 278 s 1 are each amended to read as follows:

(1) Each person committed under this chapter shall have a current examination of his or her mental condition made by the department at least once every year.

(2) The evaluator must prepare a report that includes consideration of whether:

(a) The committed person currently meets the definition of a sexually violent predator;

(b) Conditional release to a less restrictive alternative is in the best interest of the person; and

(c) Conditions can be imposed that would adequately protect the community.

(3) The department, on request of the committed person, shall allow a record of the annual review interview to be preserved by audio recording and made available to the committed person.

(4) The evaluator must indicate in the report whether the committed person participated in the interview and examination.

(5) The department shall file the report with the court that committed the person under this chapter. The report shall be in the form of a declaration or certification in compliance with the requirements of (~~RCW 9A.72.085~~) chapter 5.50 RCW and shall be prepared by a professionally qualified person as defined by rules adopted by the secretary. A copy of the report shall be served on the prosecuting

agency involved in the initial commitment and upon the committed person and his or her counsel.

(6)(a) The committed person may retain, or if he or she is indigent and so requests, the court may appoint a qualified expert or a professional person to examine him or her, and such expert or professional person shall have access to all records concerning the person.

(b) Any report prepared by the expert or professional person and any expert testimony on the committed person's behalf is not admissible in a proceeding pursuant to RCW 71.09.090, unless the committed person participated in the most recent interview and evaluation completed by the department.

(7) If an unconditional release trial is ordered pursuant to RCW 71.09.090, this section is suspended until the completion of that trial. If the individual is found either by jury or the court to continue to meet the definition of a sexually violent predator, the department must conduct an examination pursuant to this section no later than one year after the date of the order finding that the individual continues to be a sexually violent predator. The examination must comply with the requirements of this section.

(8) 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. Upon the return of the person committed under this chapter to the custody of the department, the department shall initiate an examination of the person's mental condition. The examination must comply with the requirements of subsection (1) of this section.

**Sec. 26.** RCW 81.84.020 and 2007 c 234 s 93 are each amended to read as follows:

(1) Upon the filing of an application, the commission shall give reasonable notice to the department, affected cities, counties, and public transportation benefit areas and any common carrier which might be adversely affected, of the time and place for hearing on such application. The commission may, after notice and an opportunity for a hearing, issue the certificate as prayed for, or refuse to issue it, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by the certificate any terms and conditions as in its judgment the public convenience and necessity may require; but the commission may not grant a certificate to operate between districts or into any territory prohibited by RCW 47.60.120 or already served by an existing certificate holder, unless the existing certificate holder has failed or refused to furnish reasonable and adequate service, has failed to provide the service described in its certificate or tariffs after the time allowed to initiate service has elapsed, or has not objected to the issuance of the certificate as prayed for.

(2) Before issuing a certificate, the commission shall determine that the applicant has the financial resources to operate the proposed service for at least twelve months, based upon the submission by the applicant of a pro forma financial statement of operations. Issuance of a certificate must be determined upon, but not limited to, the following

factors: Ridership and revenue forecasts; the cost of service for the proposed operation; an estimate of the cost of the assets to be used in providing the service; a statement of the total assets on hand of the applicant that will be expended on the proposed operation; and a statement of prior experience, if any, in such field by the applicant. The documentation required of the applicant under this section must comply with the provisions of (~~RCW 9A.72.085~~) chapter 5.50 RCW.

(3) In granting a certificate for passenger-only ferries and determining what conditions to place on the certificate, the commission shall consider and give substantial weight to the effect of its decisions on public agencies operating, or eligible to operate, passenger-only ferry service.

(4) Until July 1, 2007, the commission shall not accept or consider an application for passenger-only ferry service serving any county in the Puget Sound area with a population of over one million people. Applications for passenger-only ferry service serving any county in the Puget Sound area with a population of over one million pending before the commission as of May 9, 2005, must be held in abeyance and not be considered before July 1, 2007.

**Sec. 27.** RCW 88.02.540 and 2011 c 326 s 4 are each amended to read as follows:

(1) The application for a quick title of a vessel must be made by the owner or the owner's representative to the department, participating county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vessel, including make, model, hull identification number, series, and body;

(b) The name and address of the person who is to be the registered owner of the vessel and, if the vessel is subject to a security interest, the name and address of the secured party; and

(c) Other information as may be required by the department.

(2) The application for a quick title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under (~~RCW 9A.72.085~~) chapter 5.50 RCW. The department must keep a copy of the application.

(3) The application for a quick title must be accompanied by:

(a) All fees and taxes due for an application for a certificate of title, including a quick title service fee under RCW 88.02.640(1); and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(4) All applications for quick title must meet the requirements established by the department.

(5) For the purposes of this section, "quick title" means a certificate of title printed at the time of application.

(6) A subagent may process a quick title under this section only after (a) the department has instituted a process in which blank certificates of title can be inventoried; (b) the county auditor of the county in which the subagent is located has processed quick titles for a minimum of six months; and (c) the county auditor approves a request from a subagent in its county to process quick titles.

NEW SECTION. **Sec. 28.** Section 23 of this act expires July 1, 2021."

Correct the title.

Representatives Jinkins and Irwin spoke in favor of the adoption of the striking amendment.

The striking amendment (514) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Jinkins and Irwin spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5017, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5017, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representative Appleton.

SUBSTITUTE SENATE BILL NO. 5017, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5207, by Senators Dhingra, Hunt, Saldaña, Darneille, Das, Cleveland, Kuderer, Pedersen, Salomon, Nguyen, Rolfes, Hasegawa, Keiser and Randall**

#### Concerning notification of felony voting rights and restoration.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5207.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5207, and the bill passed the House by the following vote: Yeas, 76; Nays, 21; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Caldier, Callan, Chambers, Chapman, Cody, Davis, Doglio, Dolan, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goodman, Graham, Gregerson, Hansen, Harris, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Kretz, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Voting nay: Representatives Boehnke, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Goehner, Griffey, Hoff, Jenkin, Klippert, Kraft, MacEwen, McCaslin, Mosbrucker, Orcutt, Schmick, Shea, Van Werven and Vick.

Excused: Representative Appleton.

SENATE BILL NO. 5207, having received the necessary constitutional majority, was declared passed.

#### SENATE BILL NO. 5230, by Senators Wilson, C., Wilson and L.

#### Amending motor vehicle laws to align with federal definitions, make technical corrections, and move an effective date to meet a federal timeline.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5230.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5230, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representative Appleton.

SENATE BILL NO. 5230, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SENATE BILL NO. 5573, by Senators Warnick, Hunt, Fortunato, Takko, Zeiger, Wilson, C., Hasegawa, Walsh, Schoesler, McCoy, Honeyford, Rolfes, Sheldon, Liias, Darneille, Keiser, Nguyen, Saldaña, Van De Wege, Wilson and L.**

**Concerning domestic violence and traumatic brain injury. (REVISED FOR ENGROSSED: Concerning traumatic brain injuries in domestic violence cases.)**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Public Safety was adopted. (For Committee amendment, see Journal, Day 71, March 25, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Mosbrucker, Davis and Dent spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5573, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5573, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representative Appleton.

ENGROSSED SENATE BILL NO. 5573, as amended by the House, having received the necessary constitutional majority, was declared passed.

The Speaker assumed the chair.

**SIGNED BY THE SPEAKER**

The Speaker signed the following bills:

HOUSE BILL NO. 1020  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1138  
HOUSE BILL NO. 1431  
HOUSE BILL NO. 1743  
HOUSE BILL NO. 2038  
SENATE BILL NO. 5032  
SENATE BILL NO. 5083  
SENATE BILL NO. 5122  
SUBSTITUTE SENATE BILL NO. 5333  
SUBSTITUTE SENATE BILL NO. 5386  
SENATE BILL NO. 5387  
SENATE BILL NO. 5503  
SENATE BILL NO. 5622  
SENATE BILL NO. 5764  
SUBSTITUTE SENATE BILL NO. 5889

The Speaker called upon Representative Orwall to preside.

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

**REPORTS OF STANDING COMMITTEES**

April 6, 2019

**HB 2140** Prime Sponsor, Representative Sullivan:  
Relating to K-12 education funding.  
Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sullivan; Stanford; Springer; Senn; Ryu;

Pollet; Macri; Jinkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Ybarra; Volz; Sutherland; Steele; Schmick; Kraft; Hoff; Dye; Chandler; Caldier; MacEwen, Assistant Ranking Minority Member Stokesbary, Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representatives Rude, Assistant Ranking Minority Member and Mosbrucker.

Referred to Committee on Rules for second reading.

April 8, 2019

HB 2161 Prime Sponsor, Representative Fey: Concerning ferry vessel procurement. Reported by Committee on Transportation

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Fey, Chair; Van Werven; Shewmake; Riccelli; Ramos; Pellicciotti; Ortiz-Self; Lovick; Kloba; Irwin; Gregerson; Eslick; Entenman; Doglio; Chapman; Walsh, Assistant Ranking Minority Member; Barkis, Ranking Minority Member; Wylie, 1st Vice Chair; Valdez, 2nd Vice Chair; Slatter, 2nd Vice Chair and Mead.

MINORITY recommendation: Do not pass. Signed by Representatives Shea; Orcutt; McCaslin; Goehner; Dufault; Chambers; Boehnke Young, Assistant Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representatives Dent and Paul.

Referred to Committee on Rules for second reading.

April 8, 2019

SB 5000 Prime Sponsor, Senator Palumbo: Concerning online access to health care resources for veterinarians and veterinary technicians. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Kraft; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

SSB 5012 Prime Sponsor, Committee on Ways & Means: Concerning governmental continuity during emergency periods. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Housing, Community Development & Veterans.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the ability of government to fulfill its constitutional and statutory responsibilities by continuing to conduct essential functions and services during the periods of significant disruption that follow catastrophic incidents requires both continuity of operations planning by individual agencies and continuity of government planning by state and local government. It is the intent of the legislature that all levels and branches of government, both state and local, take appropriate action to cooperatively conduct appropriate planning and preparation for continuity of operations and government to assist in fulfilling these responsibilities.

Sec. 2. RCW 38.52.010 and 2017 c 312 s 3 are each amended to read as follows:

As used in this chapter:

(1)(a) "Catastrophic incident" means any natural or human-caused incident, including terrorism and enemy attack, that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, or government functions.

(b) "Catastrophic incident" does not include an event resulting from individuals exercising their rights, under the first amendment, of freedom of speech, and of the people to peaceably assemble.

(2) "Communication plan," as used in RCW 38.52.070, means a section in a local comprehensive emergency management plan that addresses emergency notification of life safety information.

((2)) (3) "Continuity of government planning" means the internal effort of all levels and branches of government to provide that the capability exists to continue essential functions and services following a catastrophic incident. These efforts include, but are not limited to, providing for: (a) Orderly succession and appropriate changes of leadership whether appointed or elected; (b) filling vacancies; (c) interoperability communications; and (d) processes and procedures to reconvene government following periods of disruption that may be caused by a catastrophic incident. Continuity of government planning is intended to preserve the constitutional and statutory

authority of elected officials at the state and local level and provide for the continued performance of essential functions and services by each level and branch of government.

~~((4))~~ (4) "Continuity of operations planning" means the internal effort of an organization to ~~((assure))~~ provide that the capability exists to continue essential functions and services in response to a comprehensive array of potential emergencies or disasters.

~~((3))~~ (5) "Department" means the state military department.

~~((4))~~ (6) "Director" means the adjutant general.

~~((5))~~ (7) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural, technological, or human caused, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive emergency management" does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

~~((6))~~ (8)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 ~~((shall))~~ means an event or set of circumstances which: (i) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences; or (ii) reaches such a dimension or degree of destructiveness as to warrant the governor ~~((declaring))~~ proclaiming a state of emergency pursuant to RCW 43.06.010.

(b) "Emergency" as used in RCW 38.52.430 means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in RCW 38.52.430.

~~((7))~~ (9) "Emergency response" as used in RCW 38.52.430 means a public agency's use of emergency services during an emergency or disaster as defined in subsection ~~((6))~~ (8)(b) of this section.

~~((8))~~ (10) "Emergency worker" means any person who is registered with a local emergency management organization or the department and holds an identification card issued by the local emergency management director or the department for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

~~((9))~~ (11) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor in those cities and towns with mayor-council or commission forms of government, where the mayor is directly elected, and it means the city manager in those cities and towns with council manager forms of government. Cities and towns may also designate an executive head for the purposes of this chapter by ordinance.

~~((10))~~ (12) "Expense of an emergency response" as used in RCW 38.52.430 means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising from the response to the particular incident. Reasonable costs shall include the costs of providing police, coroner, firefighting, rescue, emergency medical services, or utility response at the scene of the incident, as well as the salaries of the personnel responding to the incident.

~~((11))~~ (13) "Incident command system" means: (a) An all-hazards, on-scene functional management system that establishes common standards in organization, terminology, and procedures; provides a means (unified command) for the establishment of a common set of incident objectives and strategies during multiagency/multijurisdiction operations while maintaining individual agency/jurisdiction authority, responsibility, and accountability; and is a component of the national interagency incident management system; or (b) an equivalent and compatible all-hazards, on-scene functional management system.

~~((12))~~ (14) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

~~((13))~~ (15) "Life safety information" means information provided to people during a response to a life-threatening emergency or disaster informing them of actions they can take to preserve their safety. Such information may include, but is not limited to, information regarding evacuation, sheltering, sheltering-in-place, facility lockdown, and where to obtain food and water.

~~((14))~~ (16) "Local director" means the director of a local organization of emergency management or emergency services.

~~((15))~~ (17) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions.

~~((16))~~ (18) "Political subdivision" means any county, city or town.

~~((17))~~ (19) "Public agency" means the state, and a city, county, municipal corporation, district, town, or public authority located, in whole or in part, within this state which provides or may provide firefighting, police, ambulance, medical, or other emergency services.

~~((18))~~ (20) "Radio communications service company" has the meaning ascribed to it in RCW 82.14B.020.

~~((19))~~ (21) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural, technological, or human caused disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47.68 RCW.

**Sec. 3.** RCW 38.52.030 and 2018 c 26 s 2 are each amended to read as follows:

(1) The director may employ such personnel and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

(2) The director, subject to the direction and control of the governor, shall be responsible to the governor for carrying out the program for emergency management of this state. The director shall coordinate the activities of all organizations for emergency management within the state, and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this chapter, as may be prescribed by the governor.

(3) The director shall develop and maintain a comprehensive, all-hazard emergency plan for the state which shall include an analysis of the natural, technological, or human caused hazards which could affect the state of Washington, and shall include the procedures to be used during emergencies for coordinating local resources, as necessary, and the resources of all state agencies, departments, commissions, and boards. The comprehensive emergency management plan shall direct the department in times of state emergency to administer and manage the state's emergency operations center. This will include representation from all appropriate state agencies and be available as a single point of contact for the authorizing of state resources or actions, including emergency permits. The comprehensive emergency management plan must specify the use of the incident command system for multiagency/multijurisdiction operations. The comprehensive, all-hazard emergency plan authorized under this subsection may not include preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack. This plan shall be known as the comprehensive emergency management plan.

(4) In accordance with the comprehensive emergency management plans and the programs for the emergency management of this state, the director shall procure supplies and equipment, institute training programs and public information programs, and shall take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(5) The director shall make such studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for emergency management, and shall plan for the most efficient emergency use thereof.

(6) The emergency management council shall advise the director on all aspects of the communications and warning systems and facilities operated or controlled under the provisions of this chapter.

(7) The director, through the state enhanced 911 coordinator, shall coordinate and facilitate implementation and operation of a statewide enhanced 911 emergency communications network.

(8) The director shall appoint a state coordinator of search and rescue operations to coordinate those state

resources, services and facilities (other than those for which the state director of aeronautics is directly responsible) requested by political subdivisions in support of search and rescue operations, and on request to maintain liaison with and coordinate the resources, services, and facilities of political subdivisions when more than one political subdivision is engaged in joint search and rescue operations.

(9) The director, subject to the direction and control of the governor, shall prepare and administer a state program for emergency assistance to individuals within the state who are victims of a natural, technological, or human caused disaster, as defined by RCW 38.52.010(6). Such program may be integrated into and coordinated with disaster assistance plans and programs of the federal government which provide to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of assistance to individuals affected by a disaster. Further, such program may include, but shall not be limited to, grants, loans, or gifts of services, equipment, supplies, materials, or funds of the state, or any political subdivision thereof, to individuals who, as a result of a disaster, are in need of assistance and who meet standards of eligibility for disaster assistance established by the department of social and health services: PROVIDED, HOWEVER, That nothing herein shall be construed in any manner inconsistent with the provisions of Article VIII, section 5 or section 7 of the Washington state Constitution.

(10) The director shall appoint a state coordinator for radioactive and hazardous waste emergency response programs. The coordinator shall consult with the state radiation control officer in matters relating to radioactive materials. The duties of the state coordinator for radioactive and hazardous waste emergency response programs shall include:

(a) Assessing the current needs and capabilities of state and local radioactive and hazardous waste emergency response teams on an ongoing basis;

(b) Coordinating training programs for state and local officials for the purpose of updating skills relating to emergency mitigation, preparedness, response, and recovery;

(c) Utilizing appropriate training programs such as those offered by the federal emergency management agency, the department of transportation and the environmental protection agency; and

(d) Undertaking other duties in this area that are deemed appropriate by the director.

(11) The director is responsible to the governor to lead the development and management of a program for interagency coordination and prioritization of continuity of operations planning by state agencies. Each state agency is responsible for developing an organizational continuity of operations plan that is updated and exercised annually in compliance with the program for interagency coordination of continuity of operations planning.

(12) The director shall maintain a copy of the continuity of operations plan for election operations for each county that has a plan available.

(13) Subject to the availability of amounts appropriated for this specific purpose, the director is responsible to the governor to lead the development and

management of a program to provide information and education to state and local government officials regarding catastrophic incidents and continuity of government planning to assist with statewide development of continuity of government plans by all levels and branches of state and local government that address how essential government functions and services will continue to be provided following a catastrophic incident.

**Sec. 4.** RCW 42.14.010 and 2012 c 117 s 106 are each amended to read as follows:

Unless otherwise clearly required by the context, the following definitions apply:

(1) "Unavailable" means either that a vacancy in the office exists or that the lawful incumbent of the office is absent or unable to exercise the powers and discharge the duties of the office following ~~((an attack))~~ a catastrophic incident and a ~~((declaration))~~ proclamation of existing emergency by the governor or his or her successor.

(2) "Attack" means any acts of ~~((warfare))~~ aggression taken ~~((by an enemy of))~~ against the United States causing substantial damage or injury to persons or property in the United States and in the state of Washington.

(3)(a) "Catastrophic incident" means any natural or human-caused incident, including terrorism and enemy attack, that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, or government functions.

(b) "Catastrophic incident" does not include an event resulting from individuals exercising their rights, under the first amendment, of freedom of speech, and of the people to peaceably assemble.

(4) "Emergency or disaster" means an event or set of circumstances which: (a) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences; or (b) reaches such a dimension or degree of destructiveness as to warrant the governor proclaiming a state of emergency pursuant to RCW 43.06.010.

**Sec. 5.** RCW 42.14.020 and 1963 c 203 s 3 are each amended to read as follows:

(1) In the event that all successors to the office of governor as provided by Article 3, section 10, as amended by amendment 6 of the Constitution of the state of Washington are unavailable following ~~((an enemy attack))~~ a catastrophic incident, the powers and duties of the office of governor shall be exercised and discharged by the speaker of the house of representatives.

(2) In the event the speaker of the house is unavailable, the powers and duties of the office of governor shall be exercised and discharged by the president pro tem of the senate.

(3) In the event that neither the speaker nor the president pro tem is available, the house of representatives and the senate in joint assembly shall elect an emergency interim governor.

**Sec. 6.** RCW 42.14.030 and 2012 c 117 s 107 are each amended to read as follows:

In the event ~~((enemy attack))~~ that a catastrophic incident reduces the number of legislators available for duty, then those legislators available for duty shall constitute the legislature and shall have full power to act in separate or joint assembly by majority vote of those present. In the event of ~~((an attack))~~ a catastrophic incident, (1) quorum requirements for the legislature shall be suspended, and (2) where the affirmative vote of a specified proportion of members for approval of a bill, resolution, or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient. In the event of ~~((an attack))~~ a catastrophic incident, the governor shall call the legislature into session as soon as practicable, and in any case within thirty days following the inception of the ~~((attack))~~ catastrophic incident. If the governor fails to issue such call, the legislature shall, on the thirtieth day from the date of inception of the ~~((attack))~~ catastrophic incident, automatically convene at the place where the governor then has his or her office. Each legislator shall proceed to the place of session as expeditiously as practicable. At such session or at any session in operation at the inception of the ~~((attack))~~ catastrophic incident, and at any subsequent sessions, limitations on the length of session and on the subjects which may be acted upon shall be suspended.

**Sec. 7.** RCW 42.14.035 and 1969 ex.s. c 106 s 1 are each amended to read as follows:

Whenever, in the judgment of the governor, it becomes impracticable, due to an emergency resulting from ~~((enemy attack or natural disaster))~~ a catastrophic incident, to convene the legislature in the usual seat of government at Olympia, the governor may call the legislature into emergency session in any location within this or an adjoining state. The first order of business of any legislature so convened shall be the establishment of temporary emergency seats of government for the state. After any emergency relocation, the affairs of state government shall be lawfully conducted at such emergency temporary location or locations for the duration of the emergency.

**Sec. 8.** RCW 42.14.040 and 1963 c 203 s 5 are each amended to read as follows:

In the event ~~((enemy attack))~~ that a catastrophic incident reduces the number of county commissioners of any county, then those commissioners available for duty shall have full authority to act in all matters as a board of county commissioners. In the event no county commissioner is available for duty, then those elected county officials, except for the members of the county board of education, as are available for duty shall jointly act as the board of county commissioners and shall possess by majority vote the full authority of the board of county commissioners.

**Sec. 9.** RCW 42.14.050 and 1981 c 213 s 8 are each amended to read as follows:

In the event that the executive head of any city or town is unavailable by reason of ~~((enemy attack))~~ a

catastrophic incident to exercise the powers and discharge the duties of the office, then those members of the city or town council or commission available for duty shall by majority vote select one of their number to act as the executive head of such city or town. In the event (~~an enemy attack~~) that a catastrophic incident reduces the number of city or town councilmembers or commission members, then those members available for duty shall have full power to act by majority vote of those present.

**Sec. 10.** RCW 42.14.075 and 1969 ex.s. c 106 s 2 are each amended to read as follows:

Whenever, due to a (~~natural disaster, an attack~~) catastrophic incident, or when such an (attack) event is imminent, it becomes imprudent, inexpedient, or impossible to conduct the affairs of a political subdivision at the regular or usual place or places, the governing body of the political subdivision may meet at any place within or without the territorial limits of the political subdivision on the call of the presiding official or any two members of the governing body. After any emergency relocation, the affairs of political subdivisions shall be lawfully conducted at such emergency temporary location or locations for the duration of the emergency.

**NEW SECTION. Sec. 11.** Sections 4 through 10 of this act take effect if the proposed amendment to Article II, section 42 of the state Constitution providing governmental continuity during emergency periods resulting from a catastrophic incident (House Joint Resolution No. 4200 or Senate Joint Resolution No. 8200) is validly submitted to and is approved and ratified by the voters at the next general election. If the proposed amendment is not approved and ratified, sections 4 through 10 of this act are void in their entirety.

**NEW SECTION. Sec. 12.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ybarra; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Bergquist, 2nd Vice Chair Ormsby, Chair.

Referred to Committee on Rules for second reading.

April 6, 2019

2SSB 5021 Prime Sponsor, Committee on Ways & Means: Granting interest arbitration to

certain department of corrections employees. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 41.80 RCW to read as follows:

(1) In order to maintain dedicated and uninterrupted services to the supervision of criminal offenders that are in state correctional facilities and on community supervision, it is the legislature's intent to grant certain employees of the department of corrections interest arbitration rights as an alternative means of settling disputes.

(2) This section applies only to employees covered by chapter 41.06 RCW working for the department of corrections, except confidential employees as defined in RCW 41.80.005, members of the Washington management service, internal auditors, and nonsupervisory marine department employees.

(3) Negotiations between the employer and the exclusive bargaining representative of a unit of employees shall be commenced at least five months before submission of the budget to the legislature. If no agreement has been reached sixty days after the commencement of such negotiations then, at any time thereafter, either party may declare that an impasse exists and may submit the dispute to the commission for mediation, with or without the concurrence of the other party. The commission shall appoint a mediator, who shall promptly meet with the representatives of the parties, either jointly or separately, and shall take such other steps as he or she may deem appropriate in order to persuade the parties to resolve their differences and effect an agreement. A mediator, however, does not have a power of compulsion. The mediator may consider only matters that are subject to bargaining under this chapter.

(4) If an agreement is not reached following a reasonable period of negotiations and mediation, and the director, upon recommendation of the assigned mediator, finds that the parties remain at impasse, then an arbitrator must be appointed to resolve the dispute. The issues for determination by the arbitrator must be limited to the issues certified by the executive director.

(5) Within ten working days after the first Monday in September of every odd-numbered year, the governor or the governor's designee and the bargaining representatives for any bargaining units covered by this section shall attempt to agree on an interest arbitrator to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. The parties will select an arbitrator by mutual agreement or by alternatively striking names from a regional list of seven qualified arbitrators provided by the federal mediation and conciliation service.

(a) The fees and expenses of the arbitrator, the court reporter, if any, and the cost of the hearing room, if any, will be shared equally between the parties. Each party is responsible for the costs of its attorneys, representatives and witnesses, and all other costs related to the development and presentation of their case.

(b) Immediately upon selecting an interest arbitrator, the parties shall cooperate to reserve dates with the arbitrator for a potential hearing between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates, absent an agreement to the contrary.

(c) The parties shall execute a written agreement before December 15th of the odd-numbered year setting forth the name of the arbitrator and the dates reserved for bargaining and arbitration.

(d)(i) The arbitrator must hold a hearing and provide reasonable notice of the hearing to the parties to the dispute. The hearing must be informal and each party has the opportunity to present evidence and make arguments. The arbitrator may not present the case for a party to the proceedings.

(ii) The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the arbitrator may be received in evidence. A recording of the proceedings must be taken.

(iii) The arbitrator may administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents deemed by the arbitrator to be material to a just determination of the issues in dispute. If a person refuses to obey a subpoena issued by the arbitrator, or refuses to be sworn or to make an affirmation to testify, or a witness, party, or attorney for a party is guilty of contempt while in attendance at a hearing, the arbitrator may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court may issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof.

(6) The arbitrator may consider only matters that are subject to bargaining under RCW 41.80.020(1), and may not consider those subjects listed under RCW 41.80.020 (2) and (3) and 41.80.040.

(a) In making its determination, the arbitrator shall take into consideration the following factors:

(i) The financial ability of the department of corrections to pay for the compensation and benefit provisions of a collective bargaining agreement;

(ii) The constitutional and statutory authority of the employer;

(iii) Stipulations of the parties;

(iv) Comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of

employment of like personnel of like state government employers of similar size in the western United States;

(v) The ability of the department of corrections to retain employees;

(vi) The overall compensation presently received by department of corrections employees, including direct wage compensation, vacations, holidays, and other paid excused time, pensions, insurance benefits, and all other direct or indirect monetary benefits received;

(vii) Changes in any of the factors listed in this subsection during the pendency of the proceedings; and

(viii) Such other factors which are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under RCW 41.80.020(1).

(b) The decision of an arbitrator under this section is subject to RCW 41.80.010(3).

(7) During the pendency of the proceedings before the arbitrator, existing wages, hours, and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his or her rights or position under chapter 41.56 RCW.

(8)(a) If the representative of either or both the employees and the state refuses to submit to the procedures set forth in subsections (3), (4), and (5) of this section, the parties, or the commission on its own motion, may invoke the jurisdiction of the superior court for the county in which the labor dispute exists and the court may issue an appropriate order. A failure to obey the order may be punished by the court as a contempt thereof.

(b) A decision of the arbitrator is final and binding on the parties, and may be enforced at the instance of either party, the arbitrator, or the commission in the superior court for the county where the dispute arose. However, the decision of the arbitrator is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to the compensation and fringe benefit provision of an interest arbitration award, the provisions are not binding on the state or department of corrections.

(9) Subject to the provisions of this section, the parties shall follow the commission's procedures for interest arbitration.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Robinson, 1st Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler;

Cody; Dolan; Fitzgibbon; Hansen; Hudgins; Jinkins; Macri; Mosbrucker; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Tarleton; Tharinger; Volz; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Ybarra; Stokesbary, Ranking Minority Member; Dye; Hoff; Kraft and Sutherland.

Referred to Committee on Rules for second reading.

April 6, 2019

SB 5022 Prime Sponsor, Senator Keiser: Granting binding interest arbitration rights to certain higher education uniformed personnel. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Labor & Workplace Standards.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each amended to read as follows:

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

(1) "Agency" means any agency as defined in RCW 41.06.020 and covered by chapter 41.06 RCW.

(2) "Collective bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under RCW 41.80.020. The obligation to bargain does not compel either party to agree to a proposal or to make a concession, except as otherwise provided in this chapter.

(3) "Commission" means the public employment relations commission.

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who advise and represent managers or confidential employees in personnel or labor relations matters, or who advise or represent the state in tort actions.

(5) "Director" means the director of the public employment relations commission.

(6) "Employee" means any employee, including employees whose work has ceased in connection with the

pursuit of lawful activities protected by this chapter, covered by chapter 41.06 RCW, except:

(a) Employees covered for collective bargaining by chapter 41.56 RCW;

(b) Confidential employees;

(c) Members of the Washington management service;

(d) Internal auditors in any agency; or

(e) Any employee of the commission, the office of financial management, or the office of risk management within the department of enterprise services.

(7) "Employee organization" means any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.

(8) "Employer" means the state of Washington.

(9) "Exclusive bargaining representative" means any employee organization that has been certified under this chapter as the representative of the employees in an appropriate bargaining unit.

(10) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(11) "Labor dispute" means any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment with respect to the subjects of bargaining provided in this chapter, regardless of whether the disputants stand in the proximate relation of employer and employee.

(12) "Manager" means "manager" as defined in RCW 41.06.022.

(13) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment. However, no employee who is a member of the Washington management service may be included in a collective bargaining unit established under this section.

(14) "Unfair labor practice" means any unfair labor practice listed in RCW 41.80.110.

(15) "Uniformed personnel" means duly sworn police officers employed as members of a police force established pursuant to RCW 28B.10.550.

Sec. 2. RCW 41.80.010 and 2017 3rd sp.s. c 23 s 3 are each amended to read as follows:

(1) For the purpose of negotiating collective bargaining agreements under this chapter, the employer shall be represented by the governor or governor's designee, except as provided for institutions of higher education in subsection (4) of this section.

(2)(a) If an exclusive bargaining representative represents more than one bargaining unit, the exclusive bargaining representative shall negotiate with each employer

representative as designated in subsection (1) of this section one master collective bargaining agreement on behalf of all the employees in bargaining units that the exclusive bargaining representative represents. For those exclusive bargaining representatives who represent fewer than a total of five hundred employees each, negotiation shall be by a coalition of all those exclusive bargaining representatives. The coalition shall bargain for a master collective bargaining agreement covering all of the employees represented by the coalition. The governor's designee and the exclusive bargaining representative or representatives are authorized to enter into supplemental bargaining of agency-specific issues for inclusion in or as an addendum to the master collective bargaining agreement, subject to the parties' agreement regarding the issues and procedures for supplemental bargaining. This section does not prohibit cooperation and coordination of bargaining between two or more exclusive bargaining representatives.

(b) This subsection (2) does not apply to exclusive bargaining representatives who represent employees of institutions of higher education, except when the institution of higher education has elected to exercise its option under subsection (4) of this section to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(c) If five hundred or more employees of an independent state elected official listed in RCW 43.01.010 are organized in a bargaining unit or bargaining units under RCW 41.80.070, the official shall be consulted by the governor or the governor's designee before any agreement is reached under (a) of this subsection concerning supplemental bargaining of agency specific issues affecting the employees in such bargaining unit.

(3) The governor shall submit a request for funds necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreement or for legislation necessary to implement the agreement. Requests for funds necessary to implement the provisions of bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(a) Have been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the requests are to be considered; and

(b) Have been certified by the director of the office of financial management as being feasible financially for the state or reflects the decision of an arbitration panel reached under section 5 of this act.

The legislature shall approve or reject the submission of the request for funds as a whole. The legislature shall not consider a request for funds to implement a collective bargaining agreement unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 41.80.090.

(4)(a)(i) For the purpose of negotiating agreements for institutions of higher education, the employer shall be the respective governing board of each of the universities,

colleges, or community colleges or a designee chosen by the board to negotiate on its behalf.

(ii) A governing board of a university or college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section, except that:

(A) The governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of a university or college that the representative represents; or

(B) If the parties mutually agree, the governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of more than one university or college that the representative represents.

(iii) A governing board of a community college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(b) Prior to entering into negotiations under this chapter, the institutions of higher education or their designees shall consult with the director of the office of financial management regarding financial and budgetary issues that are likely to arise in the impending negotiations.

(c)(i) In the case of bargaining agreements reached between institutions of higher education other than the University of Washington and exclusive bargaining representatives agreed to under the provisions of this chapter, if appropriations are necessary to implement the compensation and fringe benefit provisions of the bargaining agreements, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in (c)(iii) of this subsection.

(ii) In the case of bargaining agreements reached between the University of Washington and exclusive bargaining representatives agreed to under the provisions of this chapter, if appropriations are necessary to implement the compensation and fringe benefit provisions of a bargaining agreement, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in this subsection (4)(c)(ii) and as provided in (c)(iii) of this subsection.

(A) If appropriations of less than ten thousand dollars are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request has been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the request is to be considered.

(B) If appropriations of ten thousand dollars or more are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request:

(I) Has been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the request is to be considered; and

(II) Has been certified by the director of the office of financial management as being feasible financially for the state.

(C) If the director of the office of financial management does not certify a request under (c)(ii)(B) of this subsection as being feasible financially for the state, the parties shall enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification of the agreement necessary to address the absence of those requested funds. The legislature may act upon the compensation and fringe benefit provisions of the modified collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(iii) In the case of a bargaining unit of employees of institutions of higher education in which the exclusive bargaining representative is certified during or after the conclusion of a legislative session, the legislature may act upon the compensation and fringe benefit provisions of the unit's initial collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(5) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(6) After the expiration date of a collective bargaining agreement negotiated under this chapter, all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(7) For the 2013-2015 fiscal biennium, a collective bargaining agreement related to employee health care benefits negotiated between the employer and coalition pursuant to RCW 41.80.020(3) regarding the dollar amount expended on behalf of each employee shall be a separate agreement for which the governor may request funds necessary to implement the agreement. The legislature may act upon a 2013-2015 collective bargaining agreement related to employee health care benefits if an agreement is reached and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating appropriations act by the sitting legislature.

(8)(a) For the 2015-2017 fiscal biennium, the governor may request funds to implement:

(i) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the service employees international union healthcare 1199nw, an exclusive bargaining representative, that was necessitated by an emergency situation or an imminent jeopardy determination

by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees.

(ii) Unilaterally implemented modifications to collective bargaining agreements, resulting from the employer being prohibited from negotiating with an exclusive bargaining representative due to a pending representation petition, necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees.

(iii) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the union of physicians of Washington, an exclusive bargaining representative, that was necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees. If the memorandum of understanding submitted to the legislature as part of the governor's budget document is rejected by the legislature, and the parties reach a new memorandum of understanding by June 30, 2016, within the funds, conditions, and limitations provided in section 204, chapter 36, Laws of 2016 sp. sess., the new memorandum of understanding shall be considered approved by the legislature and may be retroactive to December 1, 2015.

(iv) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the teamsters union local 117, an exclusive bargaining representative, for salary adjustments for the state employee job classifications of psychiatrist, psychiatric social worker, and psychologist.

(b) For the 2015-2017 fiscal biennium, the legislature may act upon the request for funds for modifications to a 2015-2017 collective bargaining agreement under (a)(i), (ii), (iii), and (iv) of this subsection if funds are requested by the governor before final legislative action on the supplemental omnibus appropriations act by the sitting legislature.

(c) The request for funding made under this subsection and any action by the legislature taken pursuant to this subsection is limited to the modifications described in this subsection and may not otherwise affect the original terms of the 2015-2017 collective bargaining agreement.

(d) Subsection (3)(a) and (b) of this section ~~((d))~~ does not apply to requests for funding made pursuant to this subsection.

**NEW SECTION. Sec. 3.** A new section is added to chapter 41.80 RCW to read as follows:

The intent and purpose of sections 4 through 10 of this act is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; and that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes.

**NEW SECTION. Sec. 4.** A new section is added to chapter 41.80 RCW to read as follows:

(1) Negotiations between the employer and the exclusive bargaining representative of a unit of uniformed personnel shall be commenced at least five months prior to the submission of the budget to the legislature. If no agreement has been reached sixty days after the commencement of such negotiations then, at any time thereafter, either party may declare that an impasse exists and may submit the dispute to the commission for mediation, with or without the concurrence of the other party. The commission shall appoint a mediator, who shall promptly meet with the representatives of the parties, either jointly or separately, and shall take such other steps as he or she may deem appropriate in order to persuade the parties to resolve their differences and effect an agreement. A mediator, however, does not have a power of compulsion. The mediator may consider only matters that are subject to bargaining under this chapter.

(2) If an agreement has not been reached following a reasonable period of negotiations and mediation, and the executive director, upon the recommendation of the assigned mediator, finds that the parties remain at impasse, then the executive director shall certify the issues for interest arbitration. The issues for determination by the arbitration panel shall be limited to the issues certified by the executive director.

**NEW SECTION. Sec. 5.** A new section is added to chapter 41.80 RCW to read as follows:

(1) Within ten working days after the first Monday in September of every odd-numbered year, the state's bargaining representative and the exclusive bargaining representative for the appropriate bargaining unit shall attempt to agree on an interest arbitration panel consisting of three members to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. Each party shall name one person to serve as its arbitrator on the arbitration panel. The two members so appointed shall meet within seven days following the appointment of the later appointed member to attempt to choose a third member to act as the neutral chair of the arbitration panel. Upon the failure of the arbitrators to select a neutral chair within seven days, the two appointed members shall use one of the two following options in the appointment of the third member, who shall act as chair of the panel: (a) By mutual consent, the two appointed members may jointly request the commission to, and the commission shall, appoint a third member within two days of such a request. Costs of each party's appointee shall be borne by each party respectively; other costs of the arbitration proceedings shall be borne by the commission; or (b) either party may apply to the commission, the federal mediation and conciliation service, or the American arbitration association to provide a list of five qualified arbitrators from which the neutral chair shall be chosen. Each party shall pay the fees and expenses of its arbitrator, and the fees and expenses of the neutral chair shall be shared equally between the parties.

(2) Immediately upon selecting an interest arbitration panel, the parties shall cooperate to reserve dates

with the arbitration panel for potential arbitration between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates for the following year, absent an agreement to the contrary. The parties shall execute a written agreement before November 1st of each odd-numbered year setting forth the names of the members of the arbitration panel and the dates reserved for bargaining and arbitration. This subsection imposes minimum obligations only and is not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter.

(3) If the parties are not successful in negotiating a comprehensive collective bargaining agreement, a hearing shall be held. The hearing shall be informal and each party shall have the opportunity to present evidence and make argument. No member of the arbitration panel may present the case for a party to the proceedings. The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the chair of the arbitration panel may be received in evidence. A recording of the proceedings shall be taken. The arbitration panel has the power to administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel to be material to a just determination of the issues in dispute. If any person refuses to obey a subpoena issued by the arbitration panel, or refuses to be sworn or to make an affirmation to testify, or any witness, party, or attorney for a party is guilty of any contempt while in attendance at any hearing held under this section, the arbitration panel may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court has jurisdiction to issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof. The hearing conducted by the arbitration panel shall be concluded within twenty-five days following the selection or designation of the neutral chair of the arbitration panel, unless the parties agree to a longer period.

(4) The neutral chair shall consult with the other members of the arbitration panel, and, within thirty days following the conclusion of the hearing, the neutral chair shall make written findings of fact and a written determination of the issues in dispute, based on the evidence presented. A copy thereof shall be served on the commission, on each of the other members of the arbitration panel, and on each of the parties to the dispute.

(5) Except as provided in this subsection, the written determination shall be final and binding upon both parties.

(a) The written determination is subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious.

(b) The written determination is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to compensation and fringe benefits of an arbitrated collective bargaining agreement, is not binding on the state.

(6) The arbitration panel may consider only matters that are subject to bargaining under this chapter.

**NEW SECTION. Sec. 6.** A new section is added to chapter 41.80 RCW to read as follows:

An interest arbitration panel created pursuant to section 5 of this act, in the performance of its duties under this chapter, exercises a state function and is, for the purposes of this chapter, a state agency. Chapter 34.05 RCW does not apply to proceedings before an interest arbitration panel under this chapter.

**NEW SECTION. Sec. 7.** A new section is added to chapter 41.80 RCW to read as follows:

In making its determination, the panel shall be mindful of the legislative purpose enumerated in section 3 of this act and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

- (1) The constitutional and statutory authority of the employer;
- (2) Stipulations of the parties;
- (3) Comparison of the hours and conditions of employment of personnel involved in the proceedings with the hours and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;
- (4) Changes in any of the circumstances under subsections (1) through (3) of this section during the pendency of the proceedings; and
- (5) Such other factors, not confined to the factors under subsections (1) through (4) of this section, that are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under this chapter.

**NEW SECTION. Sec. 8.** A new section is added to chapter 41.80 RCW to read as follows:

During the pendency of the proceedings before the arbitration panel, existing wages, hours, and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his rights or position under sections 4 through 10 of this act.

**NEW SECTION. Sec. 9.** A new section is added to chapter 41.80 RCW to read as follows:

(1) If the representative of either or both the uniformed personnel and the employer refuse to submit to the procedures set forth in sections 4 and 5 of this act, the parties, or the commission on its own motion, may invoke the jurisdiction of the superior court for the county in which the labor dispute exists and such court shall have jurisdiction to issue an appropriate order. A failure to obey such order may be punished by the court as a contempt thereof.

(2) Except as provided in this subsection, a decision of the arbitration panel shall be final and binding on the parties, and may be enforced at the instance of either party, the arbitration panel or the commission in the superior court for the county where the dispute arose.

(a) The written determination is subject to review by the superior court upon the application of either party solely

upon the question of whether the decision of the panel was arbitrary or capricious.

(b) The written determination is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to compensation and fringe benefits of an arbitrated collective bargaining agreement, is not binding on the state.

**NEW SECTION. Sec. 10.** A new section is added to chapter 41.80 RCW to read as follows:

The right of uniformed personnel to engage in any strike, work slowdown, or stoppage is not granted. An employee organization recognized as the exclusive bargaining representative of uniformed personnel subject to this chapter that willfully disobeys a lawful order of enforcement by a superior court pursuant to this section and section 9 of this act, or willfully offers resistance to such order, whether by strike or otherwise, is in contempt of court as provided in chapter 7.21 RCW. An employer that willfully disobeys a lawful order of enforcement by a superior court pursuant to section 9 of this act or willfully offers resistance to such order is in contempt of court as provided in chapter 7.21 RCW.

**NEW SECTION. Sec. 11.** A new section is added to chapter 41.80 RCW to read as follows:

(1) By January 1, 2020, the public employment relations commission shall review the appropriateness of the bargaining units that consist of or include uniformed personnel and exist on the effective date of this section. If the commission determines that an existing bargaining unit is not appropriate pursuant to RCW 41.80.070, the commission may modify the unit.

(2) The exclusive bargaining representatives certified to represent the bargaining units that consist of or include uniformed personnel and exist on the effective date of this section shall continue as the exclusive bargaining representative without the necessity of an election as of the effective date of this section. However, there may be proceedings concerning representation under this chapter thereafter.

**NEW SECTION. Sec. 12.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Volz; Tharinger; Tarleton; Sullivan; Steele; Stanford; Springer; Senn; Ryu; Pollet; Macri; Jenkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Chandler; Calder; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Sutherland; Schmick; Kraft; Hoff; Dye; Stokesbary, Ranking Minority Member and Ybarra.

MINORITY recommendation: Without recommendation. Signed by Representative Mosbrucker.

Referred to Committee on Rules for second reading.

April 8, 2019

ESSB 5035 Prime Sponsor, Committee on Labor & Commerce: Enhancing the prevailing wage laws to ensure contractor and owner accountability and worker protection. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Labor & Workplace Standards. Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sullivan; Stanford; Springer; Senn; Ryu; Pollet; Pettigrew; Macri; Jinkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Steele; Schmick; Mosbrucker; Kraft; Hoff; Dye; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Sutherland and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

SB 5054 Prime Sponsor, Senator O'Ban: Increasing the behavioral health workforce by establishing a reciprocity program to increase the portability of behavioral health licenses and certifications. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Ybarra; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Bergquist, 2nd Vice Chair Ormsby, Chair.

Referred to Committee on Rules for second reading.

April 8, 2019

SSB 5063 Prime Sponsor, Committee on Ways & Means: Providing prepaid postage for all

election ballots. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on State Government & Tribal Relations. Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair and Ybarra.

MINORITY recommendation: Do not pass. Signed by Representative Kraft.

Referred to Committee on Rules for second reading.

April 8, 2019

2SSB 5082 Prime Sponsor, Committee on Ways & Means: Promoting and expanding social emotional learning. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Education.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the social emotional learning committee is created to promote and expand social-emotional learning. Social-emotional learning will help students build awareness and skills in managing emotions, setting goals, establishing relationships, and making responsible decisions that support success in school and life.

(2) At a minimum, the committee shall:

(a) Develop and implement a statewide framework for social-emotional learning that is trauma-informed, culturally sustaining, and developmentally appropriate;

(b) Review and update as needed the standards and benchmarks for social-emotional learning and the developmental indicators for grades kindergarten through twelve and confirm they are evidence-based;

(c) Align the standards and benchmarks for social-emotional learning with other relevant standards and guidelines including the health and physical education K-12 learning standards and the early learning and development guidelines;

(d) Advise the office of the superintendent of public instruction's duty under section 2 of this act;

(e) Identify best practices or guidance for schools implementing the standards, benchmarks, and developmental indicators for social-emotional learning;

(f) Identify professional development opportunities for teachers and educational staff and review, update, and align as needed the social-emotional learning online education module;

(g) Consider systems for collecting data about social-emotional learning and monitoring implementation efforts;

(h) Identify strategies to improve coordination between early learning, K-12 education, youth-serving community partners and culturally-based providers, and higher education regarding social-emotional learning; and

(i) Engage with stakeholders and seek feedback.

(3) The committee must consist of the following members:

(a) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans; and

(b) One representative from the educational opportunity gap oversight and accountability committee created in RCW 28A.300.136.

(4) The governor and the tribes are encouraged to jointly designate a total of two members to serve on the committee who have experience working in and with schools: One member from east of the crest of the Cascade mountains; and one member from west of the crest of the Cascade mountains.

(5) Additional members of the committee must be appointed by the office of the superintendent of public instruction to serve on the committee. Additional members must include:

(a) One representative from the department of children, youth, and families;

(b) Two representatives from the office of the superintendent of public instruction: One with expertise in student support services; and one with expertise in curriculum and instruction;

(c) One representative from the office of the education ombuds;

(d) One representative from the state board of education;

(e) One representative from the health care authority's division of behavioral health and recovery;

(f) One higher educational faculty member with expertise in social-emotional learning;

(g) One currently employed K-12 educator;

(h) One currently employed K-12 administrator;

(i) One school psychologist;

(j) One school social worker;

(k) One school counselor;

(l) One school nurse;

(m) One mental health counselor;

(n) One representative from a school parent organization;

(o) One member from a rural school district;

(p) One representative from the educational service districts;

(q) One representative from a coalition of members who educate about and advocate for access to social-emotional learning and skill development;

(r) One representative from a statewide expanded learning opportunities intermediary;

(s) One representative from a nonprofit organization with expertise in developing social-emotional curricula;

(t) One representative from a foundation that supports social-emotional learning; and

(u) One representative from a coalition of youth-serving organizations working together to improve outcomes for young people.

(6) The members of the committee shall select the chairs or cochairs of the committee.

(7) In addition to other meetings, the committee shall have a joint meeting once a year with the educational opportunity gap oversight and accountability committee created in RCW 28A.300.136.

(8) The office of the superintendent of public instruction shall provide staff support for the committee.

(9) Members of the committee shall serve without compensation but must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(10) Beginning June 1, 2021, and annually thereafter, the committee shall provide a progress report, in compliance with RCW 43.01.036, to the governor and appropriate committees of the legislature. The report must include accomplishments, state-level data regarding implementation of social-emotional learning, identification of systemic barriers or policy changes necessary to promote and expand social-emotional learning, and recommendations.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction shall adopt the standards and benchmarks recommended by the social-emotional learning benchmarks work group in its October 1, 2016, final report titled "addressing social emotional learning in Washington's K-12 public schools."

(2) The office of the superintendent of public instruction shall align the programs it oversees with the

standards for social-emotional learning and integrate the standards where appropriate.

**Sec. 3.** RCW 28A.410.270 and 2017 3rd sp.s. c 26 s 4 are each amended to read as follows:

(1)(a) The Washington professional educator standards board shall adopt a set of articulated teacher knowledge, skill, and performance standards for effective teaching that are evidence-based, measurable, meaningful, and documented in high quality research as being associated with improved student learning. The standards shall be calibrated for each level along the entire career continuum.

(b) In developing the standards, the board shall, to the extent possible, incorporate standards for cultural competency along the entire continuum. For the purposes of this subsection, "cultural competency" includes knowledge of student cultural histories and contexts, as well as family norms and values in different cultures; knowledge and skills in accessing community resources and community and parent outreach; and skills in adapting instruction to students' experiences and identifying cultural contexts for individual students.

~~((b))~~ (c) By January 1, 2020, in order to ensure that teachers can recognize signs of emotional or behavioral distress in students and appropriately refer students for assistance and support, the Washington professional educator standards board shall incorporate along the entire continuum the social-emotional learning standards and benchmarks recommended by the social emotional learning benchmarks work group in its October 1, 2016, final report titled, "addressing social emotional learning in Washington's K-12 public schools." In incorporating the social-emotional learning standards and benchmarks, the Washington professional educator standards board must include related competencies, such as trauma-informed practices, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices.

(2) The Washington professional educator standards board shall adopt a definition of master teacher, with a comparable level of increased competency between professional certification level and master level as between professional certification level and national board certification. Within the definition established by the Washington professional educator standards board, teachers certified through the national board for professional teaching standards shall be considered master teachers.

~~((2))~~ (3) The Washington professional educator standards board shall maintain a uniform, statewide, valid, and reliable classroom-based means of evaluating teacher effectiveness as a culminating measure at the preservice level that is to be used during the student-teaching field experience. This assessment shall include multiple measures of teacher performance in classrooms, evidence of positive impact on student learning, and shall include review of artifacts, such as use of a variety of assessment and instructional strategies, and student work.

~~((3))~~ (4) Award of a professional certificate shall be based on a minimum of two years of successful teaching

experience as defined by the board, and may not require candidates to enroll in a professional certification program.

~~((4))~~ (5) Educator preparation programs approved to offer the residency teaching certificate shall be required to demonstrate how the program produces effective teachers as evidenced by the measures established under this section and other criteria established by the Washington professional educator standards board.

**NEW SECTION. Sec. 4.** A new section is added to chapter 28A.410 RCW to read as follows:

By January 1, 2020, in order to ensure that principals can recognize signs of emotional or behavioral distress in students and appropriately refer students for assistance and support, the Washington professional educator standards board shall incorporate into principal knowledge, skill, and performance standards the social-emotional learning standards, benchmarks, and related competencies described in RCW 28A.410.270.

**Sec. 5.** RCW 28A.413.050 and 2017 c 237 s 6 are each amended to read as follows:

(1) The board shall adopt state standards of practice for paraeducators that are based on the recommendations of the paraeducator work group established in chapter 136, Laws of 2014. These standards must include:

~~((1))~~ (a) Supporting instructional opportunities;

~~((2))~~ (b) Demonstrating professionalism and ethical practices;

~~((3))~~ (c) Supporting a positive and safe learning environment;

~~((4))~~ (d) Communicating effectively and participating in the team process; and

~~((5))~~ (e) Demonstrating cultural competency aligned with standards developed by the professional educator standards board under RCW 28A.410.270.

(2) By January 1, 2020, in order to ensure that paraeducators can recognize signs of emotional or behavioral distress in students and appropriately refer students for assistance and support, the board shall incorporate into the standards of practice for paraeducators adopted under subsection (1) of this section the social-emotional learning standards, benchmarks, and related competencies described in RCW 28A.410.270.

**NEW SECTION. Sec. 6.** A new section is added to chapter 28A.300 RCW to read as follows:

The office of the superintendent of public instruction must create and publish on its web site a list of resources available for professional development of school district staff on the following topics: Social-emotional learning, trauma-informed practices, recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices. The office of the superintendent of public instruction must include in the list the professional development opportunities and

resources identified by the social emotional learning committee created under section 1 of this act.

**NEW SECTION. Sec. 7.** A new section is added to chapter 28A.415 RCW to read as follows:

Beginning in the 2020-21 school year, and every other school year thereafter, school districts must use one of the professional learning days funded under RCW 28A.150.415 to train school district staff on one or more of the following topics: Social-emotional learning, trauma-informed practices, using the model plan developed under RCW 28A.320.1271 related to recognition and response to emotional or behavioral distress, consideration of adverse childhood experiences, mental health literacy, antibullying strategies, and culturally sustaining practices.

**NEW SECTION. Sec. 8.** A new section is added to chapter 28A.410 RCW to read as follows:

The Washington professional educator standards board must periodically review approved preparation programs to assess whether and to what extent the programs are meeting knowledge, skill, and performance standards, and publish on its web site the results of the review in a format that facilitates program comparison.

**NEW SECTION. Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Robinson, 1st Vice Chair; Rude, Assistant Ranking Minority Member; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hudgins; Jenkins; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Senn; Springer; Stanford; Steele; Sullivan; Tarleton; Tharinger; Ybarra; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick; Kraft; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Caldier; Chandler; Hoff and Sutherland.

Referred to Committee on Rules for second reading.

April 6, 2019

**SSB 5089** Prime Sponsor, Committee on Ways & Means: Increasing early learning access for children ages three and older. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Human Services & Early Learning. Signed by Representatives Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Cody; Dolan; Fitzgibbon; Hansen; Hoff; Hudgins; Jenkins; Macri; Mosbrucker; Pollet; Ryu; Schmick; Senn; Springer;

Stanford; Steele; Sullivan; Tarleton; Tharinger; Volz; Ybarra; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Sutherland; Chandler; Dye and Kraft.

Referred to Committee on Rules for second reading.

April 8, 2019

**E2SSB 5091** Prime Sponsor, Committee on Ways & Means: Concerning state and federal special education funding. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Education. Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Jenkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair and Ybarra.

MINORITY recommendation: Without recommendation. Signed by Representative Kraft.

Referred to Committee on Rules for second reading.

April 8, 2019

**SSB 5106** Prime Sponsor, Committee on Financial Institutions, Economic Development & Trade: Concerning the creation of a work group to study and make recommendations on natural disaster mitigation and resiliency activities. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Housing, Community Development & Veterans.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that residents of this state have been impacted by natural disasters such as floods, landslides, wildfires, and earthquakes and continue to be at risk from these and other natural disasters. In 2016, insured losses from natural disasters in the United States totaled almost twenty-four billion dollars. In 2015, Washington state had the largest wildfire season in state history, with more than one million acres burned and costing more than two hundred fifty-three million dollars. In 2017, four hundred four thousand two hundred twenty-three acres burned in Washington state and there were more than four hundred thirty national flood

insurance program claims filed, totaling over seven million dollars.

The legislature finds that Washington state has the second highest earthquake risk in the nation, estimated by the federal emergency management agency to exceed four hundred thirty-eight million dollars per year. The 2001 Nisqually earthquake caused more than two billion dollars in damage. A Seattle fault earthquake will cause an estimated thirty-three billion dollars in damage, and a Cascadia subduction zone earthquake will cause an estimated amount of over forty-nine billion dollars in damage.

The legislature finds that it is critical to better prepare this state for disasters and to put in place strategies to mitigate the impacts of disasters. To address this critical need, the legislature is creating a work group to review disaster mitigation and preparation projects in this state and other states, make recommendations regarding how to coordinate and expand state efforts to mitigate the impacts of natural disasters, and evaluate whether an ongoing disaster resiliency program should be created.

**NEW SECTION. Sec. 2.** A new section is added to chapter 48.02 RCW to read as follows:

(1) A work group to study and make recommendations on natural disaster and resiliency activities is hereby created. The work group membership shall be composed of:

(a) The insurance commissioner or his or her designee, who shall serve as the chair of the work group;

(b) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(c) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(d) A representative from the governor's resilient Washington work group;

(e) A representative from the Washington state association of counties;

(f) A representative from the association of Washington cities;

(g) A representative from the state building code council;

(h) The commissioner of the department of natural resources or his or her designee;

(i) The director of the Washington state military department or his or her designee;

(j) The superintendent of public instruction or his or her designee;

(k) The secretary of the state department of transportation or his or her designee;

(l) The director of the department of ecology or his or her designee;

(m) The director of the department of commerce or his or her designee;

(n) A representative from the Washington association of building officials;

(o) A representative from the building industry association of Washington;

(p) Two representatives from the property and casualty insurance industry, to be selected by the insurance commissioner or his or her designee, through an application process;

(q) A representative of emergency and transitional housing providers, to be appointed by the office of the insurance commissioner;

(r) A representative from public utility districts to be selected by a state association of public utility districts;

(s) A representative of water and sewer districts to be selected by a state association of water and sewer districts;

(t) A representative selected by the Washington state commission on African-American affairs, the Washington state commission on Hispanic affairs, the governor's office of Indian affairs, and the Washington state commission on Asian Pacific American affairs to represent the entities on the work group;

(u) A representative from the state department of agriculture;

(v) A representative from the state conservation commission as defined in RCW 89.08.030;

(w) A representative of a federally recognized Indian tribe with a reservation located east of the crest of the Cascade mountains, to be appointed by the governor;

(x) A representative of a federally recognized Indian tribe with a reservation located west of the crest of the Cascade mountains, to be appointed by the governor; and

(y) Other state agency representatives or stakeholder group representatives, at the discretion of the work group, for the purpose of participating in specific topic discussions or subcommittees.

(2) The work group shall engage in the following activities:

(a) Review disaster mitigation and resiliency activities being done in this state by public and private entities;

(b) Review disaster mitigation and resiliency activities being done in other states and at the federal level;

(c) Review information on uptake in this state for disaster related insurance, such as flood and earthquake insurance;

(d) Review information on how other states are coordinating disaster mitigation and resiliency work including, but not limited to, the work of entities such as the California earthquake authority;

(e) Review how other states and the federal government fund their disaster mitigation and resiliency activities and programs; and

(f) Make recommendations to the legislature and office of the insurance commissioner regarding:

(i) Whether this state should create an ongoing disaster resiliency program;

(ii) What activities the program should engage in;

(iii) How the program should coordinate with state agencies and other entities engaged in disaster mitigation and resiliency work;

(iv) Where the program should be housed; and

(v) How the program should be funded.

(3) The work group shall submit, in compliance with RCW 43.01.036, a preliminary report of recommendations to the legislature, the office of the insurance commissioner, the governor, the office of the superintendent of public instruction, and the commissioner of public lands by November 1, 2019, and a final report by December 1, 2020.

**NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Kraft; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

**E2SSB 5116** Prime Sponsor, Committee on Ways & Means: Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Finance.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that Washington must address the impacts of climate change by leading the transition to a clean energy economy. One way in which Washington must lead this transition is by

transforming its energy supply, modernizing its electricity system, and ensuring that the benefits of this transition are broadly shared throughout the state.

(2) With our wealth of carbon-free hydropower, Washington has some of the cleanest electricity in the United States. But electricity remains a large source of emissions in our state. We are at a critical juncture for transforming our electricity system. It is the policy of the state to eliminate coal-fired electricity, transition the state's electricity supply to one hundred percent carbon-neutral by 2030, and one hundred percent carbon-free by 2045. In implementing this chapter, the state must prioritize the maximization of family wage job creation, seek to ensure that all customers are benefiting from the transition to a clean energy economy, and provide safeguards to ensure that the achievement of this policy does not impair the reliability of the electricity system or impose unreasonable costs on utility customers.

(3) The transition to one hundred percent clean energy is underway, but must happen faster than our current policies can deliver. Absent significant and swift reductions in greenhouse gas emissions, climate change poses immediate significant threats to our economy, health, safety, and national security. The prices of clean energy technologies continue to fall, and are, in many cases, competitive or even cheaper than conventional energy sources.

(4) The legislature finds that Washington can accomplish the goals of this act while: Promoting energy independence; creating high-quality jobs in the clean energy sector; maximizing the value of hydropower, our principal renewable resource; continuing to encourage and provide incentives for clean alternative energy sources, including providing electricity for the transportation sector; maintaining safe and reliable electricity to all customers at stable and affordable rates; and protecting clean air and water in the Pacific Northwest. Clean energy creates more jobs per unit of energy produced than fossil fuel sources, so this transition will contribute to job growth in Washington while addressing our climate crisis head on. Our abundance of renewable energy and our strong clean technology sector make Washington well positioned to be at the forefront of the transition to one hundred percent clean electricity.

(5) The legislature declares that utilities in the state have an important role to play in this transition, and must be fully empowered, through regulatory tools and incentives, to achieve the goals of this policy. In combination with new technology and emerging opportunities for customers, this policy will spur transformational change in the utility industry. Given these changes, the legislature recognizes and finds that the utilities and transportation commission's statutory grant of authority for rate making includes consideration and implementation of performance and incentive-based regulation, multiyear rate plans, and other flexible regulatory mechanisms where appropriate to achieve fair, just, reasonable, and sufficient rates and its public interest objectives.

(6) The legislature recognizes and finds that the public interest includes, but is not limited to: The equitable distribution of energy benefits and reduction of burdens to

vulnerable populations and highly impacted communities; long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks; and energy security and resiliency. It is the intent of the legislature that in achieving this policy for Washington, there should not be an increase in environmental health impacts to highly impacted communities.

(7) It is the intent of the legislature to provide flexible tools to address the variability of hydropower for compliance under this act.

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

(1) "Allocation of electricity" means, for the purposes of setting electricity rates, the costs and benefits associated with the resources used to provide electricity to an electric utility's retail electricity consumers that are located in this state.

(2) "Alternative compliance payment" means the payment established in section 9(2) of this act.

(3) "Attorney general" means the Washington state office of the attorney general.

(4) "Auditor" means: (a) The Washington state auditor's office or its designee for utilities under its jurisdiction under this chapter that are consumer-owned utilities; or (b) an independent auditor selected by a utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(5)(a) "Biomass energy" includes: (i) Organic by-products of pulping and the wood manufacturing process; (ii) animal manure; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) untreated wooden demolition or construction debris; (vi) food waste and food processing residuals; (vii) liquors derived from algae; (viii) dedicated energy crops; and (ix) yard waste.

(b) "Biomass energy" does not include: (i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth forests; or (iii) municipal solid waste.

(6) "Carbon dioxide equivalent" has the same meaning as defined in RCW 70.235.010.

(7)(a) "Coal-fired resource" means a facility that uses coal-fired generating units, or that uses units fired in whole or in part by coal as feedstock, to generate electricity.

(b)(i) "Coal-fired resource" does not include an electric generating facility that is included as part of a limited duration wholesale power purchase, not to exceed one month, made by an electric utility for delivery to retail electricity consumers that are located in this state for which the source of the power is not known at the time of entry into the transaction to procure the electricity.

(ii) "Coal-fired resource" does not include an electric generating facility that is subject to an obligation to meet the standards contained in RCW 80.80.040(3)(c).

(8) "Commission" means the Washington utilities and transportation commission.

(9) "Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

(10) "Consumer-owned utility" means a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual corporation or association formed under chapter 24.06 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(11) "Demand response" means changes in electric usage by demand-side resources from their normal consumption patterns in response to changes in the price of electricity, or to incentive payments designed to induce lower electricity use, at times of high wholesale market prices or when system reliability is jeopardized. "Demand response" may include measures to increase or decrease electricity production on the customer's side of the meter in response to incentive payments.

(12) "Department" means the department of commerce.

(13) "Distributed energy resource" means a nonemitting electric generation or renewable resource or program that reduces electric demand, manages the level or timing of electricity consumption, or provides storage, electric energy, capacity, or ancillary services to an electric utility and that is located on the distribution system, any subsystem of the distribution system, or behind the customer meter, including conservation and energy efficiency.

(14) "Electric utility" or "utility" means a consumer-owned utility or an investor-owned utility.

(15) "Energy assistance" means a program undertaken by a utility to reduce the household energy burden of its customers.

(a) Energy assistance includes, but is not limited to, weatherization, conservation and efficiency services, and monetary assistance, such as a grant program or rate class for lower income households, intended to lower a household's energy burden.

(b) Energy assistance may include direct customer ownership in distributed energy resources or other strategies if such strategies achieve a reduction in energy burden for the customer above other available conservation and demand-side measures.

(16) "Energy assistance need" means the amount of assistance necessary to achieve a level of household energy burden established by the department or commission.

(17) "Energy burden" means the share of annual household income used to pay annual home energy bills.

(18)(a) "Energy transformation project" means a project or program that: Provides energy-related goods or

services, other than the generation of electricity; results in a reduction of fossil fuel consumption and in a reduction of the emission of greenhouse gases attributable to that consumption; and provides benefits to the customers of an electric utility.

(b) "Energy transformation project" may include but is not limited to:

(i) Home weatherization or other energy efficiency measures, including market transformation for energy efficiency products, in excess of: The target established under RCW 19.285.040(1), if applicable; other state obligations; or other obligations in effect on the effective date of this section;

(ii) Support for electrification of the transportation sector including, but not limited to:

(A) Equipment on an electric utility's transmission and distribution system to accommodate electric vehicle connections, as well as smart grid systems that enable electronic interaction between the electric utility and charging systems, and facilitate the utilization of vehicle batteries for system needs;

(B) Incentives for the sale or purchase of electric vehicles, both battery and fuel cell powered, as authorized under state or federal law;

(C) Incentives for the installation of charging equipment for electric vehicles;

(D) Incentives for the electrification of vehicle fleets utilizing a battery or fuel cell for electric supply;

(E) Incentives to install and operate equipment to produce or distribute renewable hydrogen; and

(F) Incentives for renewable hydrogen fueling stations;

(iii) Investment in distributed energy resources and grid modernization to facilitate distributed energy resources and improved grid resilience;

(iv) Investments in equipment for renewable natural gas processing, conditioning, and production, or equipment or infrastructure used solely for the purpose of delivering renewable natural gas for consumption or distribution;

(v) Contributions to self-directed investments in the following measures to serve the sites of large industrial gas and electrical customers: (A) Conservation; (B) new renewable resources; (C) behind-the-meter technology that facilitates demand response cooperation to reduce peak loads; (D) infrastructure to support electrification of transportation needs, including battery and fuel cell electrification; or (E) renewable natural gas processing, conditioning, or production; and

(vi) Projects and programs that achieve energy efficiency and emission reductions in the agricultural sector, including bioenergy and renewable natural gas projects.

(19) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such a material.

(20) "Governing body" means: The council of a city or town; the commissioners of an irrigation district, municipal electric utility, or public utility district; or the board of directors of an electric cooperative or mutual association that has the authority to set and approve rates.

(21) "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or gases designated by the department of ecology by rule under RCW 70.235.010.

(22) "Greenhouse gas content calculation" means a calculation expressed in carbon dioxide equivalent and made by the department of ecology, in consultation with the department, for the purposes of determining the emissions from the complete combustion or oxidation of fossil fuels and the greenhouse gas emissions in electricity for use in calculating the greenhouse gas emissions content in electricity.

(23) "Highly impacted community" means a community designated by the department of health based on cumulative impact analyses in section 24 of this act or a community located in census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

(24) "Investor-owned utility" means a company owned by investors that meets the definition of "corporation" in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(25) "Low-income" means household incomes as defined by the department or commission, provided that the definition may not exceed the higher of eighty percent of area median household income or two hundred percent of the federal poverty level, adjusted for household size.

(26)(a) "Market customer" means a nonresidential retail electric customer of an electric utility that: (i) Purchases electricity from an entity or entities other than the utility with which it is directly interconnected; or (ii) generates electricity to meet one hundred percent of its own needs.

(b) An "affected market customer" is a customer of an investor-owned utility who becomes a market customer after the effective date of this section.

(27)(a) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form, including methane clathrate.

(b) "Natural gas" does not include renewable natural gas or the portion of renewable natural gas when blended into other fuels.

(28)(a) "Nonemitting electric generation" means electricity from a generating facility or a resource that provides electric energy, capacity, or ancillary services to an electric utility and that does not emit greenhouse gases as a by-product of energy generation.

(b) "Nonemitting electric generation" does not include renewable resources.

(29)(a) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity, including but not limited to the facility's fuel type, geographic location, vintage, qualification as a renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(b) "Nonpower attributes" does not include any aspects, claims, characteristics, and benefits associated with the on-site capture and destruction of methane or other greenhouse gases at a facility through a digester system, landfill gas collection system, or other mechanism, which may be separately marketable as greenhouse gas emission reduction credits, offsets, or similar tradable commodities. However, these separate avoided emissions may not result in or otherwise have the effect of attributing greenhouse gas emissions to the electricity.

(30) "Qualified transmission line" means an overhead transmission line that is: (a) Designed to carry a voltage in excess of one hundred thousand volts; (b) owned in whole or in part by an investor-owned utility; and (c) primarily or exclusively used by such an investor-owned utility as of the effective date of this section to transmit electricity generated by a coal-fired resource.

(31) "Renewable energy credit" means a tradable certificate of proof of one megawatt-hour of a renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity and the certificate is verified by a renewable energy credit tracking system selected by the department.

(32) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for the hydrogen and the source for the energy input into the production process.

(33) "Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

(34) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) renewable natural gas; (f) renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (i) biomass energy.

(35)(a) "Retail electric customer" means a person or entity that purchases electricity from any electric utility for ultimate consumption and not for resale.

(b) "Retail electric customer" does not include, in the case of any electric utility, any person or entity that purchases electricity exclusively from carbon-free and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved by an order of the commission prior to the effective date of this section.

(36) "Retail electric load" means the amount of megawatt-hours of electricity delivered in a given calendar year by an electric utility to its Washington retail electric customers. "Retail electric load" does not include:

(a) Megawatt-hours delivered from qualifying facilities under the federal public utility regulatory policies act of 1978, P.L. 95-617, in operation prior to the effective date of this section, provided that no entity other than the electric utility can make a claim on delivery of the megawatt-hours from those resources; or

(b) Megawatt-hours delivered to an electric utility's system from a renewable resource through a voluntary renewable energy purchase by a retail electric customer of the utility in which the renewable energy credits associated with the megawatt-hours delivered are retired on behalf of the retail electric customer.

(37) "Thermal renewable energy credit" means, with respect to a facility that generates electricity using biomass energy that also generates thermal energy for a secondary purpose, a renewable energy credit that is equivalent to three million four hundred twelve thousand British thermal units of energy used for such secondary purpose.

(38) "Unbundled renewable energy credit" means a renewable energy credit that is sold, delivered, or purchased separately from electricity. All thermal renewable energy credits are considered unbundled renewable energy credits.

(39) "Unspecified electricity" means an electricity source for which the fuel attribute is unknown or has been separated from the energy delivered to retail electric customers.

(40) "Vulnerable populations" means communities that experience a disproportionate cumulative risk from environmental burdens due to:

(a) Adverse socioeconomic factors, including unemployment, high housing and transportation costs relative to income, access to food and health care, and linguistic isolation; and

(b) Sensitivity factors, such as low birth weight and higher rates of hospitalization.

**NEW SECTION. Sec. 3.** (1)(a) On or before December 31, 2025, each electric utility must eliminate coal-fired resources from its allocation of electricity. This does not include costs associated with decommissioning and remediation of these facilities.

(b) The commission shall allow in electric rates all decommissioning and remediation costs prudently incurred by an investor-owned utility for a coal-fired facility.

(2) The commission must accelerate depreciation schedules for any coal-fired resource to a date no later than December 31, 2025. The commission may accelerate the depreciation schedule for any qualified transmission line owned by an investor-owned utility when the commission finds the qualified transmission line is no longer used and useful and there is no reasonable likelihood that the qualified transmission line will be utilized in the future. The adjusted depreciation schedule must require such a qualified

transmission line to be fully depreciated on or before December 31, 2025.

(3) The commission must allow in rates, directly or indirectly, amounts on an investor-owned utility's books of account that the commission finds represent prudently incurred undepreciated investment in a fossil fuel generating resource that has been retired from service when:

(a) The retirement is due to ordinary wear and tear, casualties, acts of God, acts of governmental authority, inability to procure or use fuel, termination or expiration of any ownership, or a operation agreement affecting such a fossil fuel generating resource; or

(b) The commission finds that the retirement is in the public interest.

(4) An electric utility that fails to comply with the requirements of subsection (1) of this section must pay the administrative penalty established under section 9(1) of this act, except as otherwise provided in this chapter.

**NEW SECTION. Sec. 4.** (1) It is the policy of the state that all retail sales of electricity to Washington retail electric customers be greenhouse gas neutral by January 1, 2030.

(a) For the four-year compliance period beginning January 1, 2030, and for each multiyear compliance period thereafter through December 31, 2044, an electric utility must demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from renewable resources, or alternative compliance options, as provided in this section. To achieve compliance with this standard, an electric utility must: (i) Pursue all cost-effective, reliable, and feasible conservation and efficiency resources to reduce or manage retail electric load, using the methodology established in RCW 19.285.040, if applicable; and (ii) use electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility's retail electric loads over each multiyear compliance period. An electric utility must achieve compliance with this standard for the following compliance periods: January 1, 2030, through December 31, 2033; January 1, 2034, through December 31, 2037; January 1, 2038, through December 31, 2041; and January 1, 2042, through December 31, 2044.

(b) Through December 31, 2044, an electric utility may satisfy up to twenty percent of its compliance obligation under (a) of this subsection with an alternative compliance option consistent with this section. An alternative compliance option may include any combination of the following:

(i) Making an alternative compliance payment under section 9(2) of this act;

(ii) Using unbundled renewable energy credits, provided that there is no double counting of any nonpower attributes associated with renewable energy credits within Washington or programs in other jurisdictions, as follows:

(A) Unbundled renewable energy credits produced from eligible renewable resources, as defined under RCW

19.285.030, may be used by the electric utility for compliance with RCW 19.285.040 and this section as provided under RCW 19.285.040(2)(e); and

(B) Unbundled renewable energy credits, other than those included in (b)(ii)(A) of this subsection, that represent electricity generated within the compliance period;

(iii) Investing in energy transformation projects, including additional conservation and efficiency resources beyond what is otherwise required under this section, provided the projects meet the requirements of subsection (2) of this section and are not credited as resources used to meet the standard under (a) of this subsection; or

(iv) Using electricity from an energy recovery facility using municipal solid waste as the principal fuel source, where the facility was constructed prior to 1992, and the facility is operated in compliance with federal laws and regulations and meets state air quality standards. An electric utility may only use electricity from such an energy recovery facility if the department and the department of ecology determine that electricity generation at the facility provides a net reduction in greenhouse gas emissions compared to any other available waste management best practice. The determination must be based on a life-cycle analysis comparing the energy recovery facility to other technologies available in the jurisdiction in which the facility is located for the waste management best practices of waste reduction, recycling, composting, and minimizing the use of a landfill.

(c) Electricity from renewable resources used to meet the standard under (a) of this subsection must be verified by the retirement of renewable energy credits. Renewable energy credits must be tracked and retired in the tracking system selected by the department.

(d) Hydroelectric generation used by an electric utility in meeting the standard under (a) of this subsection may not include new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of this section unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility that: (i) Does not conflict with existing state or federal fish recovery plans; and (ii) complies with all local, state, and federal laws and regulations.

(e) Nothing in (d) of this subsection precludes an electric utility that owns and operates hydroelectric generating facilities, or the owner of a hydroelectric generating facility whose energy output is marketed by the Bonneville power administration, from making efficiency or other improvements to its hydroelectric generating facilities existing as of the effective date of this section or from installing hydroelectric generation in pipes, culverts, irrigation canals, and other manmade waterways, as long as those changes do not create conflicts with existing state or federal fish recovery plans and comply with all local, state, and federal laws and regulations.

(f) Nonemitting electric generation resources used to meet the standard under (a) of this subsection must be generated during the compliance period and must be verified by documentation that the electric utility owns the nonpower

attributes of the electricity generated by the nonemitting resource.

(g) Nothing in this section prohibits an electric utility from purchasing or exchanging power from the Bonneville power administration.

(2) Investments in energy transformation projects used to satisfy an alternative compliance option provided under subsection (1)(b) of this section must use criteria developed by the department of ecology, in consultation with the department and the commission. For the purpose of crediting an energy transformation project toward the standard in subsection (1)(a) of this section, the department of ecology must establish a conversion factor of emissions reductions resulting from energy transformation projects to megawatt-hours of electricity from nonemitting electric generation that is consistent with the emission factors for unspecified electricity, or for energy transformation projects in the transportation sector, consistent with default emissions or conversion factors established by other jurisdictions for clean alternative fuels. Emissions reductions from energy transformation projects must be:

- (a) Real, specific, identifiable, and quantifiable;
- (b) Permanent: The department of ecology must look to other jurisdictions in setting this standard and make a reasonable determination on length of time;
- (c) Enforceable by the state of Washington;
- (d) Verifiable;
- (e) Not required by another statute, rule, or other legal requirement; and
- (f) Not reasonably assumed to occur absent investment, or if an investment has already been made, not reasonably assumed to occur absent additional funding in the near future.

(3) Energy transformation projects must be associated with the consumption of energy in Washington and must not create a new use of fossil fuels that results in a net increase of fossil fuel usage.

(4) The compliance eligibility of energy transformation projects may be scaled or prorated by an approved protocol in order to distinguish effects related to reductions in electricity usage from reductions in fossil fuel usage.

(5) Any compliance obligation fulfilled through an investment in an energy transformation project is eligible for use only: (a) By the electric utility that makes the investment; (b) if the investment is made by the Bonneville power administration, by electric utilities that are preference customers of the Bonneville power administration; or (c) if the investment is made by a joint operating agency organized under chapter 43.52 RCW, by a member of the joint operating agency. An electric utility making an investment in partnership with another electric utility or entity may claim credit proportional to its share invested in the total project cost.

(6)(a) In meeting the standard under subsection (1) of this section, an electric utility must, consistent with the requirements of RCW 19.285.040, if applicable, pursue all cost-effective, reliable, and feasible conservation and efficiency resources, and demand response. In making new investments, an electric utility must, to the maximum extent feasible:

(i) Achieve targets at the lowest reasonable cost, considering risk;

(ii) Consider acquisition of existing renewable resources; and

(iii) In the acquisition of new resources constructed after the effective date of this section, rely on renewable resources and energy storage, insofar as doing so is consistent with (a)(i) of this subsection.

(b) Electric utilities subject to RCW 19.285.040 must demonstrate pursuit of all conservation and efficiency resources through compliance with the requirements in RCW 19.285.040.

(7) An electric utility that fails to meet the requirements of this section must pay the administrative penalty established under section 9(1) of this act, except as otherwise provided in this chapter.

(8) In complying with this section, an electric utility must, consistent with the requirements of RCW 19.280.030 and section 24 of this act, ensure that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency.

(9) Affected market customers must comply with the standard established under subsection (1) of this section.

(10) A market customer that purchases electricity exclusively from carbon-free resources and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved, prior to the effective date of this section, by order of the commission is subject to the requirements of such an order and not to the standard established in this section. For purposes of interpreting any such special contract, chapter 19.285 RCW, as in effect on January 1, 2019, is not, either directly or indirectly, amended or supplemented.

(11) To reduce costs for utility customers or avoid exceeding the cost impact limit in section 6(3)(a) of this act, a multistate electric utility with fewer than two hundred fifty thousand customers in Washington may apply the total amount of megawatt-hours of coal-fired resources eliminated from the utility's allocation of electricity before December 31, 2025, as an equivalent amount of megawatt-hours of nonemitting electric generation or electricity from renewable resources required to comply with subsection (1)(a) of this section. The utility must demonstrate that for every megawatt-hour of early action compliance credit there is a real, permanent reduction in greenhouse gas emissions

in the western interconnection directly associated with that credit. A multistate electric utility must request to use early action compliance credit in its clean energy implementation plan that is submitted under section 6 of this act. The multistate electric utility must specify in its clean energy implementation plan the compliance years to which the early action compliance credit will apply, but in no event may the multistate electric utility use the early action compliance credits beyond 2035. The commission must establish conditions for use of early action compliance credits, including a determination of whether action constitutes early action, before the multistate electric utility's use of early action compliance credits in a clean energy implementation plan.

**NEW SECTION. Sec. 5.** (1) It is the policy of the state that nonemitting electric generation and electricity from renewable resources supply one hundred percent of all sales of electricity to Washington retail electric customers by January 1, 2045. By January 1, 2045, and each year thereafter, each electric utility must demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from renewable resources.

(2) Each electric utility must incorporate subsection (1) of this section into all relevant planning and resource acquisition practices including, but not limited to: Resource planning under chapter 19.280 RCW; the construction or acquisition of property, including electric generating facilities; and the provision of electricity service to retail electric customers.

(3) In planning to meet projected demand consistent with the requirements of subsection (2) of this section and RCW 19.285.040, if applicable, an electric utility must pursue all cost-effective, reliable, and feasible conservation and efficiency resources, and demand response. In making new investments, an electric utility must, to the maximum extent feasible:

(a) Achieve targets at the lowest reasonable cost, considering risk;

(b) Consider acquisition of existing renewable resources; and

(c) In the acquisition of new resources constructed after the effective date of this section, rely on renewable resources and energy storage, insofar as doing so is consistent with (a) of this subsection.

(4) The commission, department, energy facility site evaluation council, department of ecology, and all other state agencies must incorporate this section into all relevant planning and utilize all programs authorized by statute to achieve subsection (1) of this section.

(5)(a) Hydroelectric generation used by an electric utility to satisfy the requirements of this section may not include new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of this section unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility that: (i) Does not

conflict with existing state or federal fish recovery plans; and (ii) complies with all local, state, and federal laws and regulations.

(b) Nothing in (a) of this subsection precludes an electric utility that owns and operates hydroelectric generating facilities, or the owner of a hydroelectric generating facility whose energy output is marketed by the Bonneville power administration, from making efficiency or other improvements to its hydroelectric generating facilities existing as of the effective date of this section or from installing hydroelectric generation in pipes, culverts, irrigation canals, and other manmade waterways as long as those changes do not create conflicts with existing state or federal fish recovery plans and comply with all local, state, and federal laws and regulations.

(6) Nothing in this section prohibits an electric utility from purchasing or exchanging power from the Bonneville power administration.

(7) Affected market customers must comply with the obligations of this section.

(8) Any market customer that purchases electricity exclusively from carbon-free resources and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved, prior to the effective date of this section, by order of the commission is subject to the requirements of such an order and not to the standards established in this section. For the purposes of interpreting such a special contract, chapter 19.285 RCW, as in effect on January 1, 2019, is not, either directly or indirectly, amended or supplemented.

**NEW SECTION. Sec. 6.** (1)(a) By January 1, 2022, and every four years thereafter, each investor-owned utility must develop and submit to the commission:

(i) A four-year clean energy implementation plan for the standards established under sections 4(1) and 5(1) of this act that proposes specific targets for energy efficiency, demand response, and renewable energy; and

(ii) Proposed interim targets for meeting the standard under section 4(1) of this act during the years prior to 2030 and between 2030 and 2045.

(b) An investor-owned utility's clean energy implementation plan must:

(i) Be informed by the investor-owned utility's clean energy action plan developed under RCW 19.280.030;

(ii) Be consistent with subsection (3) of this section; and

(iii) Identify specific actions to be taken by the investor-owned utility over the next four years, consistent with the utility's long-range integrated resource plan and resource adequacy requirements, that demonstrate progress toward meeting the standards under sections 4(1) and 5(1) of this act and the interim targets proposed under (a)(i) of this subsection. The specific actions identified must be informed by the investor-owned utility's historic performance under median water conditions and resource capability and by the

investor-owned utility's participation in centralized markets. In identifying specific actions in its clean energy implementation plan, the investor-owned utility may also take into consideration any significant and unplanned loss or addition of load it experiences.

(c) The commission, after a hearing, must by order approve, reject, or approve with conditions an investor-owned utility's clean energy implementation plan and interim targets. The commission may, in its order, recommend or require more stringent targets than those proposed by the investor-owned utility. The commission may periodically adjust or expedite timelines if it can be demonstrated that the targets or timelines can be achieved in a manner consistent with the following:

(i) Maintaining and protecting the safety, reliable operation, and balancing of the electric system;

(ii) Planning to meet the standards at the lowest reasonable cost, considering risk;

(iii) Ensuring that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and the reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency; and

(iv) Ensuring that no customer or class of customers is unreasonably harmed by any resulting increases in the cost of utility-supplied electricity as may be necessary to comply with the standards.

(2)(a) By January 1, 2022, and every four years thereafter, each consumer-owned utility must develop and submit to the department a four-year clean energy implementation plan for the standards established under sections 4(1) and 5(1) of this act that:

(i) Proposes interim targets for meeting the standard under section 4(1) of this act during the years prior to 2030 and between 2030 and 2045, as well as specific targets for energy efficiency, demand response, and renewable energy;

(ii) Is informed by the consumer-owned utility's clean energy action plan developed under RCW 19.280.030(1) or other ten-year plan developed under RCW 19.280.030(5);

(iii) Is consistent with subsection (4) of this section; and

(iv) Identifies specific actions to be taken by the consumer-owned utility over the next four years, consistent with the utility's long-range resource plan and resource adequacy requirements, that demonstrate progress towards meeting the standards under sections 4(1) and 5(1) of this act and the interim targets proposed under (a)(i) of this subsection. The specific actions identified must be informed by the consumer-owned utility's historic performance under median water conditions and resource capability and by the consumer-owned utility's participation in centralized markets. In identifying specific actions in its clean energy implementation plan, the consumer-owned utility may also

take into consideration any significant and unplanned loss or addition of load it experiences.

(b) The governing body of the consumer-owned utility must, after a public meeting, adopt the consumer-owned utility's clean energy implementation plan. The clean energy implementation plan must be submitted to the department and made available to the public. The governing body may adopt more stringent targets than those proposed by the consumer-owned utility and periodically adjust or expedite timelines if it can be demonstrated that such targets or timelines can be achieved in a manner consistent with the following:

(i) Maintaining and protecting the safety, reliable operation, and balancing of the electric system;

(ii) Planning to meet the standards at the lowest reasonable cost, considering risk;

(iii) Ensuring that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency; and

(iv) Ensuring that no customer or class of customers is unreasonably harmed by any resulting increases in the cost of utility-supplied electricity as may be necessary to comply with the standards.

(3)(a) An investor-owned utility must be considered to be in compliance with the standards under sections 4(1) and 5(1) of this act if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the interim targets established under subsection (1) of this section equals a two percent increase of the investor-owned utility's weather-adjusted sales revenue to customers for electric operations above the previous year, as reported by the investor-owned utility in its most recent commission basis report. All costs included in the determination of cost impact must be directly attributable to actions necessary to comply with the requirements of sections 4 and 5 of this act.

(b) If an investor-owned utility relies on (a) of this subsection as a basis for compliance with the standard under section 4(1) of this act, then it must demonstrate that it has maximized investments in renewable resources and nonemitting electric generation prior to using alternative compliance options allowed under section 4(1)(b) of this act.

(4)(a) A consumer-owned utility must be considered to be in compliance with the standards under sections 4(1) and 5(1) of this act if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the interim targets established under subsection (2) of this section meets or exceeds a two percent increase of the consumer-owned utility's retail revenue requirement above the previous year. All costs included in the determination of cost impact must be directly attributable to actions necessary to comply with the requirements of sections 4 and 5 of this act.

(b) If a consumer-owned utility relies on (a) of this subsection as a basis for compliance with the standard under section 4(1) of this act, and it has not met eighty percent of its annual retail electric load using electricity from renewable resources and nonemitting electric generation, then it must demonstrate that it has maximized investments in renewable resources and nonemitting electric generation prior to using alternative compliance options allowed under section 4(1)(b) of this act.

(5) The commission, for investor-owned utilities, and the department, for consumer-owned utilities, must adopt rules establishing the methodology for calculating the incremental cost of compliance under this section, as compared to the cost of an alternative lowest reasonable cost portfolio of investments that are reasonably available.

**NEW SECTION. Sec. 7.** (1) Each electric utility must disclose its greenhouse gas content calculation in conformance with this section. A utility's disclosure must be consistent with the fuel sources that it reports and discloses in compliance with chapter 19.29A RCW. The department must by rule incorporate the carbon content disclosure into the power source or fuel mix disclosure required under chapter 19.29A RCW.

(2) For unspecified electricity, the utility must use an emissions rate determined, and periodically updated, by the department of ecology by rule. The department of ecology must adopt an emissions rate for unspecified electricity consistent with the emissions rate established for other markets in the western interconnection. If the department of ecology has not adopted an emissions rate for unspecified electricity, the emissions rate that applies for the purposes of this chapter is 0.437 metric tons of carbon dioxide per megawatt-hour of electricity.

(3) For the purposes of this act, the fuel mix calculated for the Bonneville power administration may exclude any purchases of electric generation that are not associated with load in the state of Washington.

**NEW SECTION. Sec. 8.** By January 1, 2024, and at least every four years thereafter and in compliance with RCW 43.01.036, the department must submit a report to the legislature. The report must include the following:

(1) A review of the standards described in sections 3 through 5 of this act focused on technologies, forecasts, and existing transmission, and an evaluation of safety, environmental and public safety protection, affordability, and system reliability.

(2)(a) An evaluation, produced in consultation with the commission, electric utilities, transmission operators in Washington, the reliability coordinator for electric utilities, any regional planning organization serving electric utilities, public interest and environmental organizations, and the regional entity for the western interconnection identifying the potential benefits, impacts, and risks on system reliability associated with achieving the standards described in sections 4 and 5 of this act. The evaluation must assess whether electric utilities have sufficient electric generation resources to meet forecasted retail electric load in addition to adequate transmission capability to implement sections 3 through 5 of

this act without: (i) Violating mandatory and enforceable reliability standards of the North American electric reliability corporation; (ii) violating prudent utility practice for assuring resource adequacy; or (iii) compromising the power quality or integrity of the electricity system. Subject to funding appropriated for this purpose, the commission and the department must consult with a national laboratory with expertise in grid reliability, security, and resilience.

(b) The evaluation should assess the anticipated financial costs and benefits of investments necessary to correct those deficiencies at the lowest reasonable costs as identified by electric utilities, transmission operators in Washington, the regional entity for the western interconnection, or any regional planning organization serving electric utilities. The assessment of these investments in the report is not deemed to be approval of such investments for rate recovery by any authorizing entity.

(3) An evaluation identifying the nature of any anticipated financial costs and benefits to electric utilities, including customer rate impacts and benefits including, but not limited to:

(a) Greenhouse gas emissions of electric utilities;

(b) The allocation of risk between customers and electric utilities;

(c) The allocation of financial costs among electric utilities in the state and whether retail electric customers are equitably bearing the financial costs of implementing sections 3 through 5 of this act;

(d) The timing of cost recovery for electricity generated by nonemitting electric generation or renewable resources;

(e) The resource procurement process of electric utilities; and

(f) The barriers to, and benefits of, implementing sections 4 and 5 of this act.

(4) An evaluation of new or emerging technologies that could be considered to be a renewable resource.

(5) An assessment of the impacts of sections 3 through 5 of this act on middle-income families, small businesses, and manufacturers in Washington.

**NEW SECTION. Sec. 9.** (1)(a) An electric utility or an affected market customer that fails to meet the standards established under sections 3(1) and 4(1) of this act must pay an administrative penalty to the state of Washington in the amount of one hundred dollars, times the following multipliers, for each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or nonemitting electric generation:

(i) 1.5 for coal-fired resources;

(ii) 0.84 for gas-fired peaking power plants; and

(iii) 0.60 for gas-fired combined-cycle power plants.

(b) Beginning in 2027, this penalty must be adjusted on a biennial basis according to the rate of change of the

inflation indicator, gross domestic product implicit price deflator, as published by the bureau of economic analysis of the United States department of commerce or its successor. Beginning in 2040, the commission may by rule increase this penalty for investor-owned utilities if the commission determines that doing so will accelerate utilities' compliance with the standards established under this chapter and that doing so is in the public interest.

(2) Consistent with the requirements of section 4(1)(b) of this act, a utility may opt to make a payment in the amount of the administrative penalty as an alternative compliance payment, without incurring a penalty for noncompliance.

(3)(a) Upon its own motion or at the request of an investor-owned utility, and after a hearing, the commission may issue an order relieving the utility of its administrative penalty obligation under subsection (1) of this section if it finds that:

(i) After taking all reasonable measures, the investor-owned utility's compliance with this chapter is likely to result in conflicts with or compromises to its obligation to comply with the mandatory and enforceable reliability standards of the North American electric reliability corporation, violate prudent utility practice for assuring resource adequacy, or compromise the power quality or integrity of its system; or

(ii) The investor-owned utility is unable to comply with the standards established in section 3(1) or 4(1) of this act due to reasons beyond the reasonable control of the investor-owned utility, as set forth in subsection (6) of this section.

(b) If the commission issues an order pursuant to (a) of this subsection that relieves an investor-owned utility of its administrative penalty obligation under subsection (1) of this section, the commission may issue an order:

(i) Temporarily exempting the investor-owned utility from the requirements of section 4(1) of this act for an amount of time sufficient to allow the investor-owned utility to achieve full compliance with the standard;

(ii) Directing the investor-owned utility to file a progress report to the commission on achieving full compliance with the standard within six months after issuing the order, or within an amount of time determined to be reasonable by the commission; and

(iii) Directing the investor-owned utility to take specific actions to achieve full compliance with the requirements of this chapter.

(c) An investor-owned utility may request an extension of a temporary exemption granted under this section. An investor-owned utility that requests an extension must request an update to the order issued by the commission under (b) of this subsection.

(4) Subsection (3) of this section does not permanently relieve an investor-owned utility of its obligation to comply with the requirements of this chapter.

(5)(a) The governing body of a consumer-owned utility may authorize a temporary exemption from the standard established under section 4(1) of this act, for an amount of time sufficient to allow the consumer-owned utility to achieve full compliance with the standard, if the governing body finds that:

(i) The consumer-owned utility's compliance with the standard is likely to: Result in conflicts with or compromises to its obligation to comply with the mandatory and enforceable reliability standards of the North American electric reliability corporation; violate prudent utility practice for assuring resource adequacy; or compromise the power quality or integrity of its system; or

(ii) The consumer-owned utility is unable to comply with the standard due to reasons beyond the reasonable control of the utility, as set forth in subsection (6) of this section; and

(iii) The consumer-owned utility has provided to the department a plan demonstrating how it plans to achieve full compliance with the standard, consistent with the findings of the report submitted to the legislature under section 8 of this act.

(b) Upon request by the governing body of a consumer-owned utility, a consumer-owned utility must be relieved of its administrative penalty obligation under subsection (1) of this section if the auditor issues a finding that:

(i) The governing body of the consumer-owned utility has properly issued a temporary exemption under (a) of this subsection for a period of time not to exceed six months; and

(ii) The governing body of the consumer-owned utility has submitted to the department a plan to take specific actions to achieve full compliance with the standard, consistent with the findings of the report submitted to the legislature under section 8 of this act.

(c) Upon issuance of a finding by the auditor, the consumer-owned utility must submit a progress report to the department on achieving full compliance with the standard within the term authorized in the temporary exemption.

(d) A consumer-owned utility may request an extension of a temporary exemption granted under this subsection, subject to the same requirements as provided in (a) through (c) of this subsection.

(e) The attorney general may bring a civil action in the name of the state for any appropriate civil remedy including, but not limited to, injunctive relief, penalties, costs, and attorneys' fees, to enforce compliance with this chapter:

(i) Upon the failure of the governing body of a consumer-owned utility to comply with the conditions of a temporary exemption found by the auditor to be properly adopted or extended; or

(ii) Upon failure of the governing body of a consumer-owned utility to comply with a finding by the auditor that a temporary exemption is not properly granted.

(f) This subsection does not permanently relieve a consumer-owned utility of its obligation to comply with the requirements of this chapter.

(6) To the extent an event or circumstance cannot be reasonably foreseen and ameliorated, such events or circumstances beyond the reasonable control of an electric utility may include but are not limited to:

- (a) Weather-related damage;
- (b) Natural disasters;
- (c) Mechanical or resource failure;

(d) Failure of a third party to meet contractual obligations to the electric utility;

(e) Actions of governmental authorities that adversely affect the generation, transmission, or distribution of nonemitting electric generation or renewable resources owned or under contract to an electric utility, including condemnation actions by municipal electric utilities, public utility districts, or irrigation districts that adversely affect an investor-owned utility's ability to meet the standard established in sections 3(1) and 4(1) of this act;

(f) Inability to acquire sufficient transmission to transmit electricity from nonemitting electric generation or renewable resources to load; and

(g) Substantial limitations, restrictions, or prohibitions on nonemitting electric generation or renewable resources.

(7) An electric utility must notify its retail electric customers in published form within three months of paying the administrative penalty established under subsection (1) of this section. An electric utility is not required to notify its retail electric customers when making a payment in the amount of the administrative penalty as an alternative compliance payment consistent with the requirements of section 4(1)(b) of this act.

(8) Moneys collected under this section must be deposited into the low-income weatherization and structural rehabilitation assistance account created in RCW 70.164.030.

(9) For an investor-owned utility, the commission must determine compliance with the requirements of this chapter.

(10) For consumer-owned utilities, the auditor is responsible for auditing compliance with this chapter and rules adopted under this chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance.

(11) If the report submitted under section 8 of this act demonstrates adverse system reliability impacts from the implementation of sections 4 and 5 of this act, the governor, consistent with the emergency powers under RCW 43.21G.040, may suspend or delay implementation of this chapter, or exempt an electric utility from paying the administrative penalty under this section, until system reliability impacts can be addressed. Adverse system reliability impacts may include, but are not limited to, the

inability of electric utilities or transmission operators to meet reliability standards mandated by federal or state law and required by prudent utility practices.

(12) Notwithstanding RCW 54.16.020, the fair market value compensation for an asset that is condemned by a municipal electric utility, public utility district, or irrigation district and that is either demonstrated in an electric utility's clean energy action plan or clean energy implementation plan to be used or acquired after the effective date of this section to meet the requirements of sections 4 and 5 of this act, or an asset that generates electricity from renewable resources or nonemitting electric generation, must include but not be limited to a replacement value approach. Additionally, the electric utility may seek, and the court may award, damages attributable to the severance, separation, replacement, or relocation of utility assets. The trier of fact may also consider other damages, as well as offsetting benefits, that it finds just and equitable.

(13) An entity that establishes or extends service to the premises of a customer who is being served by an electric utility or was served by an electric utility prior to the effective date of this section must serve those premises in a manner that complies with the requirements of this act and with chapter 19.285 RCW, if applicable. An electric utility or other entity that fails to comply with the requirements of this subsection must pay the administrative penalty under subsection (1) of this section for each megawatt-hour of electric generation used to serve load that does not meet the terms of this subsection.

**NEW SECTION. Sec. 10.** (1) It is the intent of this chapter that the commission and department adopt rules to streamline the implementation of this act with chapter 19.285 RCW to simplify compliance and avoid duplicative processes. It is the intent of the legislature that the commission and the department coordinate in developing rules related to process, timelines, and documentation that are necessary for the implementation of this chapter.

(2) The commission may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to investor-owned utilities.

(3) The department may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to consumer-owned utilities. Nothing in this subsection may be construed to restrict the rate-making authority of the governing body of a consumer-owned utility as otherwise provided by law.

(4) The department must adopt rules establishing reporting requirements for electric utilities to demonstrate compliance with this chapter. The requirements must, to the extent practicable, be consistent with the disclosures required under chapter 19.29A RCW.

(5) An investor-owned utility must also report all information required in subsection (4) of this section to the commission.

(6) An electric utility must also make reports required in this section available to its retail electric customers.

(7) The department of ecology must adopt rules, in consultation with the commission and the department of commerce, to establish requirements for energy transformation project investments including, but not limited to, verification procedures, reporting standards, and other logistical issues as necessary.

(8) The department must adopt rules providing for the measuring and tracking of thermal renewable energy credits that may be used for compliance under section 4 of this act.

(9) Pursuant to the administrative procedure act, chapter 34.05 RCW, rules needed for the implementation of this chapter must be adopted by January 1, 2021, unless specified otherwise elsewhere in this chapter. These rules may be revised as needed to carry out the intent and purposes of this chapter.

NEW SECTION. **Sec. 11.** The requirements of sections 3 through 9 of this act do not replace or modify the requirements established under chapter 19.285 RCW. All utility activities to comply with the requirements established under chapter 19.285 RCW also qualify for compliance with the requirements contained in this chapter, insofar as those activities meet the requirements of this act.

NEW SECTION. **Sec. 12.** (1) It is the intent of the legislature to demonstrate progress toward making energy assistance funds available to low-income households consistent with the policies identified in this section.

(2) An electric utility must make programs and funding available for energy assistance to low-income households by July 31, 2021. Each utility must demonstrate progress in providing energy assistance pursuant to the assessment and plans in subsection (4) of this section. To the extent practicable, priority must be given to low-income households with a higher energy burden.

(3) Beginning July 31, 2020, the department must collect and aggregate data estimating the energy burden and energy assistance need and reported energy assistance for each electric utility, in order to improve agency and utility efforts to serve low-income households with energy assistance. The department must update the aggregated data on a biennial basis, make it publicly accessible on its internet web site and, to the extent practicable, include geographic attributes.

(a) The aggregated data published by the department must include, but is not limited to:

(i) The estimated number and demographic characteristics of households served by energy assistance for each utility and the dollar value of the assistance;

(ii) The estimated level of energy burden and energy assistance need among customers served, accounting for household income and other drivers of energy burden;

(iii) Housing characteristics including housing type, home vintage, and fuel types; and

(iv) Energy efficiency potential.

(b) Each utility must disclose information to the department for use under this subsection, including:

(i) The amount and type of energy assistance and the number and type of households, if applicable, served for programs administered by the utility;

(ii) The amount of money passed through to third parties that administer energy assistance programs; and

(iii) Subject to availability, any other information related to the utility's low-income assistance programs that is requested by the department.

(c) The information required by (b) of this subsection must be from the electric utility's most recent completed budget period and in a form, timeline, and manner as prescribed by the department.

(4)(a) In addition to the requirements under subsection (3) of this section, each electric utility must submit biennially to the department an assessment of:

(i) The programs and mechanisms used by the utility to reduce energy burden and the effectiveness of those programs and mechanisms in both short-term and sustained energy burden reductions;

(ii) The outreach strategies used to encourage participation of eligible households, including consultation with community-based organizations and Indian tribes as appropriate, and comprehensive enrollment campaigns that are linguistically and culturally appropriate to the customers they serve in vulnerable populations; and

(iii) A cumulative assessment of previous funding levels for energy assistance compared to the funding levels needed to meet: (A) Sixty percent of the current energy assistance need, or increasing energy assistance by fifteen percent over the amount provided in 2018, whichever is greater, by 2030; and (B) ninety percent of the current energy assistance need by 2050.

(b) The assessment required in (a) of this subsection must include a plan to improve the effectiveness of the assessed mechanisms and strategies toward meeting the energy assistance need.

(5) A consumer-owned utility may enter into an agreement with a public university, community-based organization, or joint operating agency organized under chapter 43.52 RCW to aggregate the disclosures required in this section and submit the assessment required in subsections (3) and (4) of this section.

(6)(a) The department must submit a biennial report to the legislature that:

(i) Aggregates information into a statewide summary of energy assistance programs, energy burden, and energy assistance need;

(ii) Identifies and quantifies current expenditures on low-income energy assistance; and

(iii) Evaluates the effectiveness of additional optimal mechanisms for energy assistance including, but not

limited to, customer rates, a low-income specific discount, system benefits charges, and public and private funds.

(b) The department must also assess mechanisms to prioritize energy assistance towards low-income households with a higher energy burden.

(7) Nothing in this section may be construed to restrict the rate-making authority of the commission or the governing body of a consumer-owned utility as otherwise provided by law.

**NEW SECTION. Sec. 13.** (1) The department and the commission must convene a stakeholder work group to examine the:

(a) Efficient and consistent integration of this act and transactions with carbon and electricity markets outside the state; and

(b) Compatibility of the requirements under this act relative to a linked cap-and-trade program.

(2) To assist in its examination of the issues identified in this section, as well as any other issues pertinent to its review, the work group must, at a minimum, consist of electric utilities, gas companies, the Bonneville power administration, public interest and environmental organizations, and other agencies.

(3) The department and the commission must adopt rules by June 30, 2022, defining requirements, including appropriate verification and reporting requirements, for the following: (a) Retail electric load met with market purchases and the western energy imbalance market or other centralized market administered by a market operator; and (b) to address the prohibition on double counting of nonpower attributes under section 4(1) of this act that could occur under other programs. With respect to purchases from the western energy imbalance market or other centralized market, the department and the commission must consult with the market operator and market participants to consider options that support the objectives of this chapter and the efficient dispatch of the generation resources dispatched by those markets.

**Sec. 14.** RCW 19.280.030 and 2015 3rd sp.s. c 19 s 9 are each amended to read as follows:

Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than twenty-five thousand customers that are not full requirements customers (~~shall~~) must develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ten years or longer, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources, as informed, as applicable, by the assessment for conservation potential under RCW 19.285.040 for the planning horizon consistent with (a) of this subsection. Such assessment may include, as appropriate, opportunities for development of combined heat and power as an energy and capacity resource, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power or building new resources;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) An assessment of methods, commercially available technologies, or facilities for integrating renewable resources, including but not limited to battery storage and pumped storage, and addressing overgeneration events, if applicable to the utility's resource portfolio;

(f) An assessment and ten-year forecast of the availability of regional generation and transmission capacity on which the utility may rely to provide and deliver electricity to its customers;

(g) A determination of resource adequacy metrics for the resource plan consistent with the forecasts;

(h) A forecast of distributed energy resources that may be installed by the utility's customers and an assessment of their effect on the utility's load and operations;

(i) An identification of an appropriate resource adequacy requirement and measurement metric consistent with prudent utility practice in implementing sections 3 through 5 of this act;

(j) The integration of the demand forecasts (~~and~~), resource evaluations, and resource adequacy requirement into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs, including mitigating overgeneration events and implementing sections 3 through 5 of this act, at the lowest reasonable cost and risk to the utility and its (~~ratepayers~~) customers, while maintaining and protecting the safety, reliable operation, and balancing of its electric system; (~~and~~

~~(g))~~ (k) An assessment, informed by the cumulative impact analysis conducted under section 24 of this act, of: Energy and nonenergy benefits and reductions of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and risk; and

(l) A (~~short term plan identifying~~) ten-year clean energy action plan for implementing sections 3 through 5 of this act at the lowest reasonable cost, and at an acceptable

resource adequacy standard, that identifies the specific actions to be taken by the utility consistent with the long-range integrated resource plan.

(2) For an investor-owned utility, the clean energy action plan must: (a) Identify and be informed by the utility's ten-year cost-effective conservation potential assessment as determined under RCW 19.285.040, if applicable; (b) establish a resource adequacy requirement; (c) identify the potential cost-effective demand response and load management programs that may be acquired; (d) identify renewable resources, nonemitting electric generation, and distributed energy resources that may be acquired and evaluate how each identified resource may be expected to contribute to meeting the utility's resource adequacy requirement; (e) identify any need to develop new, or expand or upgrade existing, bulk transmission and distribution facilities; and (f) identify the nature and possible extent to which the utility may need to rely on alternative compliance options under section 4(1)(b) of this act, if appropriate.

(3)(a) An electric utility shall consider the social cost of greenhouse gas emissions, as determined by the commission for investor-owned utilities pursuant to section 15 of this act and the department for consumer-owned utilities, when developing integrated resource plans and clean energy action plans. An electric utility must incorporate the social cost of greenhouse gas emissions as a cost adder when:

(i) Evaluating and selecting conservation policies, programs, and targets;

(ii) Developing integrated resource plans and clean energy action plans; and

(iii) Evaluating and selecting intermediate term and long-term resource options.

(b) For the purposes of this subsection (3): (i) Gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters must be considered a nonemitting resource; and (ii) qualified biomass energy must be considered a nonemitting resource.

(4) To facilitate broad, equitable, and efficient implementation of this act, a consumer-owned energy utility may enter into an agreement with a joint operating agency organized under chapter 43.52 RCW or other nonprofit organization to develop and implement a joint clean energy action plan in collaboration with other utilities.

(5) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

(a) Estimates loads for the next five and ten years;

(b) Enumerates the resources that will be maintained and/or acquired to serve those loads; ~~(and)~~

(c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not: (i) Renewable resources; (ii) methods, commercially available technologies, or facilities for integrating renewable

resources, including addressing any overgeneration event; or (iii) conservation and efficiency resources, why such a decision was made; and

(d) By December 31, 2020, and in every resource plan thereafter, identifies how the utility plans over a ten-year period to implement sections 4 and 5 of this act.

~~((3))~~ (6) Assessments for demand side resources included in an integrated resource plan may include combined heat and power systems as one of the measures in a conservation supply curve. The value of recoverable waste heat resulting from combined heat and power must be reflected in analyses of cost-effectiveness under this subsection.

~~((4))~~ (7) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

~~((5) Resource)~~ (8) Plans developed under this section must be updated on a regular basis, on intervals approved by the commission or the department, or at a minimum on intervals of two years.

~~((6))~~ (9) Plans shall not be a basis to bring legal action against electric utilities.

~~((7))~~ (10)(a) To maximize transparency, the commission, for investor-owned utilities, or the governing body, for consumer-owned utilities, may require an electric utility to make the utility's data input files available in a native format. Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

(b) Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095.

(11) By December 31, 2021, the department and the commission must adopt rules establishing the requirements for incorporating the cumulative impact analysis developed under section 24 of this act into the criteria for developing clean energy action plans under this section.

**NEW SECTION. Sec. 15.** A new section is added to chapter 80.28 RCW to read as follows:

For the purposes of this act, the cost of greenhouse gas emissions resulting from the generation of electricity, including the effect of emissions, is equal to the cost per metric ton of carbon dioxide equivalent emissions, using the two and one-half percent discount rate, listed in table 2, technical support document: Technical update of the social cost of carbon for regulatory impact analysis under Executive Order No. 12866, published by the interagency working group on social cost of greenhouse gases of the United States government, August 2016. The commission must adjust the costs established in this section to reflect the effect of inflation.

**Sec. 16.** RCW 80.84.010 and 2016 c 220 s 1 are each amended to read as follows:

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

(1) "Eligible coal plant" means a coal-fired electric generation facility that: (a) ~~((Had two or fewer generating units as of January 1, 1980, and four generating units as of January 1, 2016; (b)))~~ Is owned in whole or in part by more than one electrical company as of January 1, 2016; and ~~((e))~~ (b) provides, as a portion of the load served by the coal-fired electric generation facility, electricity paid for in rates by customers in the state of Washington.

(2) "Eligible coal unit" means any generating unit of an eligible coal plant.

**NEW SECTION. Sec. 17.** This section is the tax preference performance statement for the tax preferences contained in sections 18 and 19, chapter . . . , Laws of 2019 (sections 18 and 19 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to reduce the amount of carbon dioxide emissions in Washington. It is the legislature's intent to extend the expiration date of and expand the existing sales and use tax exemption for machinery and equipment used directly in generating certain types of alternative energy, in order to reduce the price charged to customers for that machinery and equipment, thereby inducing some customers to buy machinery and equipment for alternative energy when they might not otherwise, thereby displacing electricity from fossil-fueled generating resources, thereby reducing the amount of carbon dioxide emissions in Washington. It is also the intent of the legislature to maximize cost savings associated with clean energy construction for Washington electric customers by encouraging development of these resources in time for projects to benefit from both this incentive and expiring federal incentives.

(3) It is also the legislature's specific public policy objective to provide an incentive for more of the projects that meet the objectives of subsection (2) of this section to be constructed with high labor standards, including family level wages and providing benefits including health care and pensions, as well as maximizing access to economic benefits from such projects for local workers and diverse businesses.

(4) The joint legislative audit and review committee is not required to perform a tax preference review under chapter 43.136 RCW for the tax preferences contained in sections 18 and 19, chapter . . . , Laws of 2019 (sections 18 and 19 of this act) and it is the intent of the legislature to allow the tax preferences to expire upon their scheduled expiration dates.

**Sec. 18.** RCW 82.08.962 and 2018 c 164 s 5 are each amended to read as follows:

(1)(a) ~~((Except as provided in RCW 82.08.963, purchasers who have paid))~~ Subject to the requirement of this section, the tax imposed by RCW 82.08.020 ~~((e))~~ does not apply to sales of machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, as the principal source of power, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, ~~((are eligible for an exemption as provided in this section,))~~ but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts AC of electricity. Except as otherwise provided in this section, the purchaser must pay the state and local sales tax on such sales and apply to the department for a remittance of the tax paid.

(b) Beginning on July 1, 2011, through ~~((January 1, 2020))~~ December 31, 2019, the amount of the exemption under this subsection (1)(b) is equal to seventy-five percent of the state and local sales tax paid. The purchaser is eligible for an exemption under this subsection (1)(b) in the form of a remittance.

(c) Beginning January 1, 2020, through December 31, 2029, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (1)(c) in an amount equal to:

(i) Fifty percent of the state and local sales tax paid, if:

(A) The exempt purchase is for machinery and equipment or labor and services rendered in respect to installing such machinery and equipment in (a) of this subsection, excluding qualified purchases under subsection (c)(i)(B) of this subsection, and the department of labor and industries certifies that the project includes: Procurement from and contracts with women, minority, or veteran-owned businesses; procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations; apprenticeship utilization; and preferred entry for workers living in the area where the project is being constructed. In the event that a project is built without one or more of these standards, and a project developer or its designated principal contractor demonstrates that it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with that standard; or

(B) The exempt purchase is for machinery and equipment that is used directly in the generation of electricity by a solar energy system capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, and labor and services rendered in respect to installing such machinery and equipment, and the department of labor and industries certifies that the project has met the requirements of (c)(i)(A) of this subsection, and the purchaser provides the following documentation to the department as part of the application for a remittance:

(I) A copy of the contractor's certificate of registration in compliance with chapter 18.27 RCW;

(II) The contractor's current state unified business identifier number;

(III) A copy of the contractor's proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(IV) Documentation of the contractor's history of compliance with federal and state wage and hour laws and regulations;

(ii) Seventy-five percent of the state and local sales tax paid, if the department of labor and industries certifies that the project complies with (c)(i)(A) and (B) of this subsection and compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries. This subsection (1)(c)(ii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection; or

(iii) One hundred percent of the state and local sales tax paid, if the department of labor and industries certifies that the project is developed under a community workforce agreement or project labor agreement. This subsection (1)(c)(iii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection.

(d) In order to qualify for the remittance under (c) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

(e) Beginning January 1, 2020, and through December 31, 2029, the purchaser is entitled to an exemption under this subsection (1)(e) in an amount equal to one hundred percent of the state and local sales tax due on:

(i) Machinery and equipment that is used directly in the generation of electricity by a solar energy system that is capable of generating no more than one hundred kilowatts AC of electricity; or

(ii) Labor and services rendered in respect to installing machinery and equipment exempt under (e)(i) of this subsection, and the seller meets the following requirements at the time of the sale for which the exemption is claimed:

(A) Has obtained a certificate of registration in compliance with chapter 18.27 RCW;

(B) Has obtained a current state unified business identifier number;

(C) Possesses proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(D) Has not been found by any administrative agency or court of competent jurisdiction to have violated federal and state wage and hours laws and regulations.

(f) Purchasers claiming an exemption under (e) of this subsection must provide the seller with an exemption certificate in a form and manner prescribed by the department.

(g) In order to qualify for the exemption under (e)(ii) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than July 1, 2019, and be completed by December 31, 2029.

(2) The department of labor and industries must initiate an emergency rule making on the effective date of this section to be completed by December 1, 2019, to:

(a) Define and set minimum requirements for all labor standards identified in subsection (1)(c) of this section; and

(b) Set requirements for all good faith efforts under subsection (1)(c)(i) and (ii) of this section, as well as documentation requirements and a certification process. Requirements for all good faith efforts must be designed to maximize the likelihood that the project is completed with said standards and could include: Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms; participating in community job fairs, conferences, and trade shows; and other measures. The certification process and timeline must be designed to prevent undue delay to project development.

(3) For purposes of this section and RCW 82.12.962, the following definitions apply:

(a) "Biomass energy" includes: (i) By-products of pulping and wood manufacturing process; (ii) animal waste; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) wooden demolition or construction debris; (vi) food waste; (vii) liquors derived from algae and other sources; (viii) dedicated energy crops; (ix) biosolids; and (x) yard waste. "Biomass energy" does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests; or municipal solid waste.

(b) "Fuel cell" means an electrochemical reaction that generates electricity by combining atoms of hydrogen and oxygen in the presence of a catalyst.

(c)(i) "Machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust.

(ii) "Machinery and equipment" does not include: (A) Hand-powered tools; (B) property with a useful life of less than one year; (C) repair parts required to restore machinery and equipment to normal working order; (D) replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and

equipment; (E) buildings; or (F) building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

~~((3))~~ (d) "Project labor agreement" and "community workforce agreement" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f).

(4)(a) Machinery and equipment is "used directly" in generating electricity by wind energy, solar energy, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust if it provides any part of the process that captures the energy of the wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(b) Machinery and equipment is "used directly" in generating electricity by fuel cells if it provides any part of the process that captures the energy of the fuel, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

~~((4))~~ (5)(a)(i) A purchaser claiming an exemption in the form of a remittance under subsection (1)(b) or (c) of this section must pay the tax imposed by RCW 82.08.020 and all applicable local sales taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The purchaser may then apply to the department for remittance in a form and manner prescribed by the department. A purchaser may not apply for a remittance under this section more frequently than once per quarter. The purchaser must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The purchaser must retain, in adequate detail, records to enable the department to determine whether the purchaser is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(ii) The application for remittance must include a copy of the certificate issued for the project by the department of labor and industries as prescribed by rule under subsection (2) of this section.

(b) The department must determine eligibility under this section based on the information provided by the purchaser, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying purchasers who submitted applications during the previous quarter.

~~((5) The exemption provided by this section expires September 30, 2017, as it applies to: (a))~~ (6)(a) Except as otherwise provided in (c) of this subsection, from October 1, 2017, through December 31, 2019, the exemption provided by this section does not apply to: (i) Machinery and

equipment that is used directly in the generation of electricity using solar energy and capable of generating no more than five hundred kilowatts AC of electricity; or ~~((b))~~ (ii) sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

(b) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if installation of the machinery and equipment commences on or after July 1, 2019.

(c) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating no more than one hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if installation of the machinery and equipment commences on or after January 1, 2020.

~~((6))~~ (7) This section expires January 1, ~~((2020))~~ 2030.

**Sec. 19.** RCW 82.12.962 and 2018 c 164 s 7 are each amended to read as follows:

(1)(a) ~~((Except as provided in RCW 82.12.963, consumers who have paid))~~ Subject to the requirements of this section, the tax imposed by RCW 82.12.020 ~~((or))~~ does not apply to machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, or to ~~((sales of or charges made for))~~ labor and services rendered in respect to installing such machinery and equipment, ~~((are eligible for an exemption as provided in this section,))~~ but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts AC of electricity. Except as otherwise provided in this section, the consumer must pay the state and local use tax on the use of such machinery and equipment and labor and services, and apply to the department for a remittance of the tax paid.

(b) Beginning on July 1, 2011, through ~~((January 1, 2020))~~ December 31, 2019, the amount of the exemption under this subsection (1) is equal to seventy-five percent of the state and local ~~((sales))~~ use tax paid. The consumer is eligible for an exemption under this subsection (1)(b) in the form of a remittance.

~~((2))~~ (c) Beginning January 1, 2020, through December 31, 2029, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (1)(c) in an amount equal to:

(i) Fifty percent of the state and local use tax paid, if:

(A) The exempt purchase is for machinery and equipment or labor and services rendered in respect to installing such machinery and equipment in (a) of this subsection, excluding qualified purchases under (c)(i)(B) of

this subsection, and the department of labor and industries certifies that the project includes: Procurement from and contracts with women, minority, or veteran-owned businesses; procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations; apprenticeship utilization; and preferred entry for workers living in the area where the project is being constructed. In the event that a project is built without one or more of these standards, and a project developer or its designated principal contractor demonstrates that it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with that standard; or

(B) The exempt purchase is for machinery and equipment that is used directly in the generation of electricity by a solar energy system capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, or labor and services rendered in respect to installing such machinery and equipment, and the department of labor and industries certifies that the project has met the requirements of (c)(i)(A) of this subsection, and the purchaser has provided the following documentation to the department as part of the application for a remittance:

(I) A copy of the contractor's certificate of registration in compliance with chapter 18.27 RCW;

(II) The contractor's current state unified business identifier number;

(III) A copy of the contractor's proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(IV) Documentation of the contractor's history of compliance with federal and state wage and hour laws and regulations;

(ii) Seventy-five percent of the state and local use tax paid, if the department of labor and industries certifies that the project complies with (c)(i)(A) of this subsection and compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries. This subsection (1)(c)(ii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection; or

(iii) One hundred percent of the state and local use tax paid, if the department of labor and industries certifies that the project is developed under a community workforce agreement or project labor agreement. This subsection (1)(c)(iii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection.

(d) In order to qualify for the remittance under (c) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

(e) Beginning July 1, 2019, and through December 31, 2029, the consumer is entitled to an exemption under this subsection (1)(e) in an amount equal to one hundred percent of the state and local use tax due on:

(i) Machinery and equipment that is used directly in the generation of electricity by a solar energy system that is capable of generating no more than one hundred kilowatts AC of electricity; or

(ii) Labor and services rendered in respect to installing machinery and equipment exempt under (e)(i) of this subsection, and the seller meets the following requirements at the time of the purchase for which the exemption is claimed:

(A) Has obtained a certificate of registration in compliance with chapter 18.27 RCW;

(B) Has obtained a current state unified business identifier number;

(C) Possesses proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(D) Has not been found by any administrative agency or court of competent jurisdiction to have violated federal and state wage and hours laws and regulations.

(f) In order to qualify for the exemption under (e)(ii) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than July 1, 2019, and be completed by December 31, 2029.

(2) The department of labor and industries must initiate an emergency rule making on the effective date of this section to be completed by December 1, 2019, to:

(a) Define and set minimum requirements for all labor standards identified in subsection (1)(c) of this section; and

(b) Set requirements for all good faith efforts under subsection (1)(c)(i) and (ii) of this section, as well as documentation requirements and a certification process. Requirements for all good faith efforts must be designed to maximize the likelihood that the project is completed with said standards and could include: Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms; participating in community job fairs, conferences, and trade shows; and other measures. The certification process and timeline must be designed to prevent undue delay to project development.

(3)(a)(i) A person claiming an exemption in the form of a remittance under subsection (1)(b) and (c) of this section must pay the tax imposed by RCW 82.12.020 and all applicable local use taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The consumer may then apply to the department for remittance in a form and manner prescribed by the department. A consumer may not apply for a remittance under this section more frequently than once per quarter. The consumer must specify the amount of exempted

tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The consumer must retain, in adequate detail, records to enable the department to determine whether the consumer is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(ii) The application for remittance must include a copy of the certificate issued for the project by the department of labor and industries under subsection (1) of this section.

(b) The department must determine eligibility for remittances under this section based on the information provided by the consumer, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying consumers who submitted applications during the previous quarter.

~~((3))~~ (4) Purchases exempt under RCW 82.08.962 are also exempt from the tax imposed under RCW 82.12.020.

~~((4))~~ (5) The definitions in RCW 82.08.962 apply to this section.

~~((5))~~ (6) The exemption provided in subsection (1) of this section does not apply:

(a) To machinery and equipment used directly in the generation of electricity using solar energy and capable of generating no more than five hundred kilowatts AC of electricity, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after September 30, 2017, and before January 1, 2020, except as otherwise provided in subsection (7) of this section; and

(b) To any other machinery and equipment described in subsection (1)(a) of this section, or to sales of or charges made for labor and services rendered in respect to installing such machinery or equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after December 31, ~~((2019))~~ 2029.

~~((6))~~ (7)(a) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if first use within the state of the machinery and equipment commences on or after January 1, 2020.

(b) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating no more than one hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if first use within the state of the machinery and equipment commences on or after January 1, 2020.

(8) This section expires January 1, ~~((2020))~~ 2030.

**Sec. 20.** RCW 80.04.250 and 2011 c 214 s 9 are each amended to read as follows:

(1) The provisions of this section are necessary to ensure that the commission has sufficient flexible authority to determine the value of utility property for rate making purposes and to implement the requirements and full intent of this act.

(2) The commission has power upon complaint or upon its own motion to ascertain and determine the fair value for rate making purposes of the property of any public service company used and useful for service in this state by or during the rate effective period and shall exercise such power whenever it deems such valuation or determination necessary or proper under any of the provisions of this title. ~~((In determining what property is used and useful for providing electric, gas, wastewater company services, or water service, the commission may include the reasonable costs of construction work in progress to the extent that the commission finds that inclusion is in the public interest.~~

~~((2))~~ The valuation may include consideration of any property of the public service company acquired or constructed by or during the rate effective period, including the reasonable costs of construction work in progress, to the extent that the commission finds that such an inclusion is in the public interest and will yield fair, just, reasonable, and sufficient rates.

(3) The commission may provide changes to rates under this section for up to forty-eight months after the rate effective date using any standard, formula, method, or theory of valuation reasonably calculated to arrive at fair, just, reasonable, and sufficient rates. The commission must establish an appropriate process to identify, review, and approve public service company property that becomes used and useful for service in this state after the rate effective date.

(4) The commission has the power to make revaluations of the property of any public service company from time to time.

~~((3))~~ (5) The commission shall, before any hearing is had, notify the complainants and the public service company concerned of the time and place of such hearing by giving at least thirty days' written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of ascertaining the value of the company's property, used and useful as aforesaid, which notice must be sufficient to authorize the commission to inquire into and pass upon the matters designated in this section.

(6) Nothing in this section limits the commission's authority to consider and implement performance and incentive-based regulation, multiyear rate plans, and other flexible regulatory mechanisms.

**NEW SECTION. Sec. 21.** A new section is added to chapter 80.28 RCW to read as follows:

(1) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with major projects in the electrical company's clean energy implementation plan pursuant to RCW 19.280.030(1)(1), or selected in the electrical company's

solicitation of bids for delivering electric capacity, energy, capacity and energy, or conservation. The deferral in this subsection begins with the date on which the resource begins commercial operation or the effective date of the power purchase agreement and continues for a period not to exceed thirty-six months. However, if during such a period the electrical company files a general rate case or other proceeding for the recovery of such costs, deferral ends on the effective date of the final decision by the commission in such a proceeding. Creation of such a deferral account does not by itself determine the actual costs of the resource or power purchase agreement, whether recovery of any or all of these costs is appropriate, or other issues to be decided by the commission in a general rate case or other proceeding.

(2) The costs that an electrical company may account for and defer for later consideration by the commission pursuant to subsection (1) of this section include all operating and maintenance costs, depreciation, taxes, cost of capital associated with the applicable resource or the execution of a power purchase agreement. Such costs of capital include:

(a) The electrical company's authorized return on equity for any resource acquired or developed by the electrical company; or

(b) For the duration of a power purchase agreement, a rate of return of no less than the authorized cost of debt and no greater than the authorized rate of return of the electrical company, which would be multiplied by the operating expense incurred by the electrical company under the power purchase agreement.

**Sec. 22.** RCW 43.21F.090 and 1996 c 186 s 106 are each amended to read as follows:

(1) The department shall review the state energy strategy (as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws of 1991.) by December 31, 2020, and at least once every eight years thereafter, subject to funding provided for this purpose, for the purpose of aligning the state energy strategy with the requirements of RCW 43.21F.088 and chapters 19.285 and 19.--- RCW (the new chapter created in section 27 of this act), and the emission reduction targets recommended by the department of ecology under RCW 70.235.040. The department must establish an energy strategy advisory committee for each review to provide guidance to the department in conducting the review. The membership of the energy strategy advisory committee must consist of the following:

(a) One person recommended by investor-owned electric utilities;

(b) One person recommended by investor-owned natural gas utilities;

(c) One person employed by or recommended by a natural gas pipeline serving the state;

(d) One person recommended by suppliers of petroleum products;

(e) One person recommended by municipally owned electric utilities;

(f) One person recommended by public utility districts;

(g) One person recommended by rural electrical cooperatives;

(h) One person recommended by industrial energy users;

(i) One person recommended by commercial energy users;

(j) One person recommended by agricultural energy users;

(k) One person recommended by the association of Washington cities;

(l) One person recommended by the Washington association of counties;

(m) One person recommended by Washington Indian tribes;

(n) One person recommended by businesses in the clean energy industry;

(o) One person recommended by labor unions;

(p) Two persons recommended by civic organizations, one of which must be a representative of a civic organization that represents vulnerable populations;

(q) Two persons recommended by environmental organizations;

(r) One person representing independent power producers;

(s) The chair of the energy facility site evaluation council or the chair's designee;

(t) One of the representatives of the state of Washington to the Pacific Northwest electric power and conservation planning council selected by the governor;

(u) The chair of the utilities and transportation commission or the chair's designee;

(v) One member from each of the two largest caucuses of the house of representatives selected by the speaker of the house of representatives; and

(w) One member from each of the two largest caucuses of the senate selected by the president of the senate.

(2) The chair of the advisory committee must be appointed by the governor from citizen members. The director may establish technical advisory groups as necessary to assist in the development of the strategy. The director shall provide for extensive public involvement throughout the development of the strategy.

(3) Upon completion of a public hearing regarding the advisory committee's advice and recommendations for

revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. ~~((Any))~~ The energy strategy advisory committee established under this section ~~((shall))~~ must be dissolved within three months after their written report is conveyed.

**NEW SECTION. Sec. 23.** (1) By January 1, 2020, the department of commerce must convene an energy and climate policy advisory committee to develop recommendations to the legislature for the coordination of existing resources, or the establishment of new ones, for the purposes of examining the costs and benefits of energy-related policies, programs, functions, activities, and incentives on an on-going basis and conducting other energy-related studies and analyses as may be directed by the legislature.

(2) The advisory committee convened under this section must consist of, at minimum, representatives of each the state's public four-year institutions of higher education, the Pacific Northwest National Laboratory, and the Washington state institute for public policy.

(3) Subject to the availability of amounts appropriated for this specific purpose, and in compliance with RCW 43.01.036, the department of commerce must submit its recommendations in a report to the legislature by December 31, 2020.

(4) This section expires January 1, 2021.

**NEW SECTION. Sec. 24.** By December 31, 2020, the department of health must develop a cumulative impact analysis to designate the communities highly impacted by fossil fuel pollution and climate change in Washington. The cumulative impact analysis may integrate with and build upon other concurrent cross-agency efforts in developing a cumulative impact analysis and population tracking resources used by the department of health and analysis performed by the University of Washington department of environmental and occupational health sciences.

**NEW SECTION. Sec. 25.** (1) The legislature finds that based on current technology, there will likely need to be upgrades to electricity transmission and distribution infrastructure across the state to meet the goals specified in this act. These facilities require a significant planning horizon to deliver electricity generation sites to retail electric load. Pursuant to RCW 80.50.040, the energy facility site evaluation council chair shall convene a transmission corridors work group and report its findings to the governor and the appropriate committees of the legislature by December 31, 2022.

(2) The work group must include one representative from each of the following state agencies: The department of commerce, the utilities and transportation commission, the department of ecology, the department of fish and wildlife, the department of natural resources, the department of transportation, the department of archaeology and historic preservation, and the state military department. The work group shall also include two representatives designated by the association of Washington cities, one from central or eastern Washington and one from western Washington; two

representatives designated by the Washington state association of counties, one from central or eastern Washington and one from western Washington; two members designated by sovereign tribal governments; one member representing affected utility industries; one member representing public utility districts; and two members representing statewide environmental organizations. The energy facility site evaluation council chair shall invite the Bonneville power administration and the United States department of defense to each appoint an ex officio work group member.

(3) The work group shall:

(a) Review the need for upgraded and new electricity transmission and distribution facilities to improve reliability, relieve congestion, and enhance the capability of the transmission and distribution facilities in the state to deliver electricity from electric generation, nonemitting electric generation, or renewable resources to retail electric load;

(b) Identify areas where transmission and distribution facilities may need to be enhanced or constructed; and

(c) Identify environmental review options that may be required to complete the designation of such corridors and recommend ways to expedite review of transmission projects without compromising required environmental protection.

(4) The energy facility site evaluation council may contract services to assist in the work group efforts.

(5) This section expires January 1, 2023.

**NEW SECTION. Sec. 26.** This chapter may be known and cited as the Washington clean energy transformation act.

**NEW SECTION. Sec. 27.** Sections 1 through 13 and 26 of this act constitute a new chapter in Title 19 RCW.

**Sec. 28.** RCW 19.285.030 and 2017 c 315 s 1 are each amended to read as follows:

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

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for qualifying utilities under its jurisdiction that are not investor-owned utilities; or (b) an independent auditor selected by a qualifying utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(3)(a) "Biomass energy" includes: (i) Organic by-products of pulping and the wood manufacturing process; (ii) animal manure; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) untreated wooden demolition or construction debris; (vi) food waste and food processing residuals; (vii) liquors derived from algae; (viii) dedicated energy crops; and (ix) yard waste.

(b) "Biomass energy" does not include: (i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth forests; or (iii) municipal solid waste.

(4) "Coal transition power" has the same meaning as defined in RCW 80.80.010.

(5) "Commission" means the Washington state utilities and transportation commission.

(6) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(7) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(8) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(9) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(10) "Department" means the department of commerce or its successor.

(11) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than five megawatts.

(12) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services;

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest where the additional generation does not result in new water diversions or impoundments;

(c) Hydroelectric generation from a project completed after March 31, 1999, where the generation facility is located in irrigation pipes, irrigation canals, water pipes whose primary purpose is for conveyance of water for municipal use, and wastewater pipes located in Washington where the generation does not result in new water diversions or impoundments;

(d) Qualified biomass energy;

(e) For a qualifying utility that serves customers in other states, electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located within a state in which the qualifying utility serves retail electrical customers; and (ii) the qualifying utility owns the facility in whole or in part or has a long-term

contract with the facility of at least twelve months or more; ~~((e\*))~~

(f)(i) Incremental electricity produced as a result of a capital investment completed after January 1, 2010, that increases, relative to a baseline level of generation prior to the capital investment, the amount of electricity generated in a facility that generates qualified biomass energy as defined under subsection (18)(c)(ii) of this section and that commenced operation before March 31, 1999.

(ii) Beginning January 1, 2007, the facility must demonstrate its baseline level of generation over a three-year period prior to the capital investment in order to calculate the amount of incremental electricity produced.

(iii) The facility must demonstrate that the incremental electricity resulted from the capital investment, which does not include expenditures on operation and maintenance in the normal course of business, through direct or calculated measurement;

(g) That portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a qualifying utility's share of the electricity output from hydroelectric generation projects whose energy output is marketed by the Bonneville power administration where the additional generation does not result in new water diversions or impoundments; or

(h) The environmental attributes, including renewable energy credits, from (g) of this subsection transferred to investor-owned utilities pursuant to the Bonneville power administration's residential exchange program.

(13) "Investor-owned utility" has the same meaning as defined in RCW 19.29A.010.

(14) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers.

(15)(a) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(b) "Nonpower attributes" does not include any aspects, claims, characteristics, and benefits associated with the on-site capture and destruction of methane or other greenhouse gases at a facility through a digester system, landfill gas collection system, or other mechanism, which may be separately marketable as greenhouse gas emission reduction credits, offsets, or similar tradable commodities. However, these separate avoided emissions may not result in or otherwise have the effect of attributing greenhouse gas emissions to the electricity.

(16) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest electric power planning and conservation act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(17) "Public facility" has the same meaning as defined in RCW 39.35C.010.

(18) "Qualified biomass energy" means electricity produced from a biomass energy facility that: (a) Commenced operation before March 31, 1999; (b) contributes to the qualifying utility's load; and (c) is owned either by: (i) A qualifying utility; or (ii) an industrial facility that is directly interconnected with electricity facilities that are owned by a qualifying utility and capable of carrying electricity at transmission voltage.

(19) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington. The number of customers served may be based on data reported by a utility in form 861, "annual electric utility report," filed with the energy information administration, United States department of energy.

(20) "Renewable energy credit" means a tradable certificate of proof of ~~((at least))~~ one megawatt-hour of an eligible renewable resource ~~((where the generation facility is not powered by freshwater))~~. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

(21) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel ~~((as defined in RCW 82.29A.135))~~ that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; or (i) biomass energy.

(22) "Rule" means rules adopted by an agency or other entity of Washington state government to carry out the intent and purposes of this chapter.

(23) "Year" means the twelve-month period commencing January 1st and ending December 31st.

**Sec. 29.** RCW 19.285.040 and 2017 c 315 s 2 are each amended to read as follows:

(1) Each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible.

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in the most recently published regional power plan as it existed on June 12, 2014, or a subsequent date as may be provided by the department or the commission by rule, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. Nothing in the rule adopted under this subsection precludes a qualifying utility from using its utility specific conservation measures, values,

and assumptions in identifying its achievable cost-effective conservation potential. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.

(b) Beginning January 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period.

(c)(i) Except as provided in (c)(ii) and (iii) of this subsection, beginning on January 1, 2014, cost-effective conservation achieved by a qualifying utility in excess of its biennial acquisition target may be used to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty percent of any biennial target may be met with excess conservation savings.

(ii) Beginning January 1, 2014, a qualifying utility may use single large facility conservation savings in excess of its biennial target to meet up to an additional five percent of the immediately subsequent two biennial acquisition targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined. For the purposes of this subsection (1)(c)(ii), "single large facility conservation savings" means cost-effective conservation savings achieved in a single biennial period at the premises of a single customer of a qualifying utility whose annual electricity consumption prior to the conservation savings exceeded five average megawatts.

(iii) Beginning January 1, 2012, and until December 31, 2017, a qualifying utility with an industrial facility located in a county with a population between ninety-five thousand and one hundred fifteen thousand that is directly interconnected with electricity facilities that are capable of carrying electricity at transmission voltage may use cost-effective conservation from that industrial facility in excess of its biennial acquisition target to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined.

(d) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output. The reduction in load due to high-efficiency cogeneration shall be: (i) Calculated as the ratio of the fuel chargeable to power heat rate of the cogeneration facility compared to the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine; and (ii) counted towards meeting the biennial

conservation target in the same manner as other conservation savings.

(e) The commission may determine if a conservation program implemented by an investor-owned utility is cost-effective based on the commission's policies and practice.

(f) The commission may rely on its standard practice for review and approval of investor-owned utility conservation targets.

(2)(a) Except as provided in (j) of this subsection, each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or any combination of them, to meet the following annual targets:

(i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least nine percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least fifteen percent of its load by January 1, 2020, and each year thereafter.

(b) A qualifying utility may count distributed generation at double the facility's electrical output if the utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

(c) In meeting the annual targets in (a) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.

(d) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than coal transition power or renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

~~(e) (The requirements of this section may be met for any given year with renewable energy credits produced during that year, the preceding year, or the subsequent year. Each renewable energy credit may be used only once to meet the requirements of this section.)~~ A qualifying utility may use renewable energy credits to meet the requirements of this section, subject to the limitations of this subsection.

(i) A renewable energy credit from electricity generated by a resource other than freshwater may be used to meet a requirement applicable to the year in which the credit was created, the year before the year in which the credit was created, or the year after the year in which the credit was created.

(ii) A renewable energy credit from electricity generated by freshwater:

(A) May only be used to meet a requirement applicable to the year in which the credit was created; and

(B) Must be acquired by the qualifying utility through ownership of the generation facility or through a transaction that conveyed both the electricity and the nonpower attributes of the electricity.

(iii) A renewable energy credit transferred to an investor-owned utility pursuant to the Bonneville power administration's residential exchange program may not be used by any utility other than the utility receiving the credit from the Bonneville power administration.

(iv) Each renewable energy credit may only be used once to meet the requirements of this section and must be retired using procedures of the renewable energy credit tracking system.

(f) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; or

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090.

(g) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit shall be considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

(h)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

(i) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

(j)(i) Beginning January 1, 2016, only a qualifying utility that owns or is directly interconnected to a qualified biomass energy facility may use qualified biomass energy to meet its compliance obligation under this subsection.

(ii) A qualifying utility may no longer use electricity and associated renewable energy credits from a qualified biomass energy facility if the associated industrial pulping or wood manufacturing facility ceases operation other than for purposes of maintenance or upgrade.

(k) An industrial facility that hosts a qualified biomass energy facility may only transfer or sell renewable energy credits associated with qualified biomass energy generated at its facility to the qualifying utility with which it is directly interconnected with facilities owned by such a qualifying utility and that are capable of carrying electricity at transmission voltage. The qualifying utility may only use an amount of renewable energy credits associated with qualified biomass energy that are equivalent to the proportionate amount of its annual targets under (a)(ii) and (iii) of this subsection that was created by the load of the industrial facility. A qualifying utility that owns a qualified biomass energy facility may not transfer or sell renewable energy credits associated with qualified biomass energy to another person, entity, or qualifying utility.

(l) Beginning January 1, 2020, a qualifying utility may use eligible renewable resources as identified under RCW 19.285.030(12) (g) and (h) to meet its compliance obligation under this subsection (2). A qualifying utility may not transfer or sell these eligible renewable resources to another utility for compliance purposes under this chapter.

(m) Beginning January 1, 2030, a qualifying utility is considered to be in compliance with an annual target in (a) of this subsection if the utility uses electricity from: (i) Renewable resources and renewable energy credits as defined in RCW 19.285.030; and (ii) nonemitting electric generation as defined in section 2 of this act, in an amount equal to one hundred percent of the utility's average annual retail electric load. Nothing in this subsection relieves the requirements of a qualifying utility to comply with subsection (1) of this section.

(3) Utilities that become qualifying utilities after December 31, 2006, shall meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006.

**NEW SECTION. Sec. 30.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 31.** 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.

Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sullivan; Stanford; Springer; Senn; Ryu; Pollet; Pettigrew; Macri; Jenkins; Hudgins; Hansen;

Fitzgibbon; Dolan; Cody; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Steele; Schmick; Mosbrucker; Kraft; Hoff; Dye; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Sutherland and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

**SSB 5135**

Prime Sponsor, Committee on Environment, Energy & Technology: Preventing toxic pollution that affects public health or the environment. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Environment & Energy. Signed by Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Cody; Dolan; Fitzgibbon; Hansen; Hudgins; Jenkins; Macri; Pettigrew; Pollet; Ryu; Senn; Stanford; Sullivan; Tarleton and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Sutherland; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Dye; Hoff; Kraft; Mosbrucker; Schmick; Steele and Ybarra.

MINORITY recommendation: Without recommendation. Signed by Representative Springer.

Referred to Committee on Rules for second reading.

April 6, 2019

**SSB 5151**

Prime Sponsor, Committee on Local Government: Requiring the growth management hearings board to topically index the rulings, decisions, and orders it publishes. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment & Energy.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.21B.005 and 2018 c 22 s 10 are each amended to read as follows:

(1) There is created an environmental and land use hearings office of the state of Washington. The environmental and land use hearings office consists of the pollution control hearings board created in RCW

43.21B.010, the shorelines hearings board created in RCW 90.58.170, and the growth management hearings board created in RCW 36.70A.250. The governor shall designate one of the members of the pollution control hearings board or growth management hearings board to be the director of the environmental and land use hearings office during the term of the governor. Membership, powers, functions, and duties of the pollution control hearings board, the shorelines hearings board, and the growth management hearings board shall be as provided by law.

(2) The director of the environmental and land use hearings office may appoint one or more administrative appeals judges in cases before the environmental boards and, with the consent of the chair of the growth management hearings board, one or more hearing examiners in cases before the land use board comprising the office. The administrative appeals judges shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. The hearing examiners possess the powers and duties provided for in RCW 36.70A.270.

(3) Administrative appeals judges are not subject to chapter 41.06 RCW. The administrative appeals judges appointed under subsection (2) of this section are subject to discipline and termination, for cause, by the director of the environmental and land use hearings office. Upon written request by the person so disciplined or terminated, the director of the environmental and land use hearings office shall state the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(4) The director of the environmental and land use hearings office may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

(5) The director of the environmental and land use hearings office may also contract for required services.

(6) The director of the environmental and land use hearings office must ensure that timely and accurate growth management hearings board rulings, decisions, and orders are made available to the public through searchable databases accessible through the environmental and land use hearings office web sites. To ensure uniformity and usability of searchable databases and web sites, the director must coordinate with the growth management hearings board, the department of commerce, and other interested stakeholders to develop and maintain a rational system of categorizing growth management hearings board rulings, decisions, and orders. The environmental and land use hearings office web sites must allow a user to search growth management hearings board decisions and orders by topic, party, and geographic location or by natural language. All rulings, decisions, and orders issued before January 1, 2019, must be published by June 30, 2021.

**Sec. 2.** RCW 36.70A.270 and 2010 c 211 s 6 and 2010 c 210 s 16 are each reenacted and amended to read as follows:

The growth management hearings board shall be governed by the following rules on conduct and procedure:

(1) Any board member may be removed for inefficiency, malfeasance, and misfeasance in office, under specific written charges filed by the governor. The governor shall transmit such written charges to the member accused and the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Removal of any member of the board by the tribunal shall disqualify such member for reappointment.

(2) Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060. Each member shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. The principal office of the board shall be located in Olympia.

(3) Each board member shall not: (a) Be a candidate for or hold any other public office or trust; (b) engage in any occupation or business interfering with or inconsistent with his or her duty as a board member; and (c) for a period of one year after the termination of his or her board membership, act in a representative capacity before the board on any matter.

(4) A majority of the board shall constitute a quorum for adopting rules necessary for the conduct of its powers and duties or transacting other official business, and may act even though one position of the board is vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

(5) The board may use one or more hearing examiners to assist the board in its hearing function, to make conclusions of law and findings of fact and, if requested by the board, to make recommendations to the board for decisions in cases before the board. Such hearing examiners must have demonstrated knowledge of land use planning and law. The board shall specify in its rules of practice and procedure, as required by subsection (7) of this section, the procedure and criteria to be employed for designating hearing examiners as a presiding officer. Hearing examiners used by the board shall meet the requirements of subsection (3) of this section. The findings and conclusions of the hearing examiner shall not become final until they have been formally approved by the board. This authorization to use hearing examiners does not waive the requirement of RCW 36.70A.300 that final orders be issued within one hundred eighty days of board receipt of a petition.

(6) The board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the regional panel deciding the particular case and upon being filed at the board's principal

office, and shall be open for public inspection at all reasonable times.

(7) All proceedings before the board, any of its members, or a hearing examiner appointed by the board shall be conducted in accordance with such administrative rules of practice and procedure as the board prescribes. The board shall develop and adopt rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals and the assignment of cases to regional panels. The board shall publish such rules (~~and decisions~~) it renders and arrange for the reasonable distribution of the rules (~~and decisions~~). Except as it conflicts with specific provisions of this chapter, the administrative procedure act, chapter 34.05 RCW, and specifically including the provisions of RCW 34.05.455 governing ex parte communications, shall govern the practice and procedure of the board.

(8) The board must ensure all rulings, decisions, and orders are available to the public through the environmental and land use hearings office's web sites as described in RCW 43.21B.005. To ensure uniformity and usability of searchable databases and web sites, the board shall coordinate with the environmental and land use hearings office, the department of commerce, and other interested stakeholders to develop and maintain a rational system of categorizing its decisions and orders.

(9) A board member or hearing examiner is subject to disqualification under chapter 34.05 RCW. The rules of practice of the board shall establish procedures by which a party to a hearing conducted before the board may file with the board a motion to disqualify, with supporting affidavit, against a board member or hearing examiner assigned to preside at the hearing.

~~((9))~~ (10) All members of the board shall meet on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter.

~~((40))~~ (11) The board shall annually elect one of its members to be the board administrative officer. The duties and responsibilities of the administrative officer include handling day-to-day administrative, budget, and personnel matters on behalf of the board, together with making case assignments to board members in accordance with the board's rules of procedure in order to achieve a fair and balanced workload among all board members. The administrative officer of the board may carry a reduced caseload to allow time for performing the administrative work functions.

**NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Mosbrucker; Macri; Kraft; Jinkins; Hudgins; Hoff; Hansen;

Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Volz and Ybarra.

Referred to Committee on Rules for second reading.

April 6, 2019

SSB 5175 Prime Sponsor, Committee on Labor & Commerce: Concerning firefighter safety. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Volz; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Ormsby, Chair and Ybarra.

Referred to Committee on Rules for second reading.

April 6, 2019

SSB 5181 Prime Sponsor, Committee on Ways & Means: Concerning certain procedures upon initial detention under the involuntary treatment act. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 71.05 RCW to read as follows:

(1) A person who under RCW 71.05.150 or 71.05.153 has been detained at a facility for seventy-two-hour evaluation and treatment on the grounds that the person presents a likelihood of serious harm, but who has not been subsequently committed for involuntary treatment under RCW 71.05.240, may not have in his or her possession or control any firearm for a period of six months after the date that the person is detained.

(2) Before the discharge of a person who has been initially detained under RCW 71.05.150 or 71.05.153 on the grounds that the person presents a likelihood of serious harm, but has not been subsequently committed for involuntary treatment under RCW 71.05.240, the designated crisis responder shall inform the person orally and in writing that:

(a) He or she is prohibited from possessing or controlling any firearm for a period of six months;

(b) He or she must immediately surrender, for the six-month period, any concealed pistol license and any firearms that the person possesses or controls to the sheriff of the county or the chief of police of the municipality in which the person is domiciled;

(c) After the six-month suspension, the person's right to control or possess any firearm or concealed pistol license shall be automatically restored, absent further restrictions imposed by other law; and

(d) Upon discharge, the person may petition the superior court to have his or her right to possess a firearm restored before the six-month suspension period has elapsed by following the procedures provided in RCW 9.41.047(3).

(3)(a) A law enforcement agency holding any firearm that has been surrendered pursuant to this section shall, upon the request of the person from whom it was obtained, return the firearm at the expiration of the six-month suspension period, or prior to the expiration of the six-month period if the person's right to possess firearms has been restored by the court under RCW 9.41.047. The law enforcement agency must comply with the provisions of RCW 9.41.345 when returning a firearm pursuant to this section.

(b) Any firearm surrendered pursuant to this section that remains unclaimed by the lawful owner shall be disposed of in accordance with the law enforcement agency's policies and procedures for the disposal of firearms in police custody.

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

(1) When a designated crisis responder files a petition for initial detention under RCW 71.05.150 or 71.05.153 on the grounds that the person presents a likelihood of serious harm, the petition shall include a copy of the person's driver's license or identicard or comparable information. If the person is not subsequently committed for involuntary treatment under RCW 71.05.240, the court shall forward within three business days of the probable cause hearing a copy of the person's driver's license or identicard, or comparable information, along with the date of release from the facility, to the department of licensing and to the state patrol, who shall forward the information to the national instant criminal background check system index, denied persons file, created by the federal Brady handgun violence prevention act (P.L. 103-159). Upon expiration of the six-month period during which the person's right to possess a firearm is suspended as provided in section 1 of this act, the Washington state patrol shall forward to the national instant criminal background check system index, denied persons file, notice that the person's right to possess a firearm has been restored.

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the detained person has a concealed pistol license. If the person does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority, which, upon receipt of such notification, shall immediately suspend the license for a

period of six months from the date of the person's release from the facility.

(3) A person who is prohibited from possessing a firearm by reason of having been detained under RCW 71.05.150 or 71.05.153 may, upon discharge, petition the superior court to have his or her right to possess a firearm restored before the six-month suspension period has elapsed by following the procedures provided in RCW 9.41.047(3).

**Sec. 3.** RCW 9.41.047 and 2018 c 201 s 6001 are each amended to read as follows:

(1)(a) At the time a person is convicted or found not guilty by reason of insanity of an offense making the person ineligible to possess a firearm, or at the time a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW for mental health treatment, the convicting or committing court shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a court of record. For purposes of this section a convicting court includes a court in which a person has been found not guilty by reason of insanity.

(b) The convicting or committing court shall forward within three judicial days after conviction or entry of the commitment order a copy of the person's driver's license or identicard, or comparable information, along with the date of conviction or commitment, to the department of licensing. When a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW, for mental health treatment, the committing court also shall forward, within three judicial days after entry of the commitment order, a copy of the person's driver's license, or comparable information, along with the date of commitment, to the national instant criminal background check system index, denied persons file, created by the federal Brady handgun violence prevention act (P.L. 103-159). The petitioning party shall provide the court with the information required. If more than one commitment order is entered under one cause number, only one notification to the department of licensing and the national instant criminal background check system is required.

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the convicted or committed person has a concealed pistol license. If the person does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of such notification, shall immediately revoke the license.

(3)(a) A person who is prohibited from possessing a firearm, by reason of having been involuntarily committed for mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, or by reason of having been detained under RCW 71.05.150 or 71.05.153, may, upon discharge, petition the superior court to have his or her right to possess a firearm restored.

(b) The petition must be brought in the superior court that ordered the involuntary commitment or the superior court of the county in which the petitioner resides.

(c) Except as provided in (d) and (e) of this subsection, the court shall restore the petitioner's right to possess a firearm if the petitioner proves by a preponderance of the evidence that:

(i) The petitioner is no longer required to participate in court-ordered inpatient or outpatient treatment;

(ii) The petitioner has successfully managed the condition related to the commitment or detention;

(iii) The petitioner no longer presents a substantial danger to himself or herself, or the public; and

(iv) The symptoms related to the commitment or detention are not reasonably likely to recur.

(d) If a preponderance of the evidence in the record supports a finding that the person petitioning the court has engaged in violence and that it is more likely than not that the person will engage in violence after his or her right to possess a firearm is restored, the person shall bear the burden of proving by clear, cogent, and convincing evidence that he or she does not present a substantial danger to the safety of others.

(e) If the petitioner seeks restoration after having been detained under RCW 71.05.150 or 71.05.153, the state shall bear the burden of proof to show, by a preponderance of the evidence, that the petitioner does not meet the restoration criteria in (c) of this subsection.

(f) When a person's right to possess a firearm has been restored under this subsection, the court shall forward, within three judicial days after entry of the restoration order, notification that the person's right to possess a firearm has been restored to the department of licensing, the health care authority, and the national instant criminal background check system index, denied persons file. In the case of a person whose right to possess a firearm has been suspended for six months as provided in section 1 of this act, the department of licensing shall forward notification of the restoration order to the licensing authority, which, upon receipt of such notification, shall immediately lift the suspension, restoring the license.

(4) No person who has been found not guilty by reason of insanity may petition a court for restoration of the right to possess a firearm unless the person meets the requirements for the restoration of the right to possess a firearm under RCW 9.41.040(4).

NEW SECTION. Sec. 4. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sullivan; Stanford; Springer; Senn; Ryu; Pollet; Macri; Jenkins; Hudgins; Hansen; Fitzgibbon;

Dolan; Cody; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Sutherland; Steele; Schmick; Mosbrucker; Kraft; Hoff; Dye; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Volz and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

ESB 5274

Prime Sponsor, Senator Hasegawa: Concerning dental coverage for Pacific islanders residing in Washington. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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

(a) The legislature recognized the important relationship between the citizens of the compact of free association (COFA) nations and the United States by enacting the COFA premium assistance program in 2018 to pay for premiums and out-of-pocket expenses for COFA citizens who purchase qualifying health coverage;

(b) While other Washingtonians who are income-eligible for medicaid receive dental coverage through apple health, individuals enrolled in the COFA premium assistance program do not currently have affordable access to dental coverage;

(c) Affordable access to dental care, including preventative care, is critical to treating the whole body health of an individual and preventing systemic health problems such as stroke, heart attack, and diabetes. Poor oral health is also associated with a wide range of hardships including difficulty obtaining employment, work absences due to pain, and decreased productivity; and

(d) Research shows that people living in households in which the primary language spoken at home is not English, seniors, people with disabilities, and people who identify as Native Hawaiian or Pacific Islanders are disproportionately impacted by oral health inequities.

(2) The legislature therefore intends to increase access to dental services for COFA islanders residing in Washington by establishing a dental services program that provides dental coverage to income-eligible members of this population with no premium or cost-sharing payment requirements.

Sec. 2. RCW 43.71A.010 and 2018 c 161 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) "Advance premium tax credit" means the premium assistance amount determined in accordance with the affordable care act.

(2) "Affordable care act" means 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.

(3) "Authority" means the Washington state health care authority.

(4) "COFA citizen" means a person who is a citizen of:

- (a) The Republic of the Marshall Islands;
- (b) The Federated States of Micronesia; or
- (c) The Republic of Palau.

(5) "Health benefit exchange" or "exchange" means the Washington health benefit exchange established in chapter 43.71 RCW.

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

(7) "In-network provider" means a health care provider or group of providers that directly contracts with an insurer to provide health benefits covered by a health benefit plan offered by an insurer.

(8) "Open enrollment period" means the period during which a person may enroll in a qualified health plan or qualified dental plan.

(9) "Out-of-pocket costs" means copayments, coinsurance, deductibles, and other cost-sharing requirements imposed under a qualified health plan or qualified dental plan for services, pharmaceuticals, devices, and other health benefits that are covered by the plan and rendered by in-network providers.

(10) "Premium cost" means an individual's premium for a qualified health plan or qualified dental plan less the amount of the individual's advance premium tax credit.

(11) "Qualified dental plan" means a stand-alone dental benefit plan sold through the health benefit exchange.

(12) "Qualified health plan" means a health benefit plan sold through the health benefit exchange.

~~((12))~~ (13) "Resident" means a person who is domiciled in this state.

~~((13))~~ (14) "Special enrollment period" means a period during which a person who has not done so during the open enrollment period may enroll in a qualified health plan or qualified dental plan through the exchange if the person meets specified requirements.

(15) "Total cost of care" means out-of-pocket costs and other costs for services rendered by in-network dental providers that exceed the qualified dental plan maximum benefit for the plan year.

**Sec. 3.** RCW 43.71A.020 and 2018 c 161 s 3 are each amended to read as follows:

(1) An individual is eligible for the COFA premium assistance program if the individual:

- (a) Is a resident;
- (b) Is a COFA citizen;
- (c) Enrolls in a silver qualified health plan;

(d) Has income that is less than one hundred thirty-three percent of the federal poverty level; and

(e) Is ineligible for a federal or state medical assistance program administered by the authority under chapter 74.09 RCW.

(2) Subject to the availability of amounts appropriated for this specific purpose, the authority shall pay the premium cost for a qualified health plan and the out-of-pocket costs for the coverage provided by the plan for an individual who is eligible for the premium assistance program under subsection (1) of this section.

(3) The authority may disqualify a participant from the program if the participant:

(a) No longer meets the eligibility criteria in subsection (1) of this section;

(b) Fails, without good cause, to comply with procedural or documentation requirements established by the authority in accordance with subsection (4) of this section;

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

(d) Withdraws the participant's application or requests termination of coverage; or

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

(4) The authority shall establish:

(a) Application, enrollment, and renewal processes for the COFA premium assistance program;

(b) The qualified health plans that are eligible for reimbursement under the program;

(c) Procedural requirements for continued participation in the program, including participant documentation requirements that are necessary for the authority to administer the program; and

(d) Open enrollment periods and special enrollment periods consistent with the enrollment periods for the health ~~((insurance health benefit))~~ benefit exchange ~~(; and~~

~~(e) A comprehensive community education and outreach campaign, working with stakeholder and~~

~~community organizations, to facilitate applications for, and enrollment in, the program. Subject to the availability of amounts appropriated for this specific purpose, the education and outreach program shall provide culturally and linguistically accessible information to facilitate participation in the program, including but not limited to enrollment procedures, benefit utilization, and patient responsibilities.~~

~~(5) The community education and outreach campaign conducted by the authority must begin no later than September 1, 2018).~~

~~((6)) (5) The first open enrollment period for the COFA premium assistance program must begin no later than November 1, 2018.~~

NEW SECTION. Sec. 4. A new section is added to chapter 43.71A RCW to read as follows:

The authority, in consultation with the Washington state commission on Asian Pacific American affairs, shall establish an annual comprehensive community education and outreach program to COFA citizens, including contracting with a Washington organization that has multilingual language capacity, and working with stakeholder and community organizations, to facilitate applications for, and enrollment in, the COFA premium assistance and dental care programs. Subject to the availability of amounts appropriated for this specific purpose, the education and outreach program shall provide culturally and linguistically accessible information to facilitate participation in the programs, including but not limited to enrollment procedures, benefit utilization, and patient responsibilities.

NEW SECTION. Sec. 5. A new section is added to chapter 43.71A RCW to read as follows:

(1) An individual is eligible for the COFA islander dental care program if the individual is eligible for the COFA premium assistance program under RCW 43.71A.020, or:

- (a) Is a resident;
- (b) Is a COFA citizen;
- (c) Enrolls in a qualified dental plan;
- (d) Has income that is less than one hundred thirty-three percent of the federal poverty level; and
- (e) Is enrolled in medicare coverage under Title XVIII of the social security act (42 U.S.C. Sec. 1395 et seq., as amended).

(2) Subject to the availability of amounts appropriated for this specific purpose, the authority shall pay the premium cost for a qualified dental plan and the total cost of care for an individual who is eligible for the COFA islander dental care program under subsection (1) of this section.

(3) The authority may disqualify a participant from the program if the participant:

- (a) No longer meets the eligibility criteria in subsection (1) of this section;

(b) Fails, without good cause, to comply with procedural or documentation requirements established by the authority in accordance with subsection (4) of this section;

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

(d) Withdraws the participant's application or requests termination of coverage; or

(e) Performs an act, practice, or omission that constitutes fraud, and, as a result, an insurer rescinds the participant's policy for the qualified dental plan.

(4) The authority shall establish:

(a) Application, enrollment, and renewal processes for the COFA islander dental care program;

(b) The qualified dental plans that are eligible for reimbursement under the program;

(c) Procedural requirements for continued participation in the program, including participant documentation requirements that are necessary for the authority to administer the program; and

(d) Open enrollment periods and special enrollment periods consistent with the enrollment periods for the health benefit exchange.

(5) The first open enrollment period for the COFA islander dental care program must begin no later than November 1, 2020.

Sec. 6. RCW 43.71A.800 and 2018 c 161 s 4 are each amended to read as follows:

The authority shall appoint an advisory committee that includes, but is not limited to, insurers and representatives of communities of COFA citizens. The committee shall advise the authority in the development, implementation, and operation of the COFA premium assistance and the COFA islander dental care programs established in this chapter. The advisory committee must exist until at least December 31, ~~((2019))~~ 2021. ~~((Subject to the availability of amounts appropriated for this specific purpose.))~~ Advisory committee members may be reimbursed for transportation and travel expenses related to serving on the committee, as needed.

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.

Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sullivan; Stanford; Springer; Senn; Ryu; Pollet; Pettigrew; Macri; Jinkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Steele; Schmick; Mosbrucker; Kraft; Hoff; Dye; Chandler; Caldier; Rude, Assistant Ranking

Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Sutherland and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

E2SSB 5276 Prime Sponsor, Committee on Ways & Means: Concerning hemp production. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Commerce & Gaming.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature intends to:

(1) Authorize and establish a new licensing and regulatory program for hemp production in this state in accordance with the agriculture improvement act of 2018;

(2) Replace the industrial hemp research program in chapter 15.120 RCW, with the new licensing and regulatory program established in this chapter, and enable hemp growers licensed under the industrial hemp research program on the effective date of rules implementing this chapter and regulating hemp production, to transfer into the program created in this chapter; and

(3) Authorize the growing of hemp as a legal, agricultural activity in this state. Hemp is an agricultural product that may be legally grown, produced, processed, possessed, transferred, commercially sold, and traded. Hemp and processed hemp produced in accordance with this chapter or produced lawfully under the laws of another state, tribe, or country may be transferred and sold within the state, outside of this state, and internationally. Nothing in this chapter is intended to prevent or restrain commerce in this state involving hemp or hemp products produced lawfully under the laws of another state, tribe, or country.

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

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

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

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

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

(5) "Hemp" means the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all

derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

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

(b) "Industrial hemp" does not include plants of the genera *Cannabis* that meet the definition of "marijuana" as defined in RCW 69.50.101.

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

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

(b) Other approved testing methods.

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

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

NEW SECTION. **Sec. 3.** (1) The department must develop an agricultural commodity program to replace the industrial hemp research pilot program in chapter 15.120 RCW, in accordance with the agriculture improvement act of 2018.

(2) The department has sole regulatory authority over the production of hemp and may adopt rules to implement this chapter. All rules relating to hemp, including any testing of hemp, are outside of the control and authority of the liquor and cannabis board.

(3) If the department adopts rules implementing this chapter that are effective by June 1, 2019, persons licensed to grow hemp under chapter 15.120 RCW may transfer into the regulatory program established in this chapter, and continue hemp production under this chapter. If the department adopts rules implementing this chapter that are effective after June 1, 2019, people licensed to grow hemp under chapter 15.120 RCW may continue hemp production under this chapter as of the effective date of the rules.

(4) Immediately upon the effective date of this section, and before the adoption of rules implementing this chapter, persons licensed to grow hemp under chapter 15.120 RCW may produce hemp in a manner otherwise consistent with the provisions of this chapter and the agriculture improvement act of 2018.

NEW SECTION. **Sec. 4.** (1) The department must develop the state's hemp plan to conform to the agriculture improvement act of 2018, to include consultation with the governor and the attorney general and the plan elements required in the agriculture improvement act of 2018.

(2) Consistent with subsection (1) of this section, the state's hemp plan must include the following elements:

(a) A practice for hemp producers to maintain relevant information regarding land on which hemp is produced, including a legal description of the land, for a period of not less than three calendar years;

(b) A procedure for testing, using postdecarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp, without the application of heat;

(c) A procedure for the effective disposal of plants, whether growing or not, that are produced in violation of this chapter, and products derived from such plants;

(d) A procedure for enforcement of violations of the plan and for corrective action plans for licensees as required under the agriculture improvement act of 2018;

(e) A procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify hemp is not produced in violation of this chapter; and

(f) A certification that the state has the resources and personnel to carry out the practices and procedures described in this section.

(3) The proposal for the state's plan may include any other practice or procedure established to the extent the practice or procedure is consistent with the agriculture improvement act of 2018.

(4) Hemp and processed hemp produced in accordance with this chapter or produced lawfully under the laws of another state, tribe, or country may be transferred and sold within this state, outside of this state, and internationally.

(5) The whole hemp plant may be used as food. The department shall regulate the processing of hemp for food products that are allowable under federal law in the same manner as other food processing under chapters 15.130 and 69.07 RCW and may adopt rules as necessary to properly regulate the processing of hemp for food products including, but not limited to, establishing standards for creating hemp extracts used for food. The department shall not consider foods containing hemp to be adulterated when produced in compliance with state law and the rules adopted by the department. Nothing in this chapter authorizes the production of hemp food products that are not allowed under federal law.

**NEW SECTION. Sec. 5.** The department must develop a postharvest test protocol for testing hemp under this chapter that includes testing of whole plant samples or other testing protocol identified in regulations established by the United States department of agriculture, including the testing procedures for delta-9 tetrahydrocannabinol concentration levels of hemp produced by producers under the state plan.

**NEW SECTION. Sec. 6.** (1) The department must issue hemp producer licenses to applicants qualified under this chapter and the agriculture improvement act of 2018. The department may adopt rules pursuant to this chapter and

chapter 34.05 RCW as necessary to license persons to grow hemp under a commercial hemp program.

(2) The plan must identify qualifications for license applicants, to include adults and corporate persons and to exclude persons with felony convictions as required under the agriculture improvement act of 2018.

(3) The department must establish license fees in an amount that will fund the implementation of this chapter and sustain the hemp program. The department may adopt rules establishing fees for tetrahydrocannabinol testing, inspections, and additional services required by the United States department of agriculture. License fees and any money received by the department under this chapter must be deposited in the hemp regulatory account created in section 8 of this act.

**NEW SECTION. Sec. 7.** A person producing hemp pursuant to this chapter must notify the department of the source of the hemp seed or clones solely for the purpose of maintaining a record of the sources of seeds and clones being used or having been used for hemp production in this state. Hemp seed is an agricultural seed.

**NEW SECTION. Sec. 8.** The hemp regulatory account is created in the custody of the state treasurer. All receipts from fees established under this chapter must be deposited into the account. Expenditures from the account may be used only for implementing this chapter. Only the director of the state department of agriculture 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.

**NEW SECTION. Sec. 9.** Washington State University may, within existing resources, develop and make accessible an internet-based application designed to assist hemp producers by providing regional communications concerning recommended planting times for hemp crops in this state.

**NEW SECTION. Sec. 10.** (1) There is no distance requirement, limitation, or buffer zone between any licensed hemp producer or hemp processing facility licensed or authorized under this chapter and any marijuana producer or marijuana processor licensed under chapter 69.50 RCW. No rule may establish such a distance requirement, limitation, or buffer zone without the evaluation of sufficient data showing impacts to either crop as a result of cross-pollination.

(2) Notwithstanding subsection (1) of this section, in an effort to prevent cross-pollination between hemp plants produced under this chapter and marijuana plants produced under chapter 69.50 RCW, the department, in consultation with the liquor and cannabis board, must review the state's policy regarding cross-pollination and pollen capture to ensure an appropriate policy is in place, and must modify policies or establish new policies as appropriate. Under any such policy, when a documented conflict involving cross-pollination exists between two farms or production facilities growing or producing hemp or marijuana, the farm or production facility operating first in time shall have the right to continue operating and the farm or production facility

operating second in time must cease growing or producing hemp or marijuana, as applicable.

**NEW SECTION. Sec. 11.** (1) The department must use expedited rule making to adopt the state hemp plan submitted to the United States department of agriculture. As allowed under this section, rule making by the department to adopt the approved hemp plan qualifies as expedited rule making under RCW 34.05.353. Upon the submittal of the plan to the United States department of agriculture, the department may conduct initial expedited rule making under RCW 34.05.353 to establish rules to allow hemp licenses to be issued without delay.

(2) On the effective date of rules adopted by the department regulating hemp production under chapter 15.--- RCW (the new chapter created in section 17 of this act), a licensed hemp producer under this chapter may immediately produce hemp pursuant to chapter 15.--- RCW (the new chapter created in section 17 of this act) with all the privileges of a hemp producer licensed under chapter 15.--- RCW (the new chapter created in section 17 of this act).

**Sec. 12.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

(f) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in (~~RCW 15.120.010~~) section 2 of this act.

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

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to

the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

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

(2) The term does not include:

(i) a controlled substance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(s) "Immediate precursor" means a substance:

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

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

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

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

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

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

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

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

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

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

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

(2) ~~((Industrial hemp as defined in RCW 15.120.010))~~ Hemp or industrial hemp as defined in section 2 of this act, seeds used for licensed hemp production under chapter 15.--- RCW (the new chapter created in section 17 of this act).

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

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

(aa) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(bb) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

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

(dd) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

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

(ff) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means

of chemical synthesis, or by a combination of extraction and chemical synthesis:

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

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

(3) Poppy straw and concentrate of poppy straw.

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

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

(6) Cocaine base.

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

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

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

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

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

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

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

(ll) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 13.** RCW 69.50.204 and 2015 2nd sp.s. c 4 s 1203 are each amended to read as follows:

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule I:

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Allylprodine;

(4) Alphacetylmethadol, except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(9) Benzethidine;

(10) Betacetylmethadol;

(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(12) Beta-hydroxy-3-methylfentanyl, some trade or other names: N-[1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

(13) Betameprodine;

(14) Betamethadol;

(15) Betaprodine;

(16) Clonitazene;

(17) Dextromoramide;

(18) Diampromide;

(19) Diethylthiambutene;

(20) Difenoxin;

(21) Dimenoxadol;

(22) Dimepheptanol;

(23) Dimethylthiambutene;

(24) Dioxaphetyl butyrate;

(25) Dipipanone;

(26) Ethylmethylthiambutene;

(27) Etonitazene;

(28) Etoxidine;

(29) Furethidine;

(30) Hydroxypethidine;

(31) Ketobemidone;

(32) Levomoramide;

(33) Levophenacymorphan;

(34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

(35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(36) Morpheridine;

(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(38) Noracetylmethadol;

(39) Norlevorphanol;

(40) Normethadone;

(41) Norpipanone;

(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);

(43) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(44) Phenadoxone;

(45) Phenampromide;

(46) Phenomorphan;

(47) Phenoperidine;

(48) Piritramide;

(49) Proheptazine;

(50) Properidine;

(51) Propiram;

(52) Racemoramide;

(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-(~~propanamide~~) propanamide);

(54) Tilidine;

(55) Trimeperidine.

(b) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine;

(2) Acetyldihydrocodeine;

(3) Benzylmorphine;

(4) Codeine methylbromide;

(5) Codeine-N-Oxide;

(6) Cyprenorphine;

(7) Desomorphine;

(8) Dihydromorphine;

(9) Drotebanol;

(10) Etorphine, except hydrochloride salt;

(11) Heroin;

(12) Hydromorphanol;

(13) Methyldesorphine;

(14) Methyldihydromorphine;

(15) Morphine methylbromide;

(16) Morphine methylsulfonate;

(17) Morphine-N-Oxide;

(18) Myrophine;

(19) Nicocodeine;

(20) Nicomorphine;

(21) Normorphine;

(22) Pholcodine;

(23) Thebacon.

(c) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation. For the purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers:

(1) Alpha-ethyltryptamine: Some trade or other names: Etryptamine; monase;

a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; a-ET; and AET;

(2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-amethylphenethylamine; 4-bromo-2,5-DMA;

(3) 4-bromo-2,5-dimethoxyphenethylamine: Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, nexus;

(4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;

(5) 2,5-dimethoxy-4-ethylamphetamine (DOET);

(6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name: 2C-T-7;

(7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;

(8) 5-methoxy-3,4-methylenedioxy-amphetamine;

(9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-amethylphenethylamine; "DOM"; and "STP";

(10) 3,4-methylenedioxy amphetamine;

(11) 3,4-methylenedioxy-methamphetamine (MDMA);

(12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(13) N-hydroxy-3,4-methylenedioxyamphetamine also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-hydroxy MDA;

(14) 3,4,5-trimethoxy amphetamine;

(15) Alpha-methyltryptamine: Other name: AMT;

(16) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(17) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;

(18) Dimethyltryptamine: Some trade or other names: DMT;

(19) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;

(20) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyrido (1',2' 1,2) azepino (5,4-b) indole; Tabernanthe iboga;

(21) Lysergic acid diethylamide;

(22) Marihuana or marijuana;

(23) Mescaline;

(24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;

(25) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812 (c), Schedule I (c)(12));

(26) N-ethyl-3-piperidyl benzilate;

(27) N-methyl-3-piperidyl benzilate;

(28) Psilocybin;

(29) Psilocyn;

(30)(i) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the (~~(genus)) genera Cannabis ((cannabis plant))~~), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the genera Cannabis, ((species,)) and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

((+)) (A) 1 - cis - or trans tetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;

((+)) (B) 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;

((+)) (C) 3,4 - cis - or trans tetrahydrocannabinol, and its optical isomers; or

((+)) (D) That is chemically synthesized and either:

((+)) (I) Has been demonstrated to have binding activity at one or more cannabinoid receptors; or

((+)) (II) Is a chemical analog or isomer of a compound that has been demonstrated to have binding activity at one or more cannabinoid receptors;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(ii) Hemp and industrial hemp, as defined in section 2 of this act, are excepted from the categories of controlled substances identified under this section:

(31) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

(32) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

(33) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienylanalog of phencyclidine; TPCP; TCP;

(34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other name is TCPy.

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) Gamma-hydroxybutyric acid: Some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate;

(2) Mecloqualone;

(3) Methaqualone.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4, 5-dihydro-5-phenyl-2-oxazolamine;

(2) N-Benzylpiperazine: Some other names: BZP, 1-benzylpiperazine;

(3) Cathinone, also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(4) Fenethylamine;

(5) Methcathinone: Some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(6) (+)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(7) N-ethylamphetamine;

(8) N,N-dimethylamphetamine: Some trade or other names: N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

**Sec. 14.** RCW 15.120.020 and 2016 sp.s. c 11 s 3 are each amended to read as follows:

Except as otherwise provided in this chapter, industrial hemp is an agricultural product that may be grown, produced, possessed, processed, and exchanged in the state solely and exclusively as part of an industrial hemp research program supervised by the department. Except when allowed under federal law, processing any part of industrial hemp, except seed, as food, extract, oil, cake, concentrate, resin, or other preparation for topical use, oral consumption, or inhalation by humans is prohibited.

**NEW SECTION. Sec. 15.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective January 1, 2020:

- (1)RCW 15.120.005 (Intent) and 2016 sp.s. c 11 s 1;
- (2)RCW 15.120.010 (Definitions) and 2016 sp.s. c 11 s 2;
- (3)RCW 15.120.020 (Industrial hemp—Agricultural product—Exclusively as part of industrial hemp research program) and 2019 c ... s 14 (section 14 of this act) & 2016 sp.s. c 11 s 3;
- (4)RCW 15.120.030 (Rule-making authority) and 2016 sp.s. c 11 s 4;
- (5)RCW 15.120.035 (Rule-making authority—Monetary penalties, license suspension or forfeiture, other sanctions—Rules to be consistent with section 7606 of federal agricultural act of 2014) and 2017 c 317 s 10;
- (6)RCW 15.120.040 (Industrial hemp research program—Established—Licensure—Seed certification program—Permission/waiver from appropriate federal entity) and 2016 sp.s. c 11 s 5;
- (7)RCW 15.120.050 (Application form—Fee—Licensure—Renewal—Record of license forwarded to county sheriff—Public disclosure exemption) and 2016 sp.s. c 11 s 6; and
- (8)RCW 15.120.060 (Sales and transfers of industrial hemp produced for processing—Department and state liquor and cannabis board to study feasibility and practicality of implementing legislatively authorized regulatory framework) and 2017 c 317 s 9.

**NEW SECTION. Sec. 16.** Beginning on the effective date of this section:

(1) No law or rule related to certified or interstate hemp seeds applies to or may be enforced against a person with a license to produce or process hemp issued under this chapter or chapter 15.120 RCW; and

(2) No department or other state agency rule may establish or enforce a buffer zone or distance requirement between a person with a license or authorization to produce or process hemp under this chapter or chapter 15.120 RCW and a person with a license to produce or process marijuana

issued under chapter 69.50 RCW. The department may not adopt rules without the evaluation of sufficient data showing impacts to either crop as a result of cross-pollination.

**NEW SECTION. Sec. 17.** Sections 1 through 11 and 16 of this act constitute a new chapter in Title 15 RCW.

**NEW SECTION. Sec. 18.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 19.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

**NEW SECTION. Sec. 20.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Ybarra; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Without recommendation. Signed by Representative Dye.

Referred to Committee on Rules for second reading.

April 8, 2019

E2SSB 5284 Prime Sponsor, Committee on Ways & Means: Concerning smoke detection devices. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Consumer Protection & Business. Signed by Representatives Ybarra; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Bergquist, 2nd Vice Chair Ormsby, Chair.

Referred to Committee on Rules for second reading.

April 8, 2019

E2SSB 5291 Prime Sponsor, Committee on Ways & Means: Creating alternatives to total

confinement for certain qualifying persons with minor children. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Public Safety.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.030 and 2018 c 166 s 3 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor

compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Electronic monitoring" means tracking the location of an individual, whether pretrial or posttrial, through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

(25) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(26) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(27) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(28) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence twenty-four hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(32) (~~"Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.~~)

~~(33))~~ "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

~~((34))~~ (33) "Nonviolent offense" means an offense which is not a violent offense.

~~((35))~~ (34) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

~~((36))~~ (35) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

~~((37))~~ (36) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

~~((38))~~ (37) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first

degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (~~((38))~~) (37)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

~~((39))~~ (38) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

~~((40))~~ (39) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

~~((41))~~ (40) "Public school" has the same meaning as in RCW 28A.150.010.

~~((42))~~ (41) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

~~((43))~~ (42) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

~~((44))~~ (43) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

~~((45))~~ (44) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

~~((46))~~ (45) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

~~((47))~~ (46) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

~~((48))~~ (47) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

~~((49))~~ (48) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

~~((50))~~ (49) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

~~((51))~~ (50) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

~~((52))~~ (51) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

~~((53))~~ (52) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

~~((54))~~ (53) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

~~((55))~~ (54) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

~~((56))~~ (55) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

~~((57))~~ (56) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

~~((58))~~ (57) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

**Sec. 2.** RCW 9.94A.655 and 2018 c 58 s 45 are each amended to read as follows:

(1) An offender is eligible for the parenting sentencing alternative if:

(a) The high end of the standard sentence range for the current offense is greater than one year;

(b) The offender has no prior or current conviction for a felony (~~(that is a)~~) sex offense or a serious violent offense;

(c) The offender has (~~(not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence)~~) no prior or current conviction for a violent offense, or where the offender has a prior or current conviction for a violent offense, he or she has been determined to be a low risk to reoffend;

(d) The offender signs any release of information waivers required to allow information regarding current or prior child welfare cases to be shared with the department and the court; and

(e) The offender (~~(has physical custody of his or her minor child or is a legal guardian or custodian with physical custody of a child under the age of eighteen at the time of the current offense)~~) is:

(i) A parent with physical custody of a minor child;

(ii) An expectant parent;

(iii) A legal guardian of a minor child; or

(iv) A biological parent, adoptive parent, custodian, or stepparent with a proven, established, ongoing, and substantial relationship with a minor child that existed at the time of the offense.

(2) Prior juvenile adjudications are not considered offenses when considering eligibility under this section.

(3) To assist the court in making its determination, the court may order the department to complete (~~(either)~~) a risk assessment report, including a family impact statement or a chemical dependency screening report as provided in RCW 9.94A.500, (~~(or both reports)~~) prior to sentencing.

~~((3))~~ (4) If the court is considering this alternative, the court shall request that the department contact the department of children, youth, and families to determine if the agency has an open child welfare case or prior substantiated referral of abuse or neglect involving the offender or if the agency is aware of any substantiated case of abuse or neglect with a tribal child welfare agency involving the offender.

(a) If the offender has an open child welfare case, the department will provide the release of information waiver and request that the department of children, youth, and families or the tribal child welfare agency provide a report to the court. The department of children, youth, and families shall (~~(provide a report)~~), within seven business days of the request: Provide a copy of the most recent court order entered in a proceeding under chapter 13.34 or 13.36 RCW pertaining to the offender; or, if there is no court order or there has been no court involvement, provide a report that includes, at the minimum, the following:

(i) Legal status of the child welfare case or child protective services response;

(ii) Length of time the department of children, youth, and families has (~~(been involved with)~~) had an open child

welfare case, or child protective services response involving the offender;

(iii) Legal status of the case (~~(and permanent plan)~~); and

(iv) Any special needs of the child(;

~~(v) Whether or not the offender has been cooperative with services ordered by a juvenile court under a child welfare case; and)~~).

~~((vi))~~ (b) The department shall report if the offender has been convicted of a crime against a child.

~~((b))~~ (c) If a report is required from a tribal child welfare agency, the department shall attempt to obtain information that is similar to what is required for the report provided by the department of children, youth, and families in a timely manner.

~~((e))~~ (d) If the offender does not have an open child welfare case with the department of children, youth, and families or with a tribal child welfare agency but has prior involvement, the department will obtain information from the department of children, youth, and families on the number and type of past substantiated referrals of abuse or neglect and report that information to the court. If the department of children, youth, and families has never had any substantiated referrals or an open case with the offender, the department will inform the court.

~~((4))~~ (e) The existence of a prior substantiated referral of child abuse or neglect or of an open child welfare case shall not, alone, disqualify an offender from applying or participating in this alternative. The court shall consider whether the child-parent relationship can be readily maintained during parental incarceration; and whether due to the existence of an open child welfare case, parental incarceration exacerbates the likelihood of termination of the child-parent relationship.

(f) The state and its agencies, officers, agents, or employees are not liable for the acts of offenders participating in the sentencing alternative under this section unless the state or its agencies, officers, agents, or employees act with willful disregard of a known risk of immediate harm.

(5) If the sentencing court determines that the offender is eligible for a sentencing alternative under this section and that the sentencing alternative is appropriate and should be imposed, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of twelve months of community custody. The court shall consider the offender's criminal history when determining if the alternative is appropriate. The court shall also give great weight to the minor child's best interest, which must include a determination by the juvenile court presiding over the minor child's proceedings under chapter 13.34 RCW, if any.

~~((5))~~ (6) When a court imposes a sentence of community custody under this section:

(a) The court may impose conditions as provided in RCW 9.94A.703 and may impose other affirmative conditions as the court considers appropriate.

(b) The department may impose conditions as authorized in RCW 9.94A.704 that may include, but are not limited to:

- (i) Parenting classes;
- (ii) Chemical dependency treatment;
- (iii) Mental health treatment;
- (iv) Vocational training;
- (v) ~~((Offender))~~ Change programs;
- (vi) Life skills classes.

(c) The department shall report to the court if the offender commits any violations of his or her sentence conditions.

~~((6))~~ (7) The department shall provide the court with quarterly progress reports regarding the offender's progress in required programming, treatment, and other supervision conditions. When an offender has an open child welfare case, the department will seek to coordinate services with the department of children, youth, and families.

~~((7))~~ (8)(a) The court may bring any offender sentenced under this section back into court at any time during the period of community custody on its own initiative to evaluate the offender's progress in treatment, or to determine if any violations of the conditions of the sentence have occurred.

(b) At the commencement of such a hearing, the court shall advise the offender sentenced under this section of his or her right to assistance of counsel and, if the offender is indigent, appoint counsel.

(c) If the offender is brought back to court, the court may modify the conditions of community custody or impose sanctions under ~~((e))~~ (d) of this subsection, including extending the length of community custody, by no more than six months. The court shall also consider modification to the offender's support and rehabilitation plan as needed.

~~((e))~~ (d) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody, if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

~~((d))~~ (e) An offender ordered to serve a term of total confinement under ~~((e))~~ (d) of this subsection shall receive credit for any time previously served in confinement under this section.

(f) An offender sentenced under this section is subject to all rules relating to earned release time with respect to any period served in total confinement.

(9) For the purposes of this section:

(a) "Expectant parent" means a pregnant or other parent awaiting the birth of his or her child, or an adoptive parent or person in process of a final adoption.

(b) "Minor child" means a child under the age of eighteen at the time of the current offense.

**Sec. 3.** RCW 9.94A.6551 and 2018 c 58 s 47 are each amended to read as follows:

For an offender~~(s)~~ not sentenced under RCW 9.94A.655, but otherwise eligible under this section, no more than the final twelve months of the offender's term of confinement may be served in partial confinement as home detention as part of the parenting program developed by the department.

(1) The secretary may transfer an offender from a correctional facility to home detention in the community if it is determined that the parenting program is an appropriate placement and when all of the following conditions exist:

(a) The offender is serving a sentence in which the high end of the range is greater than one year;

(b) The offender has no current conviction for a felony ~~((that is a))~~ sex offense or a serious violent offense;

(c) Where the offender has a current conviction for a violent offense, he or she has been determined to not be a high risk to reoffend;

~~(d) The offender ((has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence));~~

(i) Is a parent with physical or legal custody of a minor child;

(ii) Is a biological parent, adoptive parent, custodian, or stepparent with a proven, established, ongoing, and substantial relationship with a minor child that existed at the time of the offense;

(iii) Is the legal guardian of a minor child; or

(iv) Is an expectant parent;

~~((d))~~ (e) The offender signs any release of information waivers required to allow information regarding current or prior child welfare cases to be shared with the department and the court;

~~((e) The offender:~~

~~(i) Has physical or legal custody of a minor child;~~

~~(ii) Has a proven, established, ongoing, and substantial relationship with his or her minor child that existed prior to the commission of the current offense; or~~

~~(iii) Is a legal guardian of a child that was under the age of eighteen at the time of the current offense;)) and~~

(f) The department determines that ~~((such a placement))~~ the offender's participation in the parenting program is in the best interests of the child. Nothing in this section provides the department with authority to determine placement of a minor child.

(2) Prior juvenile adjudications are not considered offenses when considering eligibility under this section.

(3) When the department is considering partial confinement as part of the parenting program for an offender, the department shall inquire of the ((individual)) offender and the department of children, youth, and families whether the agency has an open child welfare case or prior substantiated referral for abuse or neglect involving the offender. If the department of children, youth, and families or a tribal jurisdiction has an open child welfare case, the department will seek input from the department of children, youth, and families or the involved tribal jurisdiction as to: (a) The status of the child welfare case; and (b) recommendations regarding placement of the offender ((and services required of the department and the court governing)), services agreed to by the offender working voluntarily with the department, or services ordered by the court within the ((individual's)) offender's child welfare case. The department and its officers, agents, and employees are not liable for the acts of offenders participating in the parenting program unless the department or its officers, agents, and employees acted with willful and wanton disregard.

~~((3))~~ (4) All offenders placed on home detention as part of the parenting program shall provide an approved residence and living arrangement prior to transfer to home detention.

~~((4))~~ (5) While in the community on home detention as part of the parenting program, the department shall:

(a) Require the offender to be placed on electronic home monitoring;

(b) Require the offender to participate in programming and treatment that the department and offender collectively determine((s)) is needed;

(c) Assign a community corrections officer who will monitor the offender's compliance with conditions of partial confinement and programming requirements; and

(d) If the offender has an open child welfare case with the department of children, youth, and families, collaborate and communicate with the identified social worker in the provision of services.

~~((5))~~ (6) The department has the authority to return any offender serving partial confinement in the parenting program to total confinement if the offender is not complying with sentence requirements.

(7) For the purposes of this section:

(a) "Expectant parent" means a pregnant or other parent awaiting the birth of his or her child, or an adoptive parent or person in the process of a final adoption.

(b) "Minor child" means a child under the age of eighteen at the time of the current offense.

NEW SECTION. Sec. 4. If specific funding for the purposes of this act, referencing this act by bill or chapter

number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Robinson, 1st Vice Chair; Cody; Dolan; Fitzgibbon; Hansen; Hudgins; Jenkins; Macri; Pettigrew; Pollet; Ryu; Senn; Springer; Stanford; Sullivan; Tarleton; Tharinger; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Without recommendation. Signed by Representative MacEwen, Assistant Ranking Minority Member.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Dye; Hoff; Kraft; Mosbrucker; Schmick; Steele; Sutherland and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

SSB 5297 Prime Sponsor, Committee on Labor & Commerce: Extending collective bargaining rights to assistant attorneys general. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sullivan; Stanford; Springer; Senn; Ryu; Pollet; Pettigrew; Macri; Jenkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Ybarra; Sutherland; Steele; Schmick; Mosbrucker; Kraft; Hoff; Dye; Chandler; Caldier Stokesbary, Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representatives MacEwen, Assistant Ranking Minority Member Rude, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 6, 2019

SB 5310 Prime Sponsor, Senator Hunt: Correcting agency names and accounts in statutes to reflect the organizational structure, duties, and responsibilities of the office of financial management. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Mosbrucker; Macri; Kraft;

Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Volz and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

ESSB 5311 Prime Sponsor, Committee on State Government, Tribal Relations & Elections: Eliminating, revising, or decodifying obsolete or inactive statutory provisions that concern the office of financial management. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Robinson, 1st Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Ybarra; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Without recommendation. Signed by Representative Stokesbary, Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 8, 2019

ESSB 5318 Prime Sponsor, Committee on Labor & Commerce: Reforming the compliance and enforcement provisions for marijuana licensees. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Commerce & Gaming. Signed by Representatives Ormsby, Chair; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Kraft; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

ESSB 5323 Prime Sponsor, Committee on Environment, Energy & Technology:

Reducing pollution from plastic bags by establishing minimum state standards for the use of bags at retail establishments. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sullivan; Stanford; Springer; Senn; Ryu; Pollet; Pettigrew; Macri; Jinkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Steele; Schmick; Mosbrucker; Kraft; Hoff; Dye; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Sutherland and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

SSB 5324 Prime Sponsor, Committee on Ways & Means: Concerning support for students experiencing homelessness. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Education.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.300.542 and 2016 c 157 s 2 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall create a competitive grant process to evaluate and award state-funded grants to school districts to increase identification of ~~((homeless))~~ students experiencing homelessness and the capacity of the districts to provide support ~~((, which may include education liaisons, for homeless students))~~ for students experiencing homelessness. Funds may be used in a manner that is complementary to federal McKinney-Vento funds and consistent with allowable uses as determined by the office of the superintendent of public instruction. The process must complement any similar federal grant program or programs in order to minimize agency overhead and administrative costs for the superintendent of public instruction and school districts. School districts may access both federal and state funding to identify and support ~~((homeless))~~ students experiencing homelessness.

(2) Award criteria for the state grants must be based on the demonstrated need of the school district and may consider the number or overall percentage, or both, of homeless children and youths enrolled in preschool, elementary, and secondary schools in the school district, and the ability of the local school district to meet these needs. Award criteria for these must also be based on the quality of the applications submitted. ~~((Preference))~~ Selected grantees

must reflect geographic diversity across the state. Greater weight must be given to districts that demonstrate a commitment to:

(a) Partnering with local housing and community-based organizations with experience in serving the needs of students experiencing homelessness or students of color;

(b) Serving the needs of unaccompanied youth; and

(c) Implementing evidence-informed strategies to address the opportunity gap and other systemic inequities that negatively impact students experiencing homelessness and students of color. Specific strategies may include, but are not limited to:

(i) Enhancing the cultural responsiveness of current and future staff;

(ii) Ensuring all staff, faculty, and school employees are actively trained in trauma-informed care;

(iii) Providing inclusive programming by intentionally seeking and utilizing input from the population being served;

(iv) Using a multidisciplinary approach when serving students experiencing homelessness and their families;

(v) Intentionally seeking and utilizing input from the families and students experiencing homelessness about how district policies, services, and practices can be improved; and

(vi) Identifying data elements and systems needed to monitor progress in eliminating disparities in academic outcomes for students experiencing homelessness with their housed peers.

(3) ~~At the end of each academic year, districts receiving grants ((must measure during the academic year how often each student physically moves, what services families or unaccompanied youth could access, and whether or not a family or unaccompanied youth received stable housing by the end of the school year)) shall monitor and report on the academic outcomes for students served by the grants. The academic outcomes are those recommended by the office of the superintendent of public instruction. The office of the superintendent of public instruction shall review the reports submitted by the districts and assist school districts in using these data to identify gaps and needs, and develop sustainable strategies to improve academic outcomes for students experiencing homelessness.~~

(4) ~~((Homeless)) Students experiencing homelessness are defined as students without a fixed, regular, and adequate nighttime residence ((as set forth)) in accordance with the definition of homeless children and youths in the federal McKinney-Vento homeless ((education)) assistance act ((P.L. 100-77; 101 Stat. 482)), 42 U.S.C. Sec. 11431 through 11435.~~

(5) School districts may not use funds allocated under this section to supplant existing federal, state, or local resources for ~~((homeless student)) supports for students experiencing homelessness, which may include education liaisons.~~

(6) Grants awarded to districts under this section may be for two years.

Sec. 2. RCW 43.185C.340 and 2016 c 157 s 3 are each amended to read as follows:

(1) Subject to funds appropriated for this specific purpose, the department ~~((, in consultation with the office of the superintendent of public instruction,))~~ shall administer a

grant program that links ~~((homeless))~~ students experiencing homelessness and their families with stable housing located in the ~~((homeless))~~ student's school district. The goals of the program ~~((is))~~ are to:

(a) Provide educational stability for ~~((homeless))~~ students experiencing homelessness by promoting housing stability; and

(b) Encourage the development of collaborative strategies between housing and education partners.

(2) To ensure that innovative strategies between housing and education partners are developed and implemented, the department may contract and consult with a designated vendor to provide technical assistance and program evaluation, and assist with making grant awards. If the department contracts with a vendor, the vendor must be selected by the director and:

(a) Be a nonprofit vendor;

(b) Be located in Washington state; and

(c) Have a demonstrated record of working toward the housing and educational stability of students and families experiencing homelessness.

(3) In implementing the program, the department, or the department in partnership with its designated vendor, shall consult with the office of the superintendent of public instruction.

(4) The department, ~~((working with the office of the superintendent of public instruction))~~ or the designated vendor in consultation with the department, shall develop a competitive grant process to make grant awards ~~((of no more than one hundred thousand dollars per school, not to exceed five hundred thousand dollars per school district,))~~ to ~~((school districts partnered with))~~ eligible organizations on implementation of the proposal. For the purposes of this subsection, "eligible organization" means any local government, local housing authority, regional support network established under chapter 71.24 RCW, behavioral health organization, nonprofit community or neighborhood-based organization, federally recognized Indian tribe in the state of Washington, or regional or statewide nonprofit housing assistance organization. Applications for the grant program must include ~~((contractual agreements))~~ a memorandum of understanding between the housing providers and school districts defining the responsibilities and commitments of each party to identify, house, and support ~~((homeless))~~ students experiencing homelessness. The memorandum must include:

(a) How housing providers will partner with school districts to address gaps and needs and develop sustainable strategies to help students experiencing homelessness; and

(b) How data on students experiencing homelessness and their families will be collected and shared in accordance with privacy protections under applicable federal and state laws.

~~((3))~~ The grants awarded to school districts shall not exceed fifteen school districts per school year. (5) In determining which ~~((partnerships))~~ eligible organizations will receive grants, ~~((preference must))~~ the department must ensure that selected grantees reflect geographic diversity across the state. Greater weight shall be given to ~~((districts with a demonstrated commitment of partnership and history with))~~ eligible organizations that demonstrate a commitment to:

(a) Partnering with local schools or school districts;  
and

(b) Developing and implementing evidence-informed strategies to address racial inequities. Specific strategies may include, but are not limited to:

(i) Hiring direct service staff who reflect the racial, cultural, and language demographics of the population being served;

(ii) Committing to inclusive programming by intentionally seeking and utilizing input from the population being served;

(iii) Ensuring eligibility criteria does not unintentionally screen out people of color and further racial inequity; and

(iv) Creating access points in locations frequented by parents, guardians, and unaccompanied homeless youth of color.

((4)) (6) Activities eligible for assistance under this grant program include but are not limited to:

(a) Rental assistance, which includes utilities, security and utility deposits, first and last month's rent, rental application fees, moving expenses, and other eligible expenses to be determined by the department;

(b) Transportation assistance, including gasoline assistance for families with vehicles and bus passes;

(c) Emergency shelter; ~~and~~

(d) Housing stability case management; and

(e) Other collaborative housing strategies, including prevention and strength-based safety and housing approaches.

((5)) (7)(a) All beneficiaries of funds from the grant program must be ~~((unaccompanied youth or))~~ from ~~((very low income))~~ households~~((For the purposes of this subsection, "very low income household" means an unaccompanied youth or family or unrelated persons living together whose adjusted income is less than fifty percent of the median family income, adjusted for household size, for the county where the grant recipient is located))~~ that include at least one student experiencing homelessness as defined as a child or youth without a fixed, regular, and adequate nighttime residence in accordance with the federal McKinney-Vento homeless assistance act, 42 U.S.C. Sec. 11431 through 11435.

(b) For the purposes of this section, "student experiencing homelessness" includes unaccompanied homeless youth not in the physical custody of a parent or guardian. "Unaccompanied homeless youth" includes students up to the age of twenty-one, in alignment with the qualifications for school admissions under RCW 28A.225.160(1).

((6)) (8)(a) Grantee ~~((school districts))~~ organizations must compile and report information to the department. The department shall report to the legislature the findings of the grantee, the housing stability of the homeless families, ~~((the academic performance of the grantee population))~~ and any related policy recommendations.

(b) Grantees must track and report on the following measures including, but not limited to:

(i) Length of time enrolled in the grant program;

(ii) Housing destination at program exit;

(iii) Type of residence prior to enrollment in the grant program; and

(iv) Number of times homeless in the past three years.

(c) Grantees must also include in their reports a narrative description discussing its partnership with school districts as set forth in the memorandum outlined in subsection (4) of this section. Reports must also include the kinds of supports grantees are providing students and families to support academic learning.

(d) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180.

((7)) (9) In order to ensure that ~~((school districts))~~ housing providers are meeting the requirements of ~~((an approved))~~ the grant program for ~~((homeless))~~ students experiencing homelessness, the ~~((office of the superintendent of public instruction))~~ department, or the department in partnership with its designee, shall monitor the program~~((s))~~ at least once every two years. ~~((Monitoring shall begin during the 2016-17 school year.~~

((8)) (10) Any program review and monitoring under this section may be conducted concurrently with other program reviews and monitoring conducted by the department. In its review, the ~~((office of the superintendent of public instruction))~~ department, or the department in partnership with its designee, shall monitor program components that include ~~((but need not be limited to))~~ the process used by the ~~((district))~~ eligible organization to identify and reach out to ~~((homeless))~~ students experiencing homelessness, ~~((assessment data))~~ and other indicators to determine how well the ~~((district))~~ eligible organization is meeting the ~~((academic))~~ housing needs of ~~((homeless))~~ students~~((, district expenditures used to expand opportunities for these students, and the academic progress of students under))~~ experiencing homelessness. The department, or the department in partnership with its designee, shall provide technical assistance and support to housing providers to better implement the program.

**Sec. 3.** RCW 28A.320.142 and 2016 c 157 s 5 are each amended to read as follows:

(1) Each ~~((school district that has identified more than ten unaccompanied youth))~~ K-12 public school in the state must establish a building point of contact in each elementary school, middle school, and high school. These points of contact must be appointed by the principal of the designated school and are responsible for identifying homeless and unaccompanied homeless youth and connecting them with the school district's ~~((homeless student))~~ liaison for students experiencing homelessness. The school district homeless student liaison is responsible for training building points of contact.

(2) The office of the superintendent of public instruction shall make available best practices for choosing and training building points of contact to each school district.

**NEW SECTION. Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ybarra; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member;

MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Bergquist, 2nd Vice Chair Ormsby, Chair.

Referred to Committee on Rules for second reading.

April 8, 2019

ESSB 5330 Prime Sponsor, Committee on Agriculture, Water, Natural Resources & Parks: Analyzing state regulatory impact on small forestland owners. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** (1) Small forestland owners own and manage approximately three million two hundred thousand acres of Washington's forestlands and exert a tremendous influence on public resources, including fish bearing streams, water quality, air, wildlife habitat, and carbon sequestration.

(2) Adoption of the forests and fish report was made possible, in part, by the agreement of small forestland owners who supported the intent of the law despite significant economic impacts to some members of the small forestland owner community. Twenty years after the adoption of the forests and fish report, it is time to evaluate how the increased regulations have impacted small forestland owners and their land.

(3) When the forests and fish report was adopted, the legislature enacted RCW 76.13.100 as follows:

"(1) The legislature finds that increasing regulatory requirements continue to diminish the economic viability of small forest landowners. The concerns set forth in RCW 77.85.180 about the importance of sustaining forestry as a viable land use are particularly applicable to small landowners because of the location of their holdings, the expected complexity of the regulatory requirements, and the need for significant technical expertise not readily available to small landowners. The further reduction in harvestable timber owned by small forest landowners as a result of the rules to be adopted under RCW 76.09.055 will further erode small landowners' economic viability and willingness or ability to keep the lands in forestry use and, therefore, reduce the amount of habitat available for salmon recovery and conservation of other aquatic resources, as defined in RCW 76.09.020.

(2) The legislature finds that the concerns identified in subsection (1) of this section should be addressed by establishing within the department of natural resources a small forest landowner office that shall be a resource and focal point for small forest landowner concerns and policies.

The legislature further finds that a forestry riparian easement program shall be established to acquire easements from small landowners along riparian and other areas of value to the state for protection of aquatic resources. The legislature further finds that small forest landowners should have the option of alternate management plans or alternate harvest restrictions on smaller harvest units that may have a relatively low impact on aquatic resources. The small forest landowner office should be responsible for assisting small landowners in the development and implementation of these plans or restrictions."

(4) The twentieth anniversary of the adoption of the forests and fish report into law presents an optimal time to review how the state's regulatory actions, intended to benefit both landowners and habitat, have affected small forestland owners. How have programs intended to make up for the disproportionate economic impact been implemented? What can the legislature do to keep small forestland owners on the landscape, so their land will be available for salmon habitat and water quality rather than converted?

(5)(a) The school of environmental and forest sciences within the college of the environment at the University of Washington must complete a trends analysis.

(b) The trends analysis must address, at a minimum, the following questions:

(i) Have the number of small forestland owners increased or decreased?

(ii)(A) Has the acreage held by small forestland owners increased or decreased?

(B) Of the land no longer owned by small forestland owners, what percentage was converted to nonforest use, became industrial forestland, trust land, or some other use?

(c)(i) The school of environmental and forest sciences at the University of Washington, using the data from the trends analysis and other pertinent information, must:

(A) Determine which factors contributed to small forestland owners selling their land;

(B) Recommend actions the legislature can take to help keep forestland working; and

(C) Assess the effectiveness and implementation of the programs created in RCW 76.13.100(2) which described three programs to assist small forestland owners and mitigate the disproportionate economic impact. The assessment must include:

(I) Evaluating the effectiveness of the small forest landowner office: Does it have adequate resources and authority to successfully address landowner concerns? Has it received adequate funding to implement fully the duties as assigned through RCW 76.13.110?

(II) Forest riparian easement program: Does the structure of the program adequately address economic impact to small forestland owners? Has funding kept up with need? Has the lack of funding resulted in the loss of riparian habitat?

(III) Have meaningful alternate management plans or alternate harvest restrictions been developed for smaller harvest units?

(IV) Has the family forest fish passage program addressed economic impact to landowners and fish passage barriers adequately?

(ii) Would meaningful alternate harvest restrictions reduce the financial burden on the forest riparian easement program?

(iii) How can the legislature incentivize small forestland owners to maintain their land as forestland?

(iv) Could a program be developed to facilitate small forestland owner's participation in carbon markets?

(6) The University of Washington may reach out to a broad variety of stakeholders for input.

(7) The policy analysis must use the trends analysis, the regulatory impact analysis, and other data to provide recommendations on ways the forest practices board and the legislature can provide more effective incentives to encourage continued management of nonindustrial forests for forestry uses, including traditional timber harvest uses, open space uses, or as part of developing carbon market schemes.

(8) The University of Washington must report the results of the trends analysis and policy analysis to the appropriate committees of the legislature and the forest practices board by November 1, 2020, with recommendations to improve mitigation measures for small forestland owners and improve retention of working forestland held by small forestland owners.

(9) This section expires December 31, 2020.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Kraft; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

ESSB 5332 Prime Sponsor, Committee on Law & Justice: Concerning vital statistics. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Robinson, 1st Vice Chair; Stokesbary,

Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Tarleton; Tharinger; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives MacEwen, Assistant Ranking Minority Member; Ybarra; Sutherland and Kraft.

Referred to Committee on Rules for second reading.

April 8, 2019

2SSB 5352 Prime Sponsor, Committee on Ways & Means: Concerning the Walla Walla watershed management pilot program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Kraft; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

E2SSB 5356 Prime Sponsor, Committee on Ways & Means: Establishing the Washington state LGBTQ commission. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Robinson, 1st Vice Chair; Rude, Assistant Ranking Minority Member; Cody; Dolan; Fitzgibbon; Hansen; Hudgins; Jinkins; Macri; Pettigrew; Pollet; Ryu; Senn; Springer; Stanford; Steele; Sullivan; Tarleton; Tharinger; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick; Ybarra; Sutherland; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Caldier; Chandler; Dye; Hoff; Kraft and Mosbrucker.

Referred to Committee on Rules for second reading.

April 6, 2019

SB 5359 Prime Sponsor, Senator Cleveland: Funding investigations to protect individuals with disabilities in the

supported living program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Volz; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Ormsby, Chair and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

SSB 5370 Prime Sponsor, Committee on Transportation: Creating a state commercial aviation coordinating commission. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that with the increase in air traffic operations, combined with the projections for the rapid expansion of these operations in both the short and the long term, concerns regarding the environmental, health, social, and economic impacts of air traffic are increasing as well. The legislature also finds that advancing Washington's position as a national and international trading leader is dependent upon the development of a highly competitive, statewide passenger and cargo air transportation system. Therefore, the legislature seeks to identify a location for a new primary commercial aviation facility in Washington, taking into consideration the data and conclusions of appropriate air traffic studies, community representatives, and industry experts. Options for a new primary commercial aviation facility in Washington may include expansion of an existing airport facility. It is the intent of the legislature to establish a state commercial aviation coordinating commission to provide a location recommendation by January 1, 2023.

**NEW SECTION. Sec. 2.** (1) The state commercial aviation coordinating commission is created to carry out the functions of this chapter. The commission shall consist of sixteen voting members.

(2) The governor shall appoint eleven voting members to represent the following interests:

(a) Four as representatives of commercial service airports and ports, one of whom shall represent a port located in a county with a population of two million or more, one of whom shall represent a port in eastern Washington with an airport runway of at least thirteen thousand five hundred feet in length, one of whom shall represent a commercial service airport in eastern Washington located in a county with a

population of four hundred thousand or more, and one representing an association of ports;

(b) Three as representatives from the airline industry and the private sector;

(c) A representative from an eastern Washington metropolitan planning organization;

(d) A representative from a western Washington metropolitan planning organization; and

(e) Two citizen representatives with one appointed from eastern Washington and one appointed from western Washington. The citizen appointees must:

(i) Represent the public interests in the communities that are included in the commission's site research; and

(ii) Understand the impacts of a large commercial aviation facility on a community.

(3) The remaining five members shall consist of:

(a) A representative from the department of commerce;

(b) A representative from the division of aeronautics of the department of transportation;

(c) A representative from the freight forwarding industry;

(d) A representative from the trucking industry; and

(e) A representative from the federal aviation administration's flight standards district office in Washington.

(4) The commission shall invite the following nonvoting members:

(a) A representative from the federal aviation administration;

(b) A representative from the Washington state aviation alliance;

(c) A representative from the department of defense;

(d) Two members from the senate, with one member from each of the two largest caucuses in the senate, appointed by the president of the senate;

(e) Two members from the house of representatives, with one member from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house of representatives;

(f) A representative from a statewide environmental organization;

(g) A representative from an organization concerned with land and/or water use in the state;

(h) Congressional staff from the fourth and ninth congressional districts with expertise in aviation; and

(i) A representative from the division of aeronautics of the department of transportation.

(5) The governor may appoint additional nonvoting members as deemed appropriate. The commission shall allow additional nonvoting members at the request of the federal aviation administration.

(6) The commission shall select a chair from among its membership and shall adopt rules related to its powers and duties under this chapter.

(7) Legislative members of the commission are 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. The commission has all powers necessary to carry out its duties as prescribed by this chapter.

(8) The department of transportation shall provide staff support for coordinating and administering the commission and technical assistance as requested by commission members.

(9) At the direction of the commission, the department of transportation is authorized to hire a consultant to assist with the review and research efforts of the commission. The contract is exempt from the competitive procurement requirements in chapter 39.26 RCW.

(10) The governor or the governor's designee shall convene the initial meeting of the commission as soon as practicable.

(11) This section expires July 1, 2023.

**NEW SECTION. Sec. 3.** (1) The state commercial aviation coordinating commission will review existing data and conduct research to determine Washington's long-range commercial aviation facility needs and the site of a new primary commercial aviation facility. Research for each potential site must include the feasibility of constructing a commercial aviation facility in that location and its potential environmental, community, and economic impacts. Options for a new primary commercial aviation facility in Washington may include expansion of an existing airport facility. The work of the commission shall include the following:

(a) Recommendations to the legislature on future Washington state long-range commercial aviation facility needs including possible additional aviation facilities or expansion of current aviation facilities, excluding those located in a county with a population of two million or more, to meet anticipated commercial aviation, general aviation, and air cargo demands; and

(b) Identifying a preferred location for a new primary commercial aviation facility. The commission shall make recommendations and shall select a single preferred location by a sixty percent majority vote using the following process:

(i) Initiating a broad review of potential sites;

(ii) Recommending a final short list of no more than six locations by January 1, 2022;

(iii) Identifying the top two locations from the final six locations by September 1, 2022; and

(iv) Identifying a single preferred location for a new primary commercial aviation facility by January 1, 2023.

(2) The commission shall submit a report of its findings and recommendations to the transportation committees of the legislature by January 1, 2023. The commission must allow a minority report to be included with the commission report if requested by a voting member of the commission.

(3) This section expires July 1, 2023.

**NEW SECTION. Sec. 4.** (1) The state commercial aviation coordinating commission shall project a timeline for the development of an additional commercial aviation facility that is completed and functional by 2040.

(2) This section expires July 1, 2023.

**NEW SECTION. Sec. 5.** (1) Nothing in this act shall be construed to endorse, limit, or otherwise alter existing or future plans for capital development and capacity enhancement at existing commercial airports in Washington.

(2) This section expires July 1, 2023."

Correct the title.

Signed by Representatives Van Werven; Valdez, 2nd Vice Chair; Wylie, 1st Vice Chair; Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke; Chambers; Chapman; Dent; Doglio; Dufault; Entenman; Eslick; Slatter, 2nd Vice Chair; Goehner; Irwin; Kloba; Lovick; McCaslin; Mead; Orcutt; Ortiz-Self; Paul; Pellicciotti; Ramos; Riccelli; Shea; Shewmake; Gregerson Fey, Chair.

Referred to Committee on Rules for second reading.

April 8, 2019

SSB 5380

Prime Sponsor, Committee on Health & Long Term Care: Concerning opioid use disorder treatment, prevention, and related services. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness. Signed by Representatives Ormsby, Chair; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Kraft; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

E2SSB 5397 Prime Sponsor, Committee on Ways & Means: Concerning the responsible management of plastic packaging. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment & Energy. Signed by Representatives Robinson, 1st Vice Chair; Cody; Dolan; Fitzgibbon; Hansen; Hudgins; Jinkins; Macri; Pettigrew; Pollet; Ryu; Senn; Springer; Stanford; Sullivan; Tarleton; Tharinger; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick; Ybarra; Sutherland; Steele; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Dye; Hoff; Kraft and Mosbrucker.

Referred to Committee on Rules for second reading.

April 8, 2019

SB 5415 Prime Sponsor, Senator McCoy: Creating the Washington Indian health improvement act. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Ybarra; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Bergquist, 2nd Vice Chair Ormsby, Chair.

Referred to Committee on Rules for second reading.

April 6, 2019

SSB 5425 Prime Sponsor, Committee on Health & Long Term Care: Concerning maternal mortality reviews. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.54.450 and 2016 c 238 s 1 are each amended to read as follows:

(1) For the purposes of this section, "maternal mortality" or "maternal death" means a death of a woman while pregnant or within one year of ~~((delivering or following))~~ the end of a pregnancy, ~~((whether or not the woman's death is related to or aggravated by the pregnancy))~~ from any cause.

(2) A maternal mortality review panel is established to conduct comprehensive, multidisciplinary reviews of maternal deaths in Washington to identify factors associated with the deaths and make recommendations for system changes to improve health care services for women in this state. The members of the panel must be appointed by the secretary of the department of health, must include at least one tribal representative, must serve without compensation, and may include at the discretion of the department:

~~(a) ((An obstetrician;~~

~~(b) A physician specializing in maternal fetal medicine;~~

~~(c) A neonatologist;~~

~~(d) A midwife with licensure in the state of Washington;))~~ Women's medical, nursing, and service providers;

(b) Perinatal medical, nursing, and service providers;

(c) Obstetric medical, nursing, and service providers;

(d) Newborn or pediatric medical, nursing, and service providers;

(e) Birthing hospital or licensed birth center representative;

(f) Coroners, medical examiners, or pathologists;

(g) Behavioral health and service providers;

(h) State agency representatives;

(i) Individuals or organizations that represent the populations most affected by pregnancy-related deaths or pregnancy-associated deaths and lack of access to maternal health care services;

(j) A representative from the department of health who works in the field of maternal and child health; and

~~((k))~~ (k) A department of health epidemiologist with experience analyzing perinatal data((;

~~(g) A pathologist; and~~

~~(h) A representative of the community mental health centers)).~~

(3) The maternal mortality review panel must conduct comprehensive, multidisciplinary reviews of maternal mortality in Washington. The panel may not call witnesses or take testimony from any individual involved in the investigation of a maternal death or enforce any public health standard or criminal law or otherwise participate in any legal proceeding relating to a maternal death.

(4)(a) Information, documents, proceedings, records, and opinions created, collected, or maintained by the maternity mortality review panel or the department of health in support of the maternal mortality review panel are confidential and are not subject to public inspection or copying under chapter 42.56 RCW and are not subject to discovery or introduction into evidence in any civil or criminal action.

(b) Any person who was in attendance at a meeting of the maternal mortality review panel or who participated in the creation, collection, or maintenance of the panel's information, documents, proceedings, records, or opinions may not be permitted or required to testify in any civil or criminal action as to the content of such proceedings, or the panel's information, documents, records, or opinions. This subsection does not prevent a member of the panel from testifying in a civil or criminal action concerning facts which form the basis for the panel's proceedings of which the panel member had personal knowledge acquired independently of the panel or which is public information.

(c) Any person who, in substantial good faith, participates as a member of the maternal mortality review panel or provides information to further the purposes of the maternal mortality review panel may not be subject to an action for civil damages or other relief as a result of the activity or its consequences.

(d) All meetings, proceedings, and deliberations of the maternal mortality review panel may, at the discretion of the maternal mortality review panel, be confidential and may be conducted in executive session.

(e) The maternal mortality review panel and ~~((the secretary of))~~ the department of health may retain identifiable information regarding facilities where maternal deaths occur, or facilities from which ~~((the patient was transferred, occur))~~ a patient whose record is or will be examined by the maternal mortality review panel was transferred, and geographic information on each case ~~((solely))~~ for the purposes of ~~((trending and analysis over time))~~ determining trends, performing analysis over time, and for quality improvement efforts. All individually identifiable information must be removed before any case review by the panel.

(5) The department of health shall review department available data to identify maternal deaths. To aid in determining whether a maternal death was related to or aggravated by the pregnancy, ~~((and))~~ whether it was preventable, and to coordinate quality improvement efforts, the department of health has the authority to:

(a) Request and receive data for specific maternal deaths including, but not limited to, all medical records, autopsy reports, medical examiner reports, coroner reports, and social service records; and

(b) Request and receive data as described in (a) of this subsection from health care providers, health care facilities, clinics, laboratories, medical examiners, coroners, professions and facilities licensed by the department of health, local health jurisdictions, the health care authority and its licensees and providers, ~~((and))~~ the department of

social and health services and its licensees and providers, and the department of children, youth, and families and its licensees and providers.

(6) Upon request by the department of health, health care providers, health care facilities, clinics, laboratories, medical examiners, coroners, professions and facilities licensed by the department of health, local health jurisdictions, the health care authority and its licensees and providers, ~~((and))~~ the department of social and health services and its licensees and providers, and the department of children, youth, and families and its licensees and providers must provide all medical records, autopsy reports, medical examiner reports, coroner reports, social services records, information and records related to sexually transmitted diseases, and other data requested for specific maternal deaths as provided for in subsection (5) of this section to the department.

(7) By ~~((July 1, 2017))~~ October 1, 2019, and ~~((biennially))~~ every three years thereafter, the maternal mortality review panel must submit a report to the secretary of the department of health and the health care committees of the senate and house of representatives. The report must protect the confidentiality of all decedents and other participants involved in any incident. The report must be distributed to relevant stakeholder groups for performance improvement. Interim results may be shared ~~((at))~~ with the Washington state hospital association coordinated quality improvement program. The report must include the following:

(a) A description of the maternal deaths reviewed by the panel ~~((during the preceding twenty four months))~~, including statistics and causes of maternal deaths presented in the aggregate, but the report must not disclose any identifying information of patients, decedents, providers, and organizations involved; and

(b) Evidence-based system changes and possible legislation to improve maternal outcomes and reduce preventable maternal deaths in Washington.

(8) Upon the approval of the department of health and with a signed written data-sharing agreement, the department of health may release either data or findings with indirect identifiers, or both, to the centers for disease control and prevention, regional maternal mortality review efforts, local health jurisdictions of Washington state, or tribes at the discretion of the department.

(a) A written data-sharing agreement under this section must, at a minimum:

(i) Include a description of the proposed purpose of the request, the scientific justification for the proposal, the type of data needed, and the purpose for which the data will be used;

(ii) Include the methods to be used to protect the confidentiality and security of the data;

(iii) Prohibit redisclosure of any identifiers without express written permission from the department of health;

(iv) Prohibit the recipient of the data from attempting to determine the identity of persons or parties whose information is included in the data set or use the data in any manner that identifies individuals or their family members, or health care providers and facilities;

(v) State that ownership of data provided under this section remains with the department of health, and is not transferred to those authorized to receive and use the data under the agreement; and

(vi) Require the recipient of the data to include appropriate citations when the data is used in research reports or publications of research findings.

(b) The department of health may deny a request to share either data or findings, or both, that does not meet the requirements.

(c) For the purposes of this subsection:

(i) "Direct identifier" means a single data element that identifies an individual person.

(ii) "Indirect identifier" means a single data element that on its own might not identify an individual person, but when combined with other indirect identifiers is likely to identify an individual person.

(9) For the purposes of the maternal mortality review, hospitals and licensed birth centers must make a reasonable and good faith effort to report all deaths that occur during pregnancy or within forty-two days of the end of pregnancy to the local coroner or medical examiner:

(a) These deaths must be reported within thirty-six hours after death.

(b) Local coroners or medical examiners to whom the death was reported must conduct a death investigation, with autopsy strongly recommended.

(c) Autopsies must follow the guidelines for performance of an autopsy published by the department of health.

(d) Reimbursement of these autopsies must be at one hundred percent to the counties for autopsy services.

**Sec. 2.** RCW 70.02.230 and 2018 c 201 s 8002 are each amended to read as follows:

(1) Except as provided in this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or pursuant to a valid authorization under RCW 70.02.030, the fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies must be confidential.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed only:

(a) In communications between qualified professional persons to meet the requirements of chapter

71.05 RCW, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

(i) Employed by the facility;

(ii) Who has medical responsibility for the patient's care;

(iii) Who is a designated crisis responder;

(iv) Who is providing services under chapter 71.24 RCW;

(v) Who is employed by a state or local correctional facility where the person is confined or supervised; or

(vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d)(i) To the courts as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e)(i) When a mental health professional or designated crisis responder is requested by a representative of a law enforcement or corrections agency, including a

police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional or designated crisis responder shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be disclosed only after giving notice to the committed person and the person's counsel;

(h)(i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW 70.02.140;

(l) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;

(m) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(~~(iii)~~) (iv). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(~~(iii)~~) (iv);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(n) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

(o) Pursuant to lawful order of a court;

(p) To qualified staff members of the department, to the authority, to the director of behavioral health organizations, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

(q) Within the mental health service agency where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide

training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

(r) Within the department and the authority as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or substance use disorder of persons who are under the supervision of the department;

(s) Between the department of social and health services, the department of children, youth, and families, and the health care authority as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department of social and health services or the department of children, youth, and families;

(t) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

(u)(i) Consistent with the requirements of the federal health insurance portability and accountability act, to:

(A) A health care provider who is providing care to a patient, or to whom a patient has been referred for evaluation or treatment; or

(B) Any other person who is working in a care coordinator role for a health care facility or health care provider or is under an agreement pursuant to the federal health insurance portability and accountability act with a health care facility or a health care provider and requires the information and records to assure coordinated care and treatment of that patient.

(ii) A person authorized to use or disclose information and records related to mental health services under this subsection (2)(u) must take appropriate steps to protect the information and records relating to mental health services.

(iii) Psychotherapy notes may not be released without authorization of the patient who is the subject of the request for release of information;

(v) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in (u) of this subsection;

(w) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for

future treatment, but may not include the patient's complete treatment record;

(x) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

(y) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

(z) To all current treating providers of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department or the authority may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW 70.02.050(1)(d). The department, or the authority, if applicable, shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. Neither the department nor the authority may release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

(aa)(i) To the secretary of social and health services and the director of the health care authority for either program evaluation or research, or both so long as the secretary or director, where applicable, adopts rules for the conduct of the evaluation or research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, . . . . ., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have

received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ . . . . ."

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary, or director, where applicable;

(bb) To any person if the conditions in RCW 70.02.205 are met;

(cc) To the secretary of health for the purposes of the maternal mortality review panel established in RCW 70.54.450.

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for chemical dependency, the department or the authority may restrict the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services or the authority under RCW 71.05.280(3) and 71.05.320(4)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW 70.02.260, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

(i) One thousand dollars; or

(ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.

(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.

NEW SECTION. Sec. 3. 2016 c 238 s 4 (uncodified) is repealed.

Sec. 4. RCW 68.50.104 and 2001 c 82 s 2 are each amended to read as follows:

(1) The cost of autopsy shall be borne by the county in which the autopsy is performed, except when requested by the department of labor and industries, in which case, the department shall bear the cost of such autopsy.

(2)(a) Except as provided in ~~((e))~~ (b) of this subsection, when the county bears the cost of an autopsy, it shall be reimbursed from the death investigations account, established by RCW 43.79.445, as follows:

~~((a))~~ (i) Up to forty percent of the cost of contracting for the services of a pathologist to perform an autopsy;

~~((b))~~ (ii) Up to twenty-five percent of the salary of pathologists who are primarily engaged in performing autopsies and are ~~((+))~~ (A) county coroners or county medical examiners, or ~~((+))~~ (B) employees of a county coroner or county medical examiner; and

~~((e))~~ (iii) One hundred percent of the cost of autopsies conducted under RCW 70.54.450.

(b) When the county bears the cost of an autopsy of a child under the age of three whose death was sudden and unexplained, the county shall be reimbursed for the expenses of the autopsy when the death scene investigation and the autopsy have been conducted under RCW 43.103.100 (4) and (5), and the autopsy has been done at a facility designed for the performance of autopsies.

(3) Payments from the account shall be made pursuant to biennial appropriation: PROVIDED, That no county may reduce funds appropriated for this purpose below 1983 budgeted levels.

NEW SECTION. Sec. 5. If specific funding for the purposes of this act, referencing this act by bill or chapter

number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Mosbrucker; Macri; Kraft; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Volz and Ybarra.

Referred to Committee on Rules for second reading.

April 6, 2019

ESB 5429 Prime Sponsor, Senator Nguyen: Including referred and diverted youth in establishing community juvenile accountability program guidelines. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Human Services & Early Learning. Signed by Representatives Volz; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Ormsby, Chair and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

E2SSB 5432 Prime Sponsor, Committee on Ways & Means: Concerning fully implementing behavioral health integration for January 1, 2020, by removing behavioral health organizations from law; clarifying the roles and responsibilities among the health care authority, department of social and health services, and department of health, and the roles and responsibilities of behavioral health administrative services organizations and medicaid managed care organizations; and making technical corrections related to the behavioral health system. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Ormsby, Chair; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Kraft; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye;

Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

April 6, 2019

2SSB 5437 Prime Sponsor, Committee on Ways & Means: Expanding eligibility to the early childhood education and assistance program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Human Services & Early Learning. Signed by Representatives Ormsby, Chair; Ybarra; Volz; Tharinger; Tarleton; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Mosbrucker; Macri; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Dye; Kraft and Sutherland.

Referred to Committee on Rules for second reading.

April 8, 2019

E2SSB 5438 Prime Sponsor, Committee on Ways & Means: Establishing the office of agricultural and seasonal workforce services within the employment security department. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended. Signed by Representatives Ormsby, Chair; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Kraft; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

E2SSB 5444 Prime Sponsor, Committee on Ways & Means: Providing timely competency evaluations and restoration services to persons suffering from behavioral health disorders within the framework of the

forensic mental health care system consistent with the requirements agreed to in the Trueblood settlement agreement. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Civil Rights & Judiciary. Signed by Representatives Sutherland; Tarleton; Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

2SSB 5489 Prime Sponsor, Committee on Ways & Means: Establishing a healthy environment for all by addressing environmental health disparities. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on State Government & Tribal Relations. Signed by Representatives Sullivan; Stanford; Senn; Ryu; Pollet; Pettigrew; Macri; Jinkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Ormsby, Chair and Tarleton.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Ybarra; Sutherland; Steele; Springer; Schmick; Mosbrucker; Kraft; Hoff; Dye; Chandler; Caldier; Rude, Assistant Ranking Minority Member MacEwen, Assistant Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representative Tharinger.

Referred to Committee on Rules for second reading.

April 8, 2019

SSB 5492 Prime Sponsor, Committee on Law & Justice: Sentencing of motor vehicle-related felonies. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Public Safety. Signed by Representatives Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye;

Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Ybarra; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Do not pass. Signed by Representative Kraft.

Referred to Committee on Rules for second reading.

April 8, 2019

E2SSB 5497 Prime Sponsor, Committee on Ways & Means: Establishing a statewide policy supporting Washington state's economy and immigrants' role in the workplace. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Civil Rights & Judiciary.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that Washington state has a thriving economy that spans both east and west, and encompasses agriculture, food processing, timber, construction, health care, technology, and the hospitality industries.

(2) The legislature also finds that Washington employers rely on a diverse workforce to ensure the economic vitality of the state. Nearly one million Washingtonians are immigrants, which is one out of every seven people in the state. Immigrants make up over sixteen percent of the workforce. In addition, fifteen percent of all business owners in the state were born outside the country, and these business owners have a large impact on the economy through innovation and the creation of jobs. Immigrants make a significant contribution to the economic vitality of this state, and it is essential that the state have policies that recognize their importance to Washington's economy.

(3) In recognition of this significant contribution to the overall prosperity and strength of Washington state, the legislature, therefore, has a substantial and compelling interest in ensuring the state of Washington remains a place where the rights and dignity of all residents are maintained and protected in order to keep Washington working.

NEW SECTION. Sec. 2. A new section is added to chapter 43.17 RCW to read as follows:

The definitions in this section apply throughout this section and sections 3 through 9 of this act unless the context clearly requires otherwise.

(1) "Civil immigration warrant" means any warrant for a violation of federal civil immigration law issued by a federal immigration authority. A "civil immigration warrant" includes, but is not limited to, administrative warrants issued on forms I-200 or I-203, or their successors,

and civil immigration warrants entered in the national crime information center database.

(2) "Court order" means a directive issued by a judge or magistrate under the authority of Article III of the United States Constitution or Article IV of the Washington Constitution. A "court order" includes but is not limited to warrants and subpoenas.

(3) "Federal immigration authority" means any officer, employee, or person otherwise paid by or acting as an agent of the United States department of homeland security including but not limited to its subagencies, immigration and customs enforcement and customs and border protection, and any present or future divisions thereof, charged with immigration enforcement.

(4) "Health facility" has the same meaning as the term "health care facility" provided in RCW 70.175.020, and includes substance abuse treatment facilities.

(5) "Hold request" or "immigration detainer request" means a request from a federal immigration authority, without a court order, that a state or local law enforcement agency maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to a federal immigration authority. A "hold request" or "immigration detainer request" includes, but is not limited to, department of homeland security form I-247A or prior or subsequent versions of form I-247.

(6) "Immigration detention agreement" means any contract, agreement, intergovernmental service agreement, or memorandum of understanding that permits a state or local law enforcement agency to house or detain individuals for federal civil immigration violations.

(7) "Immigration or citizenship status" means as such status has been established to such individual under the immigration and nationality act.

(8) "Language services" includes but is not limited to translation, interpretation, training, or classes. Translation means written communication from one language to another while preserving the intent and essential meaning of the original text. Interpretation means transfer of an oral communication from one language to another.

(9) "Local government" means any governmental entity other than the state, federal agencies, or an operating system established under chapter 43.52 RCW. It includes, but is not limited to, cities, counties, school districts, and special purpose districts.

(10) "Local law enforcement agency" means any agency of a city, county, special district, or other political subdivision of the state that is a general authority Washington law enforcement agency, as defined by RCW 10.93.020, or that is authorized to operate jails or to maintain custody of individuals in jails; or to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities; or to monitor compliance with probation or parole conditions.

(11) "Notification request" means a request from a federal immigration authority that a state or local law enforcement agency inform a federal immigration authority of the release date and time in advance of the release of an individual in its custody. "Notification request" includes, but is not limited to, the department of homeland security's form I-247A, form I-247N, or prior or subsequent versions of such forms.

(12) "Physical custody of the department of corrections" means only those individuals detained in a state correctional facility but does not include minors detained pursuant to chapter 13.40 RCW, or individuals in community custody as defined in RCW 9.94A.030.

(13) "Public schools" means all public elementary and secondary schools under the jurisdiction of local governing boards or a charter school board and all institutions of higher education as defined in RCW 28B.10.016.

(14) "School resource officer" means a commissioned law enforcement officer in the state of Washington with sworn authority to make arrests, deployed in community-oriented policing, and assigned by the employing police department or sheriff's office to work in schools to address crime and disorder problems, gangs, and drug activities affecting or occurring in or around K-12 schools. School resource officers should focus on keeping students out of the criminal justice system when possible and should not be used to attempt to impose criminal sanctions in matters that are more appropriately handled within the educational system.

(15) "State agency" has the same meaning as provided in RCW 42.56.010.

(16) "State law enforcement agency" means any agency of the state of Washington that:

- (a) Is a general authority Washington law enforcement agency as defined by RCW 10.93.020;
- (b) Is authorized to operate prisons or to maintain custody of individuals in prisons; or
- (c) Is authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.330 RCW to read as follows:

(1) A keep Washington working statewide work group is established within the department. The work group must:

- (a) Develop strategies with private sector businesses, labor, and immigrant advocacy organizations to support current and future industries across the state;
- (b) Conduct research on methods to strengthen career pathways for immigrants and create and enhance partnerships with projected growth industries;
- (c) Support business and agriculture leadership, civic groups, government, and immigrant advocacy

organizations in a statewide effort to provide predictability and stability to the workforce in the agriculture industry; and

(d) Recommend approaches to improve Washington's ability to attract and retain immigrant business owners that provide new business and trade opportunities.

(2) The work group must consist of eleven representatives, each serving a term of three years, representing members from geographically diverse immigrant advocacy groups, professional associations representing business, labor organizations with a statewide presence, agriculture and immigrant legal interests, faith-based community nonprofit organizations, legal advocacy groups focusing on immigration and criminal justice, academic institutions, and law enforcement. The terms of the members must be staggered. Members of the work group must select a chair from among the membership. The work group must meet at least four times a year and hold meetings in various locations throughout the state. Following each meeting, the work group must report on its status, including meeting minutes and a meeting summary to the department. The department must provide a report to the legislature annually.

(3) In addition to the duties and powers described in RCW 43.330.040, it is the director's duty to provide support to the work group.

(4) The definitions in section 2 of this act apply to this section.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.10 RCW to read as follows:

(1) The attorney general, in consultation with appropriate stakeholders, must publish model policies within twelve months after the effective date of this section for limiting immigration enforcement to the fullest extent possible consistent with federal and state law at public schools, health facilities operated by the state or a political subdivision of the state, courthouses, and shelters, to ensure they remain safe and accessible to all Washington residents, regardless of immigration or citizenship status.

(2) All public schools, health facilities either operated by the state or a political subdivision of the state, and courthouses must:

(a) Adopt necessary changes to policies consistent with the model policy; or

(b) Notify the attorney general that the agency is not adopting the changes to its policies consistent with the model policy, state the reasons that the agency is not adopting the changes, and provide the attorney general with a copy of the agency's policies.

(3) All other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, are encouraged to adopt the model policy.

(4) Implementation of any policy under this section must be in accordance with state and federal law; policies, grants, waivers, or other requirements necessary to maintain funding; or other agreements related to the operation and

functions of the organization, including databases within the organization.

(5) The definitions in section 2 of this act apply to this section.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.17 RCW to read as follows:

(1) Except as provided in subsection (3) of this section, no state agency, including law enforcement, may use agency funds, facilities, property, equipment, or personnel to investigate, enforce, cooperate with, or assist in the investigation or enforcement of any federal registration or surveillance programs or any other laws, rules, or policies that target Washington residents solely on the basis of race, religion, immigration, or citizenship status, or national or ethnic origin. This subsection does not apply to any program with the primary purpose of providing persons with services or benefits, or to RCW 9.94A.685.

(2) Except as provided in subsection (3) of this section, the state agencies listed in subsections (5) and (6) of this section shall review their policies and identify and make any changes necessary to ensure that:

(a) Information collected from individuals is limited to the minimum necessary to comply with subsection (3) of this section;

(b) Information collected from individuals is not disclosed except as necessary to comply with subsection (3) of this section or as permitted by state or federal law;

(c) Agency employees may not condition services or request information or proof regarding a person's immigration status, citizenship status, or place of birth; and

(d) Public services are available to, and agency employees shall serve, all Washington residents without regard to immigration or citizenship status.

(3) Nothing in subsection (1) or (2) of this section prohibits the collection, use, or disclosure of information that is:

(a) Required to comply with state or federal law;

(b) In response to a lawfully issued court order;

(c) Necessary to perform agency duties, functions, or other business, as permitted by statute or rule, conducted by the agency that is not related to immigration enforcement;

(d) Required to comply with policies, grants, waivers, or other requirements necessary to maintain funding; or

(e) In the form of deidentified or aggregated data, including census data.

(4) Any changes to agency policies required by this section must be made as expeditiously as possible, consistent with agency procedures. Final policies must be published.

(5) The following state agencies shall begin implementation of this section within twelve months after the effective date of this section and demonstrate full compliance by December 1, 2021:

- (a) Department of licensing;
- (b) Department of labor and industries;
- (c) Employment security department;
- (d) Department of revenue;
- (e) Department of health;
- (f) Health care authority;
- (g) Department of social and health services;
- (h) Department of children, youth, and families;
- (i) Office of the superintendent of public instruction;
- (j) State patrol.

(6) The following state agencies may begin implementation of this section by December 1, 2021, and must demonstrate full compliance by December 1, 2023:

- (a) Department of agriculture;
- (b) Department of financial institutions;
- (c) Department of fish and wildlife;
- (d) Department of natural resources;
- (e) Department of retirement systems;
- (f) Department of services for the blind;
- (g) Department of transportation.

NEW SECTION. Sec. 6. A new section is added to chapter 10.93 RCW to read as follows:

(1) The definitions contained in section 2 of this act apply to this section.

(2) The legislature finds that it is not the primary purpose of state and local law enforcement agencies or school resource officers to enforce civil federal immigration law. The legislature further finds that the immigration status of an individual or an individual's presence in, entry, or reentry to, or employment in the United States alone, is not a matter for police action, and that United States federal immigration authority has primary jurisdiction for enforcement of the provisions of Title 8 U.S.C. dealing with illegal entry.

(3) School resource officers, when acting in their official capacity as a school resource officer, may not:

(a) Inquire into or collect information about an individual's immigration or citizenship status, or place of birth; or

(b) Provide information pursuant to notification requests from federal immigration authorities for the purposes of civil immigration enforcement, except as required by law.

(4) State and local law enforcement agencies may not:

(a) Inquire into or collect information about an individual's immigration or citizenship status, or place of birth unless there is a connection between such information

and an investigation into a violation of state or local criminal law; or

(b) Provide information pursuant to notification requests from federal immigration authorities for the purposes of civil immigration enforcement, except as required by law.

(5) State and local law enforcement agencies may not provide nonpublicly available personal information about an individual, including individuals subject to community custody pursuant to RCW 9.94A.701 and 9.94A.702, to federal immigration authorities in a noncriminal matter, except as required by state or federal law.

(6)(a) State and local law enforcement agencies may not give federal immigration authorities access to interview individuals about a noncriminal matter while they are in custody, except as required by state or federal law, a court order, or by (b) of this subsection.

(b) Permission may be granted to a federal immigration authority to conduct an interview regarding federal immigration violations with a person who is in the custody of a state or local law enforcement agency if the person consents in writing to be interviewed. In order to obtain consent, agency staff shall provide the person with an oral explanation and a written consent form that explains the purpose of the interview, that the interview is voluntary, and that the person may decline to be interviewed or may choose to be interviewed only with the person's attorney present. The form must state explicitly that the person will not be punished or suffer retaliation for declining to be interviewed. The form must be available at least in English and Spanish and explained orally to a person who is unable to read the form, using, when necessary, an interpreter from the district communications center "language line" or other district resources.

(7) An individual may not be detained solely for the purpose of determining immigration status.

(8) An individual must not be taken into custody, or held in custody, solely for the purposes of determining immigration status or based solely on a civil immigration warrant, or an immigration hold request.

(9)(a) To ensure compliance with all treaty obligations, including consular notification, and state and federal laws, on the commitment or detainment of any individual, state and local law enforcement agencies must explain in writing:

(i) The individual's right to refuse to disclose their nationality, citizenship, or immigration status; and

(ii) That disclosure of their nationality, citizenship, or immigration status may result in civil or criminal immigration enforcement, including removal from the United States.

(b) Nothing in this subsection allows for any violation of subsection (4) of this section.

(10) A state and local government or law enforcement agency may not deny services, benefits,

privileges, or opportunities to individuals in custody, or under community custody pursuant to RCW 9.94A.701 and 9.94A.702, or in probation status, on the basis of the presence of an immigration detainer, hold, notification request, or civil immigration warrant, except as required by law or as necessary for classification or placement purposes for individuals in the physical custody of the department of corrections.

(11) No state or local law enforcement officer may enter into any contract, agreement, or arrangement, whether written or oral, that would grant federal civil immigration enforcement authority or powers to state and local law enforcement officers, including but not limited to agreements created under 8 U.S.C. Sec. 1357(g), also known as 287(g) agreements.

(12)(a) No state agency or local government or law enforcement officer may enter into an immigration detention agreement. All immigration detention agreements must be terminated no later than one hundred eighty days after the effective date of this section, except as provided in (b) of this subsection.

(b) Any immigration detention agreement in effect prior to January 1, 2019, and under which a payment was made between July 1, 2017, and December 31, 2018, may remain in effect until the date of completion or December 31, 2021, whichever is earlier.

(13) No state or local law enforcement agency or school resource officer may enter into or renew a contract for the provision of language services from federal immigration authorities, nor may any language services be accepted from such for free or otherwise.

(14) The department of corrections may not give federal immigration authorities access to interview individuals about federal immigration violations while they are in custody, except as required by state or federal law or by court order, unless such individuals consent to be interviewed in writing. Before agreeing to be interviewed, individuals must be advised that they will not be punished or suffer retaliation for declining to be interviewed.

(15) Subsections (3) through (6) of this section do not apply to individuals who are in the physical custody of the department of corrections.

(16) Nothing in this section prohibits the collection, use, or disclosure of information that is:

- (a) Required to comply with state or federal law; or
- (b) In response to a lawfully issued court order.

**NEW SECTION. Sec. 7.** To ensure state and law enforcement agencies are able to foster the community trust necessary to maintain public safety, within twelve months of the effective date of this section, the attorney general must, in consultation with appropriate stakeholders, publish model policies, guidance, and training recommendations consistent with this act and state and local law, aimed at ensuring that state and local law enforcement duties are carried out in a manner that limits, to the fullest extent practicable and consistent with federal and state law, engagement with

federal immigration authorities for the purpose of immigration enforcement. All state and local law enforcement agencies must either:

(1) Adopt policies consistent with that guidance; or

(2) Notify the attorney general that the agency is not adopting the guidance and model policies, state the reasons that the agency is not adopting the model policies and guidance, and provide the attorney general with a copy of the agency's policies to ensure compliance with this act.

**NEW SECTION. Sec. 8.** No section of this act is intended to limit or prohibit any state or local agency or officer from:

(1) Sending to, or receiving from, federal immigration authorities the citizenship or immigration status of a person, or maintaining such information, or exchanging the citizenship or immigration status of an individual with any other federal, state, or local government agency, in accordance with 8 U.S.C. Sec. 1373; or

(2) Complying with any other state or federal law.

**NEW SECTION. Sec. 9.** 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. 10.** The following acts or parts of acts are each repealed:

(1)RCW 10.70.140 (Aliens committed—Notice to immigration authority) and 1992 c 7 s 29 & 1925 ex.s. c 169 s 1; and

(2)RCW 10.70.150 (Aliens committed—Copies of clerk's records) and 1925 ex.s. c 169 s 2.

**NEW SECTION. Sec. 11.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

**NEW SECTION. Sec. 12.** 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.

Signed by Representatives Robinson, 1st Vice Chair; Cody; Dolan; Fitzgibbon; Hansen; Hudgins; Jinkins; Macri; Pettigrew; Pollet; Ryu; Senn; Springer; Stanford; Sullivan; Tarleton; Tharinger; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Steele; Ybarra; Sutherland; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking

Minority Member; Caldier; Chandler; Dye; Hoff; Kraft; Mosbrucker and Schmick.

Referred to Committee on Rules for second reading.

April 8, 2019

SB 5505 Prime Sponsor, Senator Hobbs: Addressing the use of local stormwater charges paid by the department of transportation. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Fey, Chair; Van Werven; Shewmake; Riccelli; Pellicciotti; Paul; Ortiz-Self; Mead; McCaslin; Lovick; Kloba; Gregerson; Entenman; Dufault; Doglio; Chapman; Young, Assistant Ranking Minority Member; Barkis, Ranking Minority Member; Wylie, 1st Vice Chair; Valdez, 2nd Vice Chair Slatter, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Shea; Orcutt; Goehner; Eslick; Dent; Boehnke Walsh, Assistant Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representatives Irwin and Chambers.

Referred to Committee on Rules for second reading.

April 8, 2019

2SSB 5511 Prime Sponsor, Committee on Ways & Means: Expanding affordable, resilient broadband service to enable economic development, public safety, health care, and education in Washington's communities. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Capital Budget. Signed by Representatives Ormsby, Chair; Ybarra; Tharinger; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Schmick; Ryu; Pettigrew; Mosbrucker; Macri; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Rude, Assistant Ranking Minority Member and Kraft.

MINORITY recommendation: Without recommendation. Signed by Representatives Senn and Pollet.

Referred to Committee on Rules for second reading.

April 8, 2019

ESSB 5526 Prime Sponsor, Committee on Health & Long Term Care: Increasing the availability of quality, affordable health coverage in the individual market. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness.

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) 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 silver standardized health plan and one gold standardized health plan on the exchange. If a health carrier offers a bronze health plan on the exchange, it must offer one bronze standardized health plan on the exchange.

(b)(i) A health plan offering a standardized health plan under this section may also offer nonstandardized health plans on the exchange.

(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.

(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.

**NEW SECTION. Sec. 2.** A new section is added to chapter 42.56 RCW to read as follows:

(1) Any data submitted by health carriers to the health benefit exchange for purposes of establishing standardized health plans under section 1 of this act are exempt from disclosure under this chapter. This subsection applies to health carrier data in the custody of the insurance commissioner for purposes of consulting with the health benefit exchange under section 1(1) of this act.

(2) Any data submitted by health carriers to the health care authority for purposes of section 3 of this act are exempt from disclosure under this chapter.

**NEW SECTION. Sec. 3.** A new section is added to chapter 41.05 RCW 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 section 1 of this act;

(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;

(ii) Meet national accreditation standards; and

(iii) Align with clinical criteria published by the authority;

(g)(i) 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 fifty 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 this subsection (2)(g) 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;

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

**NEW SECTION. Sec. 4.** (1) The health care authority, in consultation with the insurance commissioner and the Washington health benefit exchange, must submit a report and recommendations to the legislature by December 1, 2022, regarding:

(a) The impact on qualified health plan choice, affordability, and market stability of linking offering a qualified health plan under section 3 of this act with

participation in programs administered by the public employees' benefits board, the school employees' benefits board, or the health care authority;

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(b) The impact on qualified health plan choice, qualified health plan provider networks, affordability, and market stability of linking provider participation in the provider networks of qualified health plans offered under section 3 of this act with provider participation in provider networks of programs administered by the public employees' benefits board, the school employees' benefits board, or the health care authority; and

(c) Other issues the health care authority deems relevant to the successful implementation of this act.

(2) This section expires January 1, 2023.

**NEW SECTION. Sec. 5.** (1) The Washington health benefit exchange, in consultation with the health care authority and the insurance commissioner, must develop a plan to implement and fund premium subsidies for individuals whose modified adjusted gross incomes are less than five hundred percent of the federal poverty level and who are purchasing individual market coverage on the exchange. The goal of the plan is to enable participating individuals to spend no more than ten percent of their modified adjusted gross incomes on premiums. The plan must also include an assessment of providing cost-sharing reductions to plan participants and must assess the impact of premium subsidies on the uninsured rate.

(2) The Washington health benefit exchange must submit the plan, along with proposed implementing legislation, to the appropriate committees of the legislature by November 15, 2020.

(3) This section expires January 1, 2021.

**NEW SECTION. Sec. 6.** A new section is added to chapter 48.43 RCW to read as follows:

The commissioner shall submit an annual report to the appropriate committees of the legislature on the number of health plans available per county in the individual market.

**NEW SECTION. Sec. 7.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sullivan; Stanford; Springer; Senn; Ryu; Pollet; Pettigrew; Macri; Jenkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Steele; Schmick; Mosbrucker; Kraft; Hoff; Dye; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Sutherland and Ybarra.

Referred to Committee on Rules for second reading.

**SSB 5550**

Prime Sponsor, Committee on Ways & Means: Implementing the recommendations of the pesticide application safety work group. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Labor & Workplace Standards. Signed by Representatives Ormsby, Chair; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Kraft; Jenkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

**SSB 5552**

Prime Sponsor, Committee on Agriculture, Water, Natural Resources & Parks: Concerning the protection of all pollinators, including honey bees. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that more than three-fourths of the world's flowering plants and about thirty-five percent of the world's food crops depend on pollinators to reproduce. In Washington state, honey bees and other pollinators are responsible for the production of tree fruits, small fruits, and other crops, with the value in 2016 of crops pollinated by honey bees exceeding three billion dollars. The legislature further finds that, beyond agriculture, pollinators are keystone species in the terrestrial ecosystems of Washington, with fruit and seeds derived from insect pollination providing a major part of the diet of numerous bird and mammal species. The state has experienced pollinator habitat loss through property conversion, fragmentation, and degradation of land, and with the state's population continuing to grow at a fast pace, the additional loss of habitat is a significant concern.

Therefore, the legislature intends by this act to initiate a concerted effort to protect and expand the habitat upon which pollinators depend, by providing technical and financial assistance to public and private landowners, and by coordinating with other state agencies and local governments in promoting practices to ensure sustainable, healthy populations of managed and native pollinators.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.23 RCW to read as follows:

The department shall establish a program to promote and protect pollinator habitat and the health and sustainability of pollinator species. As funds are made available, the program must provide technical and financial assistance to state agencies, local governments, and private landowners to implement practices that promote habitat for managed pollinators, as well as beekeeper and grower best management practices. The program must be administered in coordination with the apiary program established in chapter 15.60 RCW, the honey bee commission authorized in chapter 15.62 RCW, and programs administered by the conservation commission and conservation districts.

**NEW SECTION. Sec. 3.** (1) The department of agriculture shall create and chair a pollinator health task force. The department of agriculture shall appoint the members of the task force, which must include but is not limited to representatives of the following interests, organizations, and state agencies:

- (a) The conservation commission;
- (b) The department of natural resources;
- (c) The department of fish and wildlife;
- (d) The state parks and recreation commission;
- (e) The Washington state department of transportation;
- (f) The state noxious weed control board;
- (g) The tree fruit industry;
- (h) The seed industry;
- (i) The berry industry;
- (j) Other agricultural industries dependent upon pollinators;
- (k) Washington State University;
- (l) Pesticide distributors and applicators;
- (m) Conservation organizations;
- (n) Organizations representing beekeepers or apiarists;
- (o) A member of the public from west of the crest of the Cascade mountains; and
- (p) A member of the public from east of the crest of the Cascade mountains.

(2) One or more representatives of Washington tribes must also be invited to participate on the task force.

(3) One youth representative from an organization that encourages students to engage in agricultural education must also be invited to participate on the task force when available.

(4) The task force shall build upon existing pollinator and pollinator habitat plans at the national and state level including, but not limited to, the state-managed pollinator plan, to develop a state pollinator health strategy that includes, but is not limited to, the following elements:

(a) A research action plan to focus state efforts on understanding, preventing, and recovering from pollinator losses;

(b) A plan to expand and coordinate public education programs outlining steps that individuals and businesses can take to help address the loss of pollinators;

(c) A plan to expand research on and education related to varroa mites and other pests and diseases that affect bees;

(d) Recommendations for developing public and private partnerships to encourage pollinator protection and increase the quality and amount of habitat and forage for pollinators;

(e) Specific targets and plans that state agencies should adopt to enhance pollinator habitat on their managed lands and facilities;

(f) Recommendations for promoting seed banks and native plants beneficial for pollinators;

(g) Recommendations for developing a plan to improve communication between beekeepers, landowners, and pesticide applicators, including a draft policy for the director of agriculture to consider that would allow the release of contact information for registered apiarists when requested by a landowner or pesticide applicator in order to protect the apiary when possible; and

(h) Recommendations for legislative, administrative, or budgetary actions necessary to implement the strategy.

(5) The department of agriculture shall provide the strategy to the appropriate committees of the senate and house of representatives by December 31, 2020, in compliance with RCW 43.01.036.

(6) This section expires January 1, 2021.

**Sec. 4.** RCW 17.10.145 and 2016 c 44 s 2 are each amended to read as follows:

(1) All state agencies shall control noxious weeds on lands they own, lease, or otherwise control through integrated pest management practices. Agencies shall develop plans in cooperation with county noxious weed control boards to control noxious weeds in accordance with standards in this chapter.

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

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

**Sec. 5.** RCW 79.10.120 and 2014 c 114 s 4 are each amended to read as follows:

Multiple uses additional to and compatible with those basic activities necessary to fulfill the financial obligations of trust management may include but are not limited to:

- (1) Recreational areas;
- (2) Recreational trails for both vehicular and nonvehicular uses developed or maintained consistent with RCW 79.10.500;
- (3) Special educational or scientific studies;
- (4) Experimental programs by the various public agencies;
- (5) Special events;
- (6) Hunting and fishing and other sports activities;
- (7) Maintenance of pollinator habitat and habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees;
- (8) Nonconsumptive wildlife activities as defined by the board of natural resources;
- ~~((8))~~ (9) Maintenance of scenic areas;
- ~~((9))~~ (10) Maintenance of historical sites;
- ~~((10))~~ (11) Municipal or other public watershed protection;
- ~~((11))~~ (12) Greenbelt areas;
- ~~((12))~~ (13) Public rights-of-way;
- ~~((13))~~ (14) Other uses or activities by public agencies~~((s))~~.

If such additional uses are not compatible with the financial obligations in the management of trust land they may be permitted only if there is compensation from such uses satisfying the financial obligations.

**Sec. 6.** RCW 79.10.200 and 2003 c 334 s 542 are each amended to read as follows:

The department may adopt a multiple use land resource allocation plan for all or portions of the lands under its jurisdiction providing for the identification and establishment of areas of land uses and identifying those uses which are best suited to achieve the purposes of RCW 79.10.060, 79.10.070, 79.10.100 through 79.10.120, 79.10.130, 79.10.200 through 79.10.330, 79.44.003, and ~~((79.90.456))~~ 79.105.050. Such plans shall take into consideration the various ecological conditions, elevations, soils, natural features, vegetative cover, pollinator habitat, climate, geographical location, values, public use potential, accessibility, economic uses, recreational potentials, local and regional land use plans or zones, local, regional, state, and federal comprehensive land use plans or studies, and all other factors necessary to achieve the purposes of RCW 79.10.060, 79.10.070, 79.10.100 through 79.10.120, 79.10.130, 79.10.200 through 79.10.330, 79.44.003, and ~~((79.90.456))~~ 79.105.050.

**Sec. 7.** RCW 79.10.280 and 2003 c 334 s 545 are each amended to read as follows:

(1) The department shall design expansion of its land use data bank to include additional information that will assist in the formulation, evaluation, and updating of intermediate and long-range goals and policies for land use, population growth and distribution, urban expansion, open space, resource preservation and utilization, and other factors which shape statewide development patterns and significantly influence the quality of the state's environment. The system shall be designed to permit inclusion of other lands in the state and will do so as financing and time permit.

(2) Such data bank shall contain any information relevant to the future growth of agriculture, forestry, industry, business, residential communities, and recreation; the wise use of land and other natural resources which are in accordance with their character and adaptability; the conservation and protection of the soil, air, water, pollinator habitat, and forest resources; the protection of the beauty of the landscape; and the promotion of the efficient and economical uses of public resources.

The information shall be assembled from all possible sources, including but not limited to, the federal government and its agencies, all state agencies, all political subdivisions of the state, all state operated universities and colleges, and any source in the private sector. All state agencies, all political subdivisions of the state, and all state universities and colleges are directed to cooperate to the fullest extent in the collection of data in their possession. Information shall be collected on all areas of the state but collection may emphasize one region at a time.

(3) The data bank shall make maximum use of computerized or other advanced data storage and retrieval methods. The department is authorized to engage consultants in data processing to ensure that the data bank will be as complete and efficient as possible.

(4) The data shall be made available for use by any governmental agency, research organization, university or college, private organization, or private person as a tool to evaluate the range of alternatives in land and resource planning in the state.

**NEW SECTION. Sec. 8.** A new section is added to chapter 77.12 RCW to read as follows:

The department must implement practices necessary to maintain pollinator habitat on department-owned and managed agricultural and grazing lands where practicable. For the purposes of this section, "pollinator habitat" means an area of land that is or may be developed as habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees, as determined by the department.

**Sec. 9.** RCW 79A.05.305 and 1984 c 82 s 2 are each amended to read as follows:

The legislature declares that it is the continuing policy of the state of Washington to set aside and manage certain lands within the state for public park purposes. To comply with public park purposes, these lands shall be acquired and managed to:

(1) Maintain and enhance ecological, aesthetic, and recreational purposes;

(2) Preserve and maintain mature and old-growth forests containing trees of over ninety years and other unusual ecosystems as natural forests or natural areas, which may also be used for interpretive purposes;

(3) Protect cultural and historical resources, locations, and artifacts, which may also be used for interpretive purposes;

(4) Provide a variety of recreational opportunities to the public, including but not limited to use of developed recreation areas, trails, and natural areas;

(5) Preserve and maintain habitat which will protect and promote endangered, threatened, and sensitive plants, ~~((and))~~ endangered, threatened, and sensitive animal species, and habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees; and

(6) Encourage public participation in the formulation and implementation of park policies and programs.

**Sec. 10.** RCW 47.40.040 and 1961 c 13 s 47.40.040 are each amended to read as follows:

Each application for a permit to plant, cultivate and grow any hedge, shade or ornamental trees or shrubbery along or upon the right-of-way of any state highway or improve such right-of-way shall be in writing, signed by the applicant, and shall describe the state highway or portion thereof along or upon the right-of-way of which permit to plant, cultivate, grow or improve is sought, by name, number, or other reasonable description, and the lands bordering thereon by governmental subdivisions, and shall state the names, places or residence and post office addresses of the applicant or applicants owning the land abutting upon such state highway or the name of the person, firm, corporation, association or organization applying for the permit and the names of its officers and their places of residence and their post office addresses, and shall state definitely the purpose for which the permit is sought, giving a description of the kind of hedge, or variety of shrubbery or trees desired to be planted or the kinds of crops to be grown, or improvement to be made, with a diagram illustrating the location and number of hedges, trees or shrubs or the area of cultivation desired or plans of the improvement proposed to be made. Whenever possible, applicants should use native forage plants that are pollen-rich or nectar-rich and beneficial for all pollinators, including honey bees, in order to develop habitat beneficial for the feeding, nesting, and reproduction of pollinators.

**Sec. 11.** RCW 47.40.100 and 1995 c 106 s 1 are each amended to read as follows:

(1)(a) The department of transportation shall establish a statewide adopt-a-highway program. The purpose of the program is to provide volunteers and businesses an opportunity to contribute to a cleaner environment, enhanced roadsides, and protection of wildlife habitats. Participating volunteers and businesses shall adopt department-designated sections of state highways, rest areas, park and ride lots,

intermodal facilities, and any other facilities the department deems appropriate, in accordance with rules adopted by the department. The department may elect to coordinate a consortium of participants for adopt-a-highway projects.

(b) The adopt-a-highway program shall include, at a minimum, litter control for the adopted section, and may include additional responsibilities such as planting and maintaining vegetation, controlling weeds, graffiti removal, and any other roadside improvement or clean-up activities the department deems appropriate. Whenever possible, when planting and maintaining vegetation, volunteers and businesses should use native forage plants that are pollen-rich or nectar-rich and beneficial for all pollinators, including honey bees, in order to develop habitat beneficial for the feeding, nesting, and reproduction of pollinators. The department shall not accept adopt-a-highway proposals that would have the effect of terminating classified employees or classified employee positions.

(2) A volunteer group or business choosing to participate in the adopt-a-highway program must submit a proposal to the department. The department shall review the proposal for consistency with departmental policy and rules. The department may accept, reject, or modify an applicant's proposal.

(3) The department shall seek partnerships with volunteer groups and businesses to facilitate the goals of this section. The department may solicit funding for the adopt-a-highway program that allows private entities to undertake all or a portion of financing for the initiatives. The department shall develop guidelines regarding the cash, labor, and in-kind contributions to be performed by the participants.

(4) An organization whose name: (a) Endorses or opposes a particular candidate for public office, (b) advocates a position on a specific political issue, initiative, referendum, or piece of legislation, or (c) includes a reference to a political party shall not be eligible to participate in the adopt-a-highway program.

(5) In administering the adopt-a-highway program, the department shall:

(a) Provide a standardized application form, registration form, and contractual agreement for all participating groups. The forms shall notify the prospective participants of the risks and responsibilities to be assumed by the department and the participants;

(b) Require all participants to be at least fifteen years of age;

(c) Require parental consent for all minors;

(d) Require at least one adult supervisor for every eight minors;

(e) Require one designated leader for each participating organization, unless the department chooses to coordinate a consortium of participants;

(f) Assign each participating organization a section or sections of state highway, or other state-owned transportation facilities, for a specified period of time;

(g) Recognize the efforts of a participating organization by erecting and maintaining signs with the organization's name on both ends of the organization's section of highway;

(h) Provide appropriate safety equipment. Safety equipment issued to participating groups must be returned to the department upon termination of the applicable adopt-a-highway agreement;

(i) Provide safety training for all participants;

(j) Pay any and all premiums or assessments required under RCW 51.12.035 to secure medical aid benefits under chapter 51.36 RCW for all volunteers participating in the program;

(k) Require participating businesses to pay all employer premiums or assessments required to secure medical aid benefits under chapter 51.36 RCW for all employees or agents participating in the program;

(l) Maintain records of all injuries and accidents that occur;

(m) Adopt rules that establish a process to resolve any question of an organization's eligibility to participate in the adopt-a-highway program;

(n) Obtain permission from property owners who lease right-of-way before allowing an organization to adopt a section of highway on such leased property; and

(o) Establish procedures and guidelines for the adopt-a-highway program.

(6) Nothing in this section affects the rights or activities of, or agreements with, adjacent landowners, including the use of rights-of-way and crossings, nor impairs these rights and uses by the placement of signs.

**Sec. 12.** RCW 79A.15.060 and 2016 c 149 s 6 are each amended to read as follows:

(1) The board may adopt rules establishing acquisition policies and priorities for distributions from the habitat conservation account.

(2) Except as provided in RCW 79A.15.030(8), moneys appropriated for this chapter may not be used by the board to fund staff positions or other overhead expenses, or by a state, regional, or local agency to fund operation or maintenance of areas acquired under this chapter.

(3) Moneys appropriated for this chapter may be used by grant recipients for costs incidental to acquisition, including, but not limited to, surveying expenses, fencing, noxious weed control, and signing.

(4) The board may not approve a local project where the local agency share is less than the amount to be awarded from the habitat conservation account.

(5) In determining acquisition priorities with respect to the habitat conservation account, the board shall consider, at a minimum, the following criteria:

(a) For critical habitat and natural areas proposals:

(i) Multiple benefits for the project;

(ii) Whether, and the extent to which, a conservation easement can be used to meet the purposes for the project;

(iii) Community support for the project based on input from, but not limited to, local citizens, local organizations, and local elected officials;

(iv) The project proposal's ongoing stewardship program that includes estimated costs of maintaining and operating the project including, but not limited to, control of noxious weeds and detrimental invasive species, and that identifies the source of the funds from which the stewardship program will be funded;

(v) Recommendations as part of a watershed plan or habitat conservation plan, or a coordinated regionwide prioritization effort, and for projects primarily intended to benefit salmon, limiting factors, or critical pathways analysis;

(vi) Immediacy of threat to the site;

(vii) Uniqueness of the site;

(viii) Diversity of species using the site;

(ix) Quality of the habitat;

(x) Long-term viability of the site;

(xi) Presence of endangered, threatened, or sensitive species;

(xii) Enhancement of existing public property;

(xiii) Consistency with a local land use plan, or a regional or statewide recreational or resource plan, including projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130;

(xiv) Educational and scientific value of the site;

(xv) Integration with recovery efforts for endangered, threatened, or sensitive species;

(xvi) The statewide significance of the site;

(xvii) Habitat benefits for the feeding, nesting, and reproduction of all pollinators, including honey bees.

(b) For urban wildlife habitat proposals, in addition to the criteria of (a) of this subsection:

(i) Population of, and distance from, the nearest urban area;

(ii) Proximity to other wildlife habitat;

(iii) Potential for public use; and

(iv) Potential for use by special needs populations.

(c) For riparian protection proposals, the board must consider, at a minimum, the following criteria:

(i) Whether the project continues the conservation reserve enhancement program. Applications that extend the duration of leases of riparian areas that are currently enrolled

in the conservation reserve enhancement program are eligible. These applications are eligible for a conservation lease extension of at least twenty-five years of duration;

(ii) Whether the projects are identified or recommended in a watershed plan, salmon recovery plan, or other local plans, such as habitat conservation plans, and these must be highly considered in the process;

(iii) Whether there is community support for the project;

(iv) Whether the proposal includes an ongoing stewardship program that includes control of noxious weeds, detrimental invasive species, and that identifies the source of the funds from which the stewardship program will be funded;

(v) Whether there is an immediate threat to the site;

(vi) Whether the quality of the habitat is improved or, for projects including restoration or enhancement, the potential for restoring quality habitat including linkage of the site to other high quality habitat;

(vii) Whether the project is consistent with a local land use plan or a regional or statewide recreational or resource plan. The projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130 must be highly considered in the process;

(viii) Whether the site has educational or scientific value; ~~(and)~~

(ix) Whether the site has passive recreational values for walking trails, wildlife viewing, the observation of natural settings, or other multiple benefits; and

(x) Whether the project provides habitat benefits for the feeding, nesting, and reproduction of all pollinators, including honey bees.

(d) Moneys appropriated for this chapter to riparian protection projects must be distributed for the acquisition or enhancement or restoration of riparian habitat. All enhancement or restoration projects, except those qualifying under (c)(i) of this subsection, must include the acquisition of a real property interest in order to be eligible.

(6) Before November 1st of each even-numbered year, the board shall recommend to the governor a prioritized list of all projects to be funded under RCW 79A.15.040. The governor may remove projects from the list recommended by the board and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and any particular match requirement, and describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.

**NEW SECTION. Sec. 13.** A new section is added to chapter 15.58 RCW to read as follows:

The department must develop educational materials regarding the best practices for avoiding adverse effects from pesticides on populations of bees, honey bees, and

other pollinating insects. The educational materials must include, but not be limited to, measures that anyone applying pesticides can take to protect bees, honey bees, and other pollinating insects. The department must design requirements to ensure that any pesticide applicator applying or supervising the application of a restricted-use pesticide is highly knowledgeable regarding alternatives to, the appropriateness of, and precautions for, the use of restricted-use pesticides that may be injurious to the health of bees, honey bees, and other pollinating insects.

**NEW SECTION. Sec. 14.** A new section is added to chapter 35.21 RCW to read as follows:

(1) A city or town may, by ordinance, establish an urban agriculture zone within the boundaries of the city or town.

(2) To establish an urban agriculture zone, the city or town must conduct at least one public hearing on the question of whether to establish the urban agriculture zone.

(3) An ordinance adopted pursuant to this section must not prohibit the use of structures that support agricultural activity including, without limitation, apiaries, toolsheds, greenhouses, produce stands, and instructional spaces.

**NEW SECTION. Sec. 15.** A new section is added to chapter 35.21 RCW to read as follows:

A city or town may authorize, by ordinance, the use of vacant or blighted city land for the purpose of community gardening under the terms and conditions established for the use of the city land set forth by the ordinance. The ordinance may establish fees for the use of the city land, provide requirements for liability insurance, and provide requirements for a deposit to use the city land, which may be refunded. The ordinance must require that a portion of the community garden include habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees.

**NEW SECTION. Sec. 16.** A new section is added to chapter 35A.21 RCW to read as follows:

(1) A code city may, by ordinance, establish an urban agriculture zone within the boundaries of the code city.

(2) To establish an urban agriculture zone, the code city must conduct at least one public hearing on the question of whether to establish the urban agriculture zone.

(3) An ordinance adopted pursuant to this section must not prohibit the use of structures that support agricultural activity including, without limitation, apiaries, toolsheds, greenhouses, produce stands, and instructional spaces.

**NEW SECTION. Sec. 17.** A new section is added to chapter 35A.21 RCW to read as follows:

A code city may authorize, by ordinance, the use of vacant or blighted city land for the purpose of community gardening under the terms and conditions established for the use of the city land set forth by the ordinance. The ordinance

may establish fees for the use of the city land, provide requirements for liability insurance, and provide requirements for a deposit to use the city land, which may be refunded. The ordinance must require that a portion of the community garden include habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees.

**NEW SECTION. Sec. 18.** A new section is added to chapter 36.34 RCW to read as follows:

A county may, by ordinance, authorize the use of vacant or blighted county land for the purpose of community gardening under the terms and conditions established for the use of the county land set forth by the ordinance. The ordinance may establish fees for the use of the county land, provide requirements for liability insurance, and provide requirements for a deposit to use the county land, which may be refunded. The ordinance must require that a portion of the community garden include habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees.

**NEW SECTION. Sec. 19.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Tharinger; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Ormsby, Chair and Ybarra.

Referred to Committee on Rules for second reading.

April 6, 2019

**SB 5558**

Prime Sponsor, Senator Saldaña: Reinstating the authority of the department of social and health services and the health care authority to purchase interpreter services for applicants and recipients of public assistance who are sensory-impaired. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ybarra; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger; Volz; Bergquist, 2nd Vice Chair Ormsby, Chair.

Referred to Committee on Rules for second reading.

April 8, 2019

**SB 5566**

Prime Sponsor, Senator Braun: Concerning setting fees for administration of the prevailing wage program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Kraft; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

**2SSB 5577**

Prime Sponsor, Committee on Ways & Means: Concerning the protection of southern resident orca whales from vessels. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 77.15.740 and 2014 c 48 s 22 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, it is unlawful for a person to:

(a) Cause a vessel or other object to approach, in any manner, within (~~two~~) three hundred yards of a southern resident orca whale;

(b) Position a vessel to be in the path of a southern resident orca whale at any point located within four hundred yards of the whale. This includes intercepting a southern resident orca whale by positioning a vessel so that the prevailing wind or water current carries the vessel into the path of the whale at any point located within four hundred yards of the whale;

(c) Position a vessel behind a southern resident orca whale at any point located within four hundred yards;

(d) Fail to disengage the transmission of a vessel that is within (~~two~~) three hundred yards of a southern resident orca whale; (~~or~~

~~and~~) (e) Cause a vessel or other object to exceed a speed greater than seven knots over ground at any point located within one-half nautical mile (one thousand thirteen yards) of a southern resident orca whale; or

(f) Feed a southern resident orca whale.

(2) A person is exempt from subsection (1) of this section if that person is:

(a) Operating a federal government vessel in the course of ~~((his or her))~~ official duties, or operating a state, tribal, or local government vessel when engaged in official duties involving law enforcement, search and rescue, or public safety;

(b) Operating a vessel in conjunction with a vessel traffic service established under 33 C.F.R. and following a traffic separation scheme, or complying with a vessel traffic service measure of direction. This also includes support vessels escorting ships in the traffic lanes, such as tug boats;

(c) Engaging in an activity, including scientific research, pursuant to a permit or other authorization from the national marine fisheries service and the department;

(d) Lawfully engaging in a treaty Indian or commercial fishery that is actively setting, retrieving, or closely tending fishing gear. Commercial fishing vessels in transit are not exempt from subsection (1) of this section;

(e) Conducting vessel operations necessary to avoid an imminent and serious threat to a person, vessel, or the environment, including when necessary for overall safety of navigation and to comply with state and federal navigation requirements; or

(f) Engaging in rescue or clean-up efforts of a beached southern resident orca whale overseen, coordinated, or authorized by a volunteer stranding network.

(3) For the purpose of this section, "vessel" includes aircraft while on the surface of the water, and every description of watercraft on the water that is used or capable of being used as a means of transportation on the water. However, "vessel" does not include inner tubes, air mattresses, sailboards, and small rafts, or flotation devices or toys customarily used by swimmers.

(4)(a) A violation of this section is a natural resource infraction punishable under chapter 7.84 RCW and carries a fine of five hundred dollars, not including statutory assessments added pursuant to RCW 3.62.090.

(b) A person who qualifies for an exemption under subsection (2) of this section may offer that exemption as an affirmative defense, which that person must prove by a preponderance of the evidence.

(5) The enforcement actions required of the department from this section are subject to the availability of amounts appropriated for this specific purpose.

**NEW SECTION. Sec. 2.** A new section is added to chapter 77.65 RCW to read as follows:

(1) A commercial whale watching license is required for commercial whale watching operators. The annual fee is two hundred dollars in addition to the annual application fee of seventy-five dollars.

(2) The annual fees for a commercial whale watching license as described in subsection (1) of this section must include fees for each motorized or sailing vessel or vessels as follows:

(a) One to twenty-four passengers, three hundred twenty-five dollars;

(b) Twenty-five to fifty passengers, five hundred twenty-five dollars;

(c) Fifty-one to one hundred passengers, eight hundred twenty-five dollars;

(d) One hundred one to one hundred fifty passengers, one thousand eight hundred twenty-five dollars; and

(e) One hundred fifty-one passengers or greater, two thousand dollars.

(3) The annual fees for a commercial whale watching license as described in subsection (1) of this section must include fees for each kayak as follows:

(a) One to ten kayaks, one hundred twenty-five dollars;

(b) Eleven to twenty kayaks, two hundred twenty-five dollars;

(c) Twenty-one to thirty kayaks, four hundred twenty-five dollars; and

(d) Thirty-one or more kayaks, six hundred twenty-five dollars.

(4) The holder of a commercial whale watching license for motorized or sailing vessels required under subsection (2) of this section may substitute the vessel designated on the license, or designate a vessel if none has previously been designated, if the license holder:

(a) Surrenders the previously issued license to the department;

(b) Submits to the department an application that identifies the currently designated vessel, the vessel proposed to be designated, and any other information required by the department; and

(c) Pays to the department a fee of thirty-five dollars and an application fee of one hundred five dollars.

(5) Unless the license holder owns all vessels identified on the application described in subsection (4)(b) of this section, the department may not change the vessel designation on the license more than once per calendar year.

(6) A person who is not the license holder may operate a motorized or sailing commercial whale watching vessel designated on the license only if:

(a) The person holds an alternate operator license issued by the director; and

(b) The person is designated as an alternate operator on the underlying commercial whale watching license.

(7) No individual may hold more than one alternate operator license. An individual who holds an alternate operator license may be designated as an alternate operator on an unlimited number of commercial whale watching licenses.

(8) The annual fee for an alternate operator license is two hundred dollars in addition to an annual application fee of seventy-five dollars.

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

(a) "Commercial whale watching" means the act of taking, or offering to take, passengers aboard a vessel in order to view marine mammals in their natural habitat for a fee.

(b) "Commercial whale watching operators" includes commercial vessels and kayak rentals that are engaged in the business of whale watching.

(c) "Commercial whale watching vessel" means any vessel that is being used as a means of transportation for individuals to engage in commercial whale watching.

**NEW SECTION. Sec. 3.** A new section is added to chapter 77.65 RCW to read as follows:

(1) The department must adopt rules for holders of a commercial whale watching license established in section 2 of this act for the viewing of southern resident orca whales for the inland waters of Washington by January 1, 2021. The rules must be designed to reduce the daily and cumulative impacts on southern resident orca whales and consider the economic viability of license holders. The department shall at a minimum consider protections for southern resident orca whales by establishing limitations on:

(a) The number of commercial whale watching operators that may view southern resident orca whales at one time;

(b) The number of days and hours that commercial whale watching operators can operate;

(c) The duration spent in the vicinity of southern resident orca whales; and

(d) The areas in which commercial whale watching operators may operate.

(2) The department may phase in requirements, but must adopt rules to implement this section. The department may consider the use of an automatic identification system to enable effective monitoring and compliance.

(3) The department may phase in requirements, but must adopt rules pursuant to chapter 34.05 RCW to implement this section including public, industry, and interested party involvement.

(4) Before January 1, 2021, the department shall convene an independent panel of scientists to review the current body of best available science regarding impacts to southern resident orcas by small vessels and commercial whale watching due to disturbance and noise. The department must use the best available science in the establishment of the southern resident orca whale watching rules and continue to adaptively manage the program using the most current and best available science.

(5) The department shall complete an analysis and report to the governor and the legislature on the effectiveness of and any recommendations for changes to the whale watching rules, license fee structure, and approach distance rules by November 30, 2022, and every two years thereafter until 2026. This report must be in compliance with RCW 43.01.036.

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

(a) "Commercial whale watching" has the same meaning as defined in section 2 of this act.

(b) "Commercial whale watching operators" has the same meaning as defined in section 2 of this act.

(c) "Inland waters of Washington" means Puget Sound and related inland marine waters, including all salt waters of the state of Washington inside the international boundary line between Washington and British Columbia, and lying east of the junction of the Pacific Ocean and the Strait of Juan de Fuca, and the rivers and streams draining to Puget Sound as mapped by water resource inventory areas 1 through 19 in WAC 173-500-040 as it exists on July 1, 2007.

**NEW SECTION. Sec. 4.** A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of unlawfully engaging in commercial whale watching in the second degree if the person:

(a) Does not have and possess all licenses and permits required under this title; or

(b) Violates any department rule regarding the operation of a commercial whale watching vessel near a southern resident orca whale.

(2) A person is guilty of engaging in commercial whale watching in the first degree if the person commits the act described in subsection (1) of this section and the violation occurs within one year of the date of a prior conviction under this section.

(3)(a) Unlawful commercial whale watching in the second degree is a misdemeanor.

(b) Unlawful commercial whale watching in the first degree is a gross misdemeanor. Upon conviction, the director shall deny applications submitted by the person for a commercial whale watching license or alternate operator license for two years from the date of conviction.

**Sec. 5.** RCW 43.384.050 and 2018 c 275 s 6 are each amended to read as follows:

(1) From amounts appropriated to the department for the authority and from other moneys available to it, the authority may incur expenditures for any purpose specifically authorized by this chapter including:

(a) Entering into a contract for a multiple year statewide tourism marketing plan with a statewide nonprofit organization existing on June 7, 2018, whose sole purpose is marketing Washington to tourists. The marketing plan must

include, but is not limited to, focuses on rural tourism-dependent counties, natural wonders and outdoor recreation opportunities of the state, including sustainable whale watching, attraction of international tourists, identification of local offerings for tourists, and assistance for tourism areas adversely impacted by natural disasters. In the event that no such organization exists on June 7, 2018, or the initial contractor ceases to exist, the authority may determine criteria for a contractor to carry out a statewide marketing program;

(b) Contracting for the evaluation of the impact of the statewide tourism marketing program; and

(c) Paying for administrative expenses of the authority, which may not exceed two percent of the state portion of funds collected in any fiscal year.

(2) All nonstate moneys received by the authority under RCW 43.384.060 or otherwise provided to the authority for purposes of matching funding must be deposited in the authority's private local account created under RCW 43.384.020(4) and are held in trust for uses authorized solely by this chapter.

(3) "Sustainable whale watching" means an experience that includes whale watching from land or aboard a vessel that reduces the impact on whales, provides a recreational and educational experience, and motivates participants to care about marine mammals, the sea, and marine conservation.

NEW SECTION. Sec. 6. Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Cody; Dolan; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Senn; Springer; Stanford; Sullivan; Tarleton; Tharinger; Ybarra; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Sutherland; Chandler; Dye; Kraft; Schmick and Steele.

MINORITY recommendation: Without recommendation. Signed by Representative MacEwen, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 8, 2019

2SSB 5602 Prime Sponsor, Committee on Ways & Means: Eliminating barriers to reproductive health care for all. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness. Signed by Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Cody; Dolan; Fitzgibbon; Hansen; Hudgins; Jinkins; Macri; Pettigrew; Pollet; Ryu; Senn; Springer; Stanford; Sullivan; Tarleton and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Dye; Hoff; Kraft; Mosbrucker; Schmick; Steele; Sutherland and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

2SSB 5604 Prime Sponsor, Committee on Ways & Means: Concerning the uniform guardianship, conservatorship, and other protective arrangements act. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Civil Rights & Judiciary as such amendment is amended by Committee on Appropriations. Signed by Representatives Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Cody; Dolan; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Macri; Pettigrew; Pollet; Ryu; Senn; Springer; Stanford; Steele; Sullivan; Tarleton; Tharinger; Ybarra; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Mosbrucker; Chandler; Dye; Sutherland; Schmick and Kraft.

Referred to Committee on Rules for second reading.

April 8, 2019

SB 5605 Prime Sponsor, Senator Nguyen: Concerning misdemeanor marijuana offense convictions. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Public Safety. Signed by Representatives Ormsby, Chair; Ybarra; Tharinger; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Ryu; Pollet; Pettigrew; Macri; Jinkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Kraft; Hoff; Dye; Chandler; Mosbrucker and Schmick.

Referred to Committee on Rules for second reading.

April 6, 2019

SB 5651 Prime Sponsor, Senator King: Establishing a kinship care legal aid coordinator. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 2.53 RCW to read as follows:

(1) Subject to amounts specifically appropriated for this purpose, the role of kinship care legal aid coordinator is hereby created at the office of civil legal aid. The office may contract with a separate nonprofit legal aid organization to satisfy the requirements of this section.

(2)(a) The kinship care legal aid coordinator shall consult with the following entities:

(i) The kinship care oversight committee as provided for in RCW 74.13.621;

(ii) The Washington state supreme court access to justice board's pro bono council;

(iii) The Washington state bar association moderate means program;

(iv) The department of social and health services, aging and long-term support administration; and

(v) The office of public defense.

(b) The kinship care legal aid coordinator shall work with entities stated in (a) of this subsection to identify and facilitate the development of local and regional kinship care legal aid initiatives, and further efforts to implement relevant recommendations from the kinship care oversight committee as provided for in RCW 74.13.621.

(3) The kinship care legal aid coordinator shall maintain the following duties:

(a) Develop, expand, and deliver training materials designed to help pro bono and low bono attorneys provide legal advice and assistance to kinship caregivers on matters that relate to their ability to meet physical, mental, social, educational, and other needs of children and youth in their care;

(b) Produce a biennial report outlining activities undertaken by the coordinator; legal aid resources developed at the statewide, regional, and local levels; and other information regarding development and expansion of legal aid services to kinship caregivers in Washington state. Reports are due to the department of children, youth, and

families, department of social and health services, and relevant standing committees of the legislature by December 1st of each even-numbered year.

**Sec. 2.** RCW 74.13.621 and 2017 3rd sp.s. c 1 s 982 are each amended to read as follows:

(1) Within existing resources, the department shall establish an oversight committee to monitor, guide, and report on kinship care recommendations and implementation activities. The committee shall:

(a) Draft a kinship care definition that is restricted to persons related by blood, marriage, or adoption, including marriages that have been dissolved, or for a minor defined as an "Indian child" under the federal Indian child welfare act (25 U.S.C. Sec. 1901 et seq.), the definition of "extended family member" under the federal Indian child welfare act, and a set of principles. If the committee concludes that one or more programs or services would be more efficiently and effectively delivered under a different definition of kin, it shall state what definition is needed, and identify the program or service in the report. It shall also provide evidence of how the program or service will be more efficiently and effectively delivered under the different definition. The department shall not adopt rules or policies changing the definition of kin without authorizing legislation;

(b) Monitor and provide consultation on the implementation of recommendations contained in the 2002 kinship care report, including but not limited to the recommendations relating to legal and respite care services and resources;

(c) Partner with nonprofit organizations and private sector businesses to guide a public education awareness campaign; ~~(and)~~

(d) Assist with developing future recommendations on kinship care issues; and

(e) Coordinate with the kinship care legal aid coordinator to develop, expand, and deliver training materials designed to help pro bono and low bono attorneys provide legal advice and assistance to kinship caregivers on matters that relate to their ability to meet physical, mental, social, educational, and other needs of children and youth in their care.

(2) The department shall consult with the oversight committee on its efforts to better collaborate and coordinate services to benefit kinship care families.

(3) The oversight committee must consist of a minimum of thirty percent kinship caregivers, who shall represent a diversity of kinship families. Statewide representation with geographic, ethnic, and gender diversity is required. Other members shall include representatives of the department, representatives of relevant state agencies, representatives of the private nonprofit and business sectors, child advocates, representatives of Washington state Indian tribes as defined under the federal Indian welfare act (25 U.S.C. Sec. 1901 et seq.), and representatives of the legal or judicial field. Birth parents, foster parents, and others who have an interest in these issues may also be included.

(4) To the extent funding is available, the department may reimburse nondepartmental members of the oversight committee for costs incurred in participating in the meetings of the oversight committee.

(5) The kinship care oversight committee shall update the legislature and governor annually on committee activities, with ~~((the first))~~ each update due by ~~((January 1, 2006))~~ December 1st.

~~((6)) This section expires June 30, 2019.~~

NEW SECTION. Sec. 3. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2019."

Correct the title.

Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Mosbrucker; Macri; Kraft; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Volz and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

SSB 5652 Prime Sponsor, Committee on Transportation: Clarifying personal belongings disposal for impounded vehicles. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.55.090 and 1995 c 360 s 4 are each amended to read as follows:

(1) All vehicles impounded shall be taken to the nearest storage location that has been inspected and is listed on the application filed with the department.

(2) All vehicles and stored personal belongings shall be handled and returned in substantially the same condition as they existed before being towed.

(3) ~~((A))~~ For purposes of this subsection, "personal belongings" means personal property and contents in ~~((the))~~ a vehicle, with the exception of those items of personal property that are registered or titled with the department~~((;))~~, For a period of twenty days from impound, personal belongings shall be kept intact, and shall be returned to the

vehicle's owner or agent during normal business hours upon request and presentation of a driver's license or other sufficient identification. ~~((Personal belongings, with the exception of those items of personal property that are registered or titled with the department, shall not))~~ A vehicle's owner or agent may retrieve personal belongings from the vehicle and request that the registered tow truck operator store the personal belongings for a period of thirty days from the date of signing a personal belongings storage request form. If a personal belongings storage request form is not submitted, personal belongings not claimed within twenty days from the date of the impound are considered abandoned and may be disposed of at the registered tow truck operator's discretion. If a personal belongings storage request form is submitted to the registered tow truck operator, personal belongings not claimed within thirty days of the date the personal belongings storage request form is submitted are considered abandoned and may be disposed of at the registered tow truck operator's discretion. Abandoned personal belongings may be sold at auction with the vehicle to fulfill a lien against the vehicle. The department shall adopt rules prescribing the content and format of the personal belongings storage request form.

~~((4))~~ ~~((All personal belongings, with the exception of those items of personal property that are registered or titled with the department, not claimed before the auction shall be turned over to the local law enforcement agency to which the initial notification of impoundment was given. Such personal belongings shall be disposed of pursuant to chapter 63.32 or 63.40 RCW.~~

~~((5))~~ Tow truck drivers shall have a Washington state driver's license endorsed for the appropriate classification under chapter 46.25 RCW or the equivalent issued by another state.

~~((6))~~ (5) Any person who shows proof of ownership or written authorization from the impounded vehicle's registered or legal owner or the vehicle's insurer may view the vehicle without charge during normal business hours.

**Sec. 2.** RCW 46.55.110 and 2017 c 43 s 1 are each amended to read as follows:

(1)(a) When an unauthorized vehicle is impounded, the impounding towing operator shall notify the legal and registered owners of the impoundment of the unauthorized vehicle and the owners of any other items of personal property registered or titled with the department. The notification shall be sent by first-class mail within twenty-four hours after the impoundment to the last known registered and legal owners of the vehicle, and the owners of any other items of personal property registered or titled with the department, as provided by the law enforcement agency, and shall inform the owners of the identity of the person or agency authorizing the impound.

(b) The notification shall include the name of the impounding tow firm, its address, and telephone number. The notice shall also include the location, time of the impound, and by whose authority the vehicle was impounded. The notice shall also include the written notice of the right of redemption and opportunity for a hearing to

contest the validity of the impoundment pursuant to RCW 46.55.120.

(c) The notification must include a notice that the registered tow truck operator will store personal belongings found in the vehicle at no cost if the vehicle's owner or agent is present to retrieve the personal belongings from the vehicle and sign a personal belongings storage request form before the date of auction. If the vehicle's owner calls a registered tow truck operator to inquire about the impounded vehicle, the registered tow truck operator shall inform the owner of the owner's ability to retrieve any personal belongings from the vehicle and to request the registered tow truck operator to store the personal belongings by signing a personal belongings storage request form before the date of auction. Registered tow truck operators shall store personal belongings at no cost for thirty days from the date the personal belongings are removed from the vehicle by the owner and the vehicle's owner or agent has signed a personal belongings storage request form. Registered tow truck operators shall maintain a record of any signed personal belongings storage request form.

(2) In addition, if a suspended license impound has been ordered, the notice must state the length of the impound, the requirement of the posting of a security deposit to ensure payment of the costs of removal, towing, and storage, notification that if the security deposit is not posted the vehicle will immediately be processed and sold at auction as an abandoned vehicle, and the requirements set out in RCW 46.55.120(1)(c) regarding the payment of the costs of removal, towing, and storage as well as providing proof of satisfaction of any penalties, fines, or forfeitures before redemption. The notice must also state that the registered owner is ineligible to purchase the vehicle at the abandoned vehicle auction, if held.

(3) In the case of an abandoned vehicle, or other item of personal property registered or titled with the department, within twenty-four hours after receiving information on the legal and registered owners from the department through the abandoned vehicle report, the tow truck operator shall send by first-class mail a notice of custody and sale to the legal and registered owners and of the penalties for the traffic infraction littering—abandoned vehicle. The notice must include a notice that the registered tow truck operator will store personal belongings found in the vehicle at no cost if the vehicle's owner or agent is present to retrieve the personal belongings from the vehicle and sign a personal belongings storage request form before the date of auction. The tow truck operator shall obtain a certificate of mailing from the United States postal service when notice is mailed.

(4) If the date on which a notice required by subsection (3) of this section is to be mailed falls upon a Saturday, Sunday, or a postal holiday, the notice may be mailed on the next day that is neither a Saturday, Sunday, nor a postal holiday.

(5) No notices need be sent to the legal or registered owners of an impounded vehicle or other item of personal property registered or titled with the department, if the vehicle or personal property has been redeemed."

Correct the title.

Signed by Representatives Van Werven; Valdez, 2nd Vice Chair; Wylie, 1st Vice Chair; Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke; Chambers; Chapman; Dent; Doglio; Dufault; Entenman; Eslick; Slatter, 2nd Vice Chair; Goehner; Irwin; Kloba; Lovick; McCaslin; Mead; Orcutt; Ortiz-Self; Paul; Pellicciotti; Ramos; Riccelli; Shea; Shewmake; Gregerson Fey, Chair.

Referred to Committee on Rules for second reading.

April 8, 2019

2SSB 5672

Prime Sponsor, Committee on Ways & Means: Concerning adult family home specialty services. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Health Care & Wellness. Signed by Representatives Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Cody; Dolan; Fitzgibbon; Hansen; Hudgins; Jinkins; Macri; Pettigrew; Pollet; Ryu; Senn; Springer; Stanford; Steele; Sullivan; Tarleton; Tharinger; Ybarra; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Hoff; Chandler; Dye; Sutherland; Schmick; Mosbrucker and Kraft.

Referred to Committee on Rules for second reading.

April 8, 2019

SSB 5695

Prime Sponsor, Committee on Transportation: Concerning high occupancy vehicle lane penalties. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Representatives Shewmake; Riccelli; Ramos; Pellicciotti; Paul; Mead; Lovick; Kloba; Irwin; Gregerson; Entenman; Doglio; Chapman; Wylie, 1st Vice Chair; Valdez, 2nd Vice Chair; Slatter, 2nd Vice Chair; Fey, Chair and Ortiz-Self.

MINORITY recommendation: Without recommendation. Signed by Representatives Dufault and Dent.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt; McCaslin; Goehner; Eslick; Chambers; Boehnke; Young, Assistant Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Barkis, Ranking Minority Member; Van Werven and Shea.

Referred to Committee on Rules for second reading.

April 8, 2019

2SSB 5718 Prime Sponsor, Committee on Ways & Means: Establishing the child welfare housing assistance program that provides housing assistance to parents reunifying with a child and parents at risk of having a child removed. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Human Services & Early Learning.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 74.13 RCW to read as follows:

(1) Beginning July 1, 2020, the department shall establish a child welfare housing assistance pilot program, which provides housing vouchers, rental assistance, navigation, and other support services to eligible families.

(a) The department shall operate or contract for the operation of the child welfare housing assistance pilot program under subsection (3) of this section in one county west of the crest of the Cascade mountain range and one county east of the crest of the Cascade mountain range.

(b) The child welfare housing assistance pilot program is intended to shorten the time that children remain in out-of-home care.

(2) A parent with a child who is dependent pursuant to chapter 13.34 RCW and whose primary remaining barrier to reunification is the lack of appropriate housing is eligible for the child welfare housing assistance pilot program.

(3) The department shall contract with an outside entity or entities to operate the child welfare housing assistance pilot program. If no outside entity or entities are available to operate the program or specific parts of the program, the department may operate the program or the specific parts that are not operated by an outside entity.

(4) Families may be referred to the child welfare housing assistance pilot program by a caseworker, an attorney, a guardian ad litem as defined in chapter 13.34 RCW, a child welfare parent mentor as defined in RCW 2.70.060, an office of public defense social worker, or the court.

(5) The department shall consult with a stakeholder group that must include, but is not limited to, the following:

- (a) Parent allies;
- (b) Parent attorneys and social workers managed by the office of public defense parent representation program;
- (c) The department of commerce;
- (d) Housing experts;

(e) Community-based organizations;

(f) Advocates; and

(g) Behavioral health providers.

(6) The stakeholder group established in subsection (5) of this section shall begin meeting after the effective date of this section and assist the department in design of the child welfare housing assistance pilot program in areas including, but not limited to:

(a) Equitable racial, geographic, ethnic, and gender distribution of program support;

(b) Eligibility criteria;

(c) Creating a definition of homeless for purposes of eligibility for the program; and

(d) Options for program design that include outside entities operating the entire program or specific parts of the program.

(7) By December 1, 2021, the department shall report outcomes for the child welfare housing assistance pilot program to the oversight board for children, youth, and families established pursuant to RCW 43.216.015. The report must include racial, geographic, ethnic, and gender distribution of program support.

(8) The child welfare housing assistance pilot program established in this section is subject to the availability of funds appropriated for this purpose.

(9) This section expires June 30, 2022.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ybarra; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jenkins; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Tharinger Ormsby, Chair.

MINORITY recommendation: Do not pass. Signed by Representative Kraft.

Referred to Committee on Rules for second reading.

April 8, 2019

E2SSB 5740 Prime Sponsor, Committee on Ways & Means: Creating the secure choice retirement savings program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment

by Committee on Consumer Protection & Business. Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sullivan; Stanford; Springer; Senn; Ryu; Pollet; Pettigrew; Macri; Jinkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Sutherland; Steele; Schmick; Mosbrucker; Kraft; Hoff; Dye; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member and Ybarra.

MINORITY recommendation: Without recommendation. Signed by Representative Stokesbary, Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 8, 2019

ESSB 5741 Prime Sponsor, Committee on Health & Long Term Care: Making changes to support future operations of the state all payer claims database by transferring the responsibility to the health care authority, partnering with a lead organization with broad data experience, including with self-insured employers, and other changes to improve and ensure successful and sustainable database operations for access to and use of the data to improve health care, providing consumers useful and consistent quality and cost measures, and assess total cost of care in Washington state. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Innovation, Technology & Economic Development. Signed by Representatives Ormsby, Chair; Ybarra; Tharinger; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Caldier; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Kraft; Schmick; Chandler Rude, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading.

April 6, 2019

2SSB 5800 Prime Sponsor, Committee on Ways & Means: Concerning homeless college students. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.50 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the college board shall select four college districts, two on each side of the crest of the Cascade mountain range, to participate in a pilot program to provide assistance to students experiencing homelessness and to students who were in the foster care system when they graduated high school. The college districts chosen to participate in the pilot program must provide certain accommodations to these students that may include, but are not limited to, the following:

(a) Access to laundry facilities;

(b) Access to storage;

(c) Access to locker room and shower facilities;

(d) Reduced-price meals or meal plans, and access to food banks;

(e) Access to technology;

(f) Access to short-term housing or housing assistance, especially during seasonal breaks; and

(g) Case management services.

(2) The college districts may also establish plans to develop surplus property for affordable housing to accommodate the needs of students experiencing homelessness and students who were in the foster care system when they graduated high school.

(3) The college districts participating in the pilot program shall provide a joint report to the appropriate committees of the legislature by December 1, 2023, that includes at least the following information:

(a) The number of students experiencing homelessness or food insecurity, and the number of students who were in the foster care system when they graduated high school who were attending a community or technical college during the pilot program. The college board shall coordinate with all of the community and technical colleges to collect voluntary data on how many students experiencing homelessness or food insecurity are attending the community and technical colleges;

(b) The number of students assisted by the pilot program;

(c) Strategies for accommodating students experiencing homelessness or food insecurity, and former foster care students; and

(d) Legislative recommendations for how students experiencing homelessness or food insecurity, and former foster care students could be better served.

(4) The college districts not selected to participate in the pilot program are:

- (a) Invited to participate voluntarily; and
- (b) Encouraged to submit the data required of the pilot program participants under subsection (3) of this section, regardless of participation status.
- (5) The pilot program expires July 1, 2023.
- (6) This section expires January 1, 2024.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.77 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the council shall select two public four-year institutions of higher education, one on each side of the crest of the Cascade mountain range, to participate in a pilot program to provide assistance to students experiencing homelessness and to students who were in the foster care system when they graduated high school. The four-year institutions of higher education chosen to participate in the pilot program must provide certain accommodations to these students that may include, but are not limited to, the following:

- (a) Access to laundry facilities;
- (b) Access to storage;
- (c) Access to locker room and shower facilities;
- (d) Reduced-price meals or meal plans, and access to food banks;
- (e) Access to technology;
- (f) Access to short-term housing or housing assistance, especially during seasonal breaks; and
- (g) Case management services.

(2) The four-year institutions of higher education may also establish plans to develop surplus property for affordable housing to accommodate the needs of students experiencing homelessness and students who were in the foster care system when they graduated high school.

(3) The four-year institutions of higher education participating in the pilot program shall provide a joint report to the appropriate committees of the legislature by December 1, 2023, that includes at least the following information:

(a) The number of students experiencing homelessness or food insecurity, and the number of students who were in the foster care system when they graduated high school who were attending a four-year institution of higher education during the pilot program. The council shall coordinate with all of the four-year institutions of higher education to collect voluntary data on how many students experiencing homelessness or food insecurity are attending the four-year institutions of higher education;

(b) The number of students assisted by the pilot program;

(c) Strategies for accommodating students experiencing homelessness or food insecurity, and former foster care students; and

(d) Legislative recommendations for how students experiencing homelessness or food insecurity, and former foster care students could be better served.

(4) The four-year institutions of higher education not selected to participate in the pilot program are:

- (a) Invited to participate voluntarily; and
- (b) Encouraged to submit the data required of the pilot program participants under subsection (3) of this section, regardless of participation status.
- (5) The pilot program expires July 1, 2023.
- (6) This section expires January 1, 2024.

NEW SECTION. Sec. 3. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sutherland; Sullivan; Stanford; Springer; Senn; Ryu; Pollet; Macri; Jinkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Caldier; Rude, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair Bergquist, 2nd Vice Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Volz; Steele; Schmick; Kraft; Hoff; Dye; Chandler; MacEwen, Assistant Ranking Minority Member and Ybarra.

MINORITY recommendation: Without recommendation. Signed by Representative Mosbrucker.

Referred to Committee on Rules for second reading.

April 8, 2019

SSB 5815

Prime Sponsor, Committee on Human Services, Reentry & Rehabilitation: Concerning individuals placed in minimum security status by the department of children, youth, and families. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Human Services & Early Learning. Signed by Representatives Tarleton; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair;

Bergquist, 2nd Vice Chair; Ormsby, Chair; Tharinger and Ybarra.

MINORITY recommendation: Do not pass. Signed by Representatives Dye; Sutherland and Kraft.

Referred to Committee on Rules for second reading.

April 8, 2019

2SSB 5822 Prime Sponsor, Committee on Ways & Means: Providing a pathway to establish a universal health care system for the residents of Washington state. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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

(a) Health care is a human right and it is in the public interest that all residents have access to health care that improves health outcomes, contains health care costs for the state and its residents, and reduces health disparities;

(b) The legislature intends to control health care costs so that Washington is able to achieve a sustainable health care system with more equitable access to quality health care;

(c) H.R. 6097, the state-based universal health care act of 2018 was proposed to establish a flexible framework under which states could provide comprehensive universal health coverage to all of their residents;

(d) It is prudent for the state to explore mechanisms to operate and fund such a program if H.R. 6097 or similar federal legislation is enacted; and

(e) Despite the progress Washington has made since the enactment of the patient protection and affordable care act, not all state residents can access or afford health coverage in the current market. As of 2017, four hundred thousand Washington residents remained uninsured, and a growing number go without care because of growing health care costs.

(2) The legislature therefore declares its intent to provide a policy and financial framework for how the state could achieve universal coverage and equitable access and outcomes for all residents in the future, while concurrently evaluating efforts to ensure statewide affordable access and improvements to coverage for all residents in the preceding years through a public option and standardizing benefit plan designs.

(3) This section does not create any new entitlement to services or cause of action under this act, and cannot form the basis for a private right of action.

NEW SECTION. Sec. 2. (1) The health care authority shall convene a work group on establishing a

universal health care system in Washington. The work group must consist of a broad range of stakeholders with expertise in the health care financing and delivery system, including but not limited to:

(a) Consumers, patients, and the general public;

(b) Patient advocates and community health advocates;

(c) Large and small businesses with experience with large and small group insurance and self-insured models;

(d) Labor, including experience with Taft-Hartley coverage;

(e) Health care providers that are self-employed and health care providers that are otherwise employed;

(f) Health care facilities such as hospitals and clinics;

(g) Health insurance carriers;

(h) The Washington health benefit exchange and state agencies, including the office of financial management, the office of the insurance commissioner, the department of revenue, and the office of the state treasurer; and

(i) Legislators from each caucus of the house of representatives and senate.

(2) The work group must study and make recommendations to the legislature on how to create, implement, maintain, and fund a universal health care system that may include publicly funded, publicly administered, and publicly and privately delivered health care that is sustainable and affordable to all Washington residents including, but not limited to:

(a) Options for increasing coverage and access for uninsured and underinsured populations;

(b) Transparency measures across major health system actors, including carriers, hospitals, and other health care facilities, pharmaceutical companies, and provider groups that promote understanding and analyses to best manage and lower costs;

(c) Innovations that will promote quality, evidence-based practices leading to sustainability and affordability in a universal health care system. When studying innovations under this subsection, the work group must develop recommendations on issues related to covered benefits and quality assurance and consider expanding and supplementing the work of the Robert Bree collaborative and the health technology assessment program;

(d) Options for ensuring a just transition to a universal health care system for all stakeholders including, but not limited to, consumers, businesses, health care providers and facilities, hospitals, health carriers, state agencies, and entities representing both management and labor for these stakeholders;

(e) Options to expand or establish health care purchasing in collaboration with neighboring states; and

(f) Options for revenue and financing mechanisms to fund the universal health care system. If funds are appropriated specifically for this purpose, the work group shall contract with one or more consultants to perform any actuarial and financial analyses necessary to develop options under this subsection (2)(f).

(3) The work group must report its findings and recommendations to the appropriate committees of the legislature by November 15, 2020. Preliminary reports with findings and preliminary recommendations shall be made public and open for public comment by November 15, 2019, and May 15, 2020.

(4) This section expires January 1, 2021.

**NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Robinson, 1st Vice Chair; Cody; Dolan; Fitzgibbon; Hansen; Hudgins; Jinkins; Macri; Pettigrew; Pollet; Ryu; Senn; Springer; Stanford; Steele; Sullivan; Tarleton; Tharinger; Bergquist, 2nd Vice Chair Ormsby, Chair.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick; Sutherland; Ybarra; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Dye; Hoff; Kraft and Mosbrucker.

Referred to Committee on Rules for second reading.

April 8, 2019

**SSB 5876** Prime Sponsor, Committee on Ways & Means: Creating a gender-responsive and trauma-informed work group within the department of corrections. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Public Safety.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature intends to assist the department of corrections in ensuring that gender-responsive and trauma-informed practices are integrated into classification, programming, and interactions with persons experiencing incarceration. In furtherance of this goal, it is the intent of the legislature to establish a gender-responsive and trauma-informed work group within the department of corrections to study and make recommendations for effective implementation of gender-specific programs, classification systems, and organizational structures within the department including, but not limited

to, the creation of a women's division and other items identified in section 2(2) of this act.

**NEW SECTION. Sec. 2.** (1) Subject to the availability of amounts appropriated for this specific purpose, the gender-responsive and trauma-informed work group is established within the department of corrections. The work group membership may consist of, but is not limited to, the following:

(a) Representatives who specialize in the medical and psychological treatment of women;

(b) Representatives from the financial, faith-based, educational, arts, and cultural communities;

(c) Representatives from the department of corrections reentry division, prison division, community corrections division, correctional industries, and human resources;

(d) A family member of a person experiencing incarceration;

(e) Individuals with training and experience in developmental psychology, parenting, trauma-informed practices, and adverse childhood experiences;

(f) A representative from an organization supporting crime victims, and interested and willing victims of crimes;

(g) A representative from the office of the corrections ombuds;

(h) Any interested members of the legislature;

(i) At least two individuals who have experienced incarceration and successfully reentered; and

(j) A representative familiar with aging and disability services.

(2) The work group must develop suggestions and recommendations specific to:

(a) Evidence-based, gender-responsive, and trauma-informed practices that govern operations and programs for women experiencing incarceration;

(b) Appropriate ongoing training, orientation, and curriculum about gender-responsive and trauma-informed practices and a plan for how the training shall incorporate emerging best practices, and be delivered to department of corrections staff;

(c) How best to implement validated gender-responsive classification and placement instruments;

(d) How best to implement a validated gender-responsive assessment tool and case management system that is based on the risk-needs-responsivity model;

(e) How best to implement policies, practices, and programs to address differences in physical conditions of incarceration and physical health needs for men and women;

(f) How to create and implement a women's division within the department of corrections; and

(g) How to ensure staff responsible for supervision of females under mandatory supervised release are appropriately trained in evidence-based practices in community supervision, gender-responsive practices, and trauma-informed practices.

(3) Staff support for the work group must be provided by the department of corrections.

(4) The work group must submit a report to the governor and the legislature with its recommendations, and to the extent possible an estimation of the costs associated with implementing the recommendations, by December 1, 2020.

(5) This section expires June 30, 2021.

**Sec. 3.** RCW 43.06C.040 and 2018 c 270 s 5 are each amended to read as follows:

(1) The ombuds shall:

(a) Establish priorities for use of the limited resources available to the ombuds;

(b) Maintain a statewide toll-free telephone number, a collect telephone number, a web site, and a mailing address for the receipt of complaints and inquiries;

(c) Provide information, as appropriate, to inmates, family members, representatives of inmates, department employees, and others regarding the rights of inmates;

(d) Provide technical assistance to support inmate participation in self-advocacy;

(e) Monitor department compliance with applicable federal, state, and local laws, rules, regulations, and policies as related to the health, safety, welfare, and rehabilitation of inmates;

(f) Monitor and participate in legislative and policy developments affecting correctional facilities;

(g) Establish a statewide uniform reporting system to collect and analyze data related to complaints received by the ombuds regarding the department;

(h) Establish procedures to receive, investigate, and resolve complaints;

(i) Establish procedures to gather stakeholder input into the ombuds' activities and priorities, which must include at a minimum quarterly public meetings;

(j) Submit annually to the governor's office, the legislature, and the statewide family council, by November 1st of each year, a report that includes, at a minimum, the following information:

(i) The budget and expenditures of the ombuds;

(ii) The number of complaints received and resolved by the ombuds, including information specific to the number and a description of gender-based complaints;

(iii) A description of significant systemic or individual investigations or outcomes achieved by the ombuds during the prior year;

(iv) Any outstanding or unresolved concerns or recommendations of the ombuds; and

(v) Input and comments from stakeholders, including the statewide family council, regarding the ombuds' activities during the prior year; and

(k) Adopt and comply with rules, policies, and procedures necessary to implement this chapter.

(2)(a) The ombuds may initiate and attempt to resolve an investigation upon his or her own initiative, or upon receipt of a complaint from an inmate, a family member, a representative of an inmate, a department employee, or others, regarding any of the following that may adversely affect the health, safety, welfare, and rights of inmates:

(i) Abuse or neglect;

(ii) Department decisions or administrative actions;

(iii) Inactions or omissions;

(iv) Policies, rules, or procedures; or

(v) Alleged violations of law by the department that may adversely affect the health, safety, welfare, and rights of inmates.

(b) Prior to filing a complaint with the ombuds, a person shall have reasonably pursued resolution of the complaint through the internal grievance, administrative, or appellate procedures with the department. However, in no event may an inmate be prevented from filing a complaint more than ninety business days after filing an internal grievance, regardless of whether the department has completed the grievance process. This subsection (2)(b) does not apply to complaints related to threats of bodily harm including, but not limited to, sexual or physical assaults or the denial of necessary medical treatment.

(c) The ombuds may decline to investigate any complaint as provided by the rules adopted under this chapter.

(d) If the ombuds does not investigate a complaint, the ombuds shall notify the complainant of the decision not to investigate and the reasons for the decision.

(e) The ombuds may not investigate any complaints relating to an inmate's underlying criminal conviction.

(f) The ombuds may not investigate a complaint from a department employee that relates to the employee's employment relationship with the department or the administration of the department, unless the complaint is related to the health, safety, welfare, and rehabilitation of inmates.

(g) The ombuds must attempt to resolve any complaint at the lowest possible level.

(h) The ombuds may refer complainants and others to appropriate resources, agencies, or departments.

(i) The ombuds may not levy any fees for the submission or investigation of complaints.

(j) The ombuds must remain neutral and impartial and may not act as an advocate for the complainant or for the department.

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(k) At the conclusion of an investigation of a complaint, the ombuds must render a public decision on the merits of each complaint, except that the documents supporting the decision are subject to the confidentiality provisions of RCW 43.06C.060. The ombuds must communicate the decision to the inmate, if any, and to the department. The ombuds must state its recommendations and reasoning if, in the ombuds' opinion, the department or any employee thereof should:

- (i) Consider the matter further;
- (ii) Modify or cancel any action;
- (iii) Alter a rule, practice, or ruling;
- (iv) Explain in detail the administrative action in question; or
- (v) Rectify an omission.

(l) If the ombuds so requests, the department must, within the time specified, inform the ombuds about any action taken on the recommendations or the reasons for not complying with the recommendations.

(m) If the ombuds believes, based on the investigation, that there has been or continues to be a significant inmate health, safety, welfare, or rehabilitation issue, the ombuds must report the finding to the governor and the appropriate committees of the legislature.

(n) Before announcing a conclusion or recommendation that expressly, or by implication, criticizes a person or the department, the ombuds shall consult with that person or the department. The ombuds may request to be notified by the department, within a specified time, of any action taken on any recommendation presented. The ombuds must notify the inmate, if any, of the actions taken by the department in response to the ombuds' recommendations.

(3) This chapter does not require inmates to file a complaint with the ombuds in order to exhaust available administrative remedies for purposes of the prison litigation reform act of 1995, P.L. 104-134.

**NEW SECTION. Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ormsby, Chair; Tarleton; Sutherland; Sullivan; Steele; Stanford; Springer; Senn; Schmick; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Kraft; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

**SSB 5883**

Prime Sponsor, Committee on Transportation: Authorizing vehicles or combinations of vehicles carrying farm products to exceed total gross weight limits. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.44.105 and 2007 c 419 s 13 are each amended to read as follows:

(1)(a) Except as provided in (c) of this subsection, a violation of any of the provisions of this chapter is a traffic infraction, and upon the first finding thereof shall be assessed a basic penalty of not less than fifty dollars; and upon a second finding thereof shall be assessed a basic penalty of not less than seventy-five dollars; and upon a third or subsequent finding shall be assessed a basic penalty of not less than one hundred dollars.

~~((2))~~(b)(i) Except as provided in (c) of this subsection, in addition to the penalties imposed in (a) of this subsection (~~((1) of this section)~~), any person violating RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 shall be assessed a penalty for each pound overweight, as follows:

~~((a))~~ (A) One pound through four thousand pounds overweight is three cents for each pound;

~~((b))~~ (B) Four thousand one pounds through ten thousand pounds overweight is one hundred twenty dollars plus twelve cents per pound for each additional pound over four thousand pounds overweight;

~~((c))~~ (C) Ten thousand one pounds through fifteen thousand pounds overweight is eight hundred forty dollars plus sixteen cents per pound for each additional pound over ten thousand pounds overweight;

~~((d))~~ (D) Fifteen thousand one pounds through twenty thousand pounds overweight is one thousand six hundred forty dollars plus twenty cents per pound for each additional pound over fifteen thousand pounds overweight;

~~((e))~~ (E) Twenty thousand one pounds and more is two thousand six hundred forty dollars plus thirty cents per pound for each additional pound over twenty thousand pounds overweight.

(ii) Upon a first violation in any calendar year, the court may suspend the penalty for five hundred pounds of excess weight for each axle on any vehicle or combination of vehicles, not to exceed a two thousand pound suspension. Except as specified in (c) of this subsection, in no case may the basic penalty assessed in (a) of this subsection (~~((1) of this section)~~) or the additional penalty assessed in (b) of this subsection (~~((2) of this section)~~), except as provided for the first violation, be suspended.

~~((3))~~(c)(i) The penalties in (a) and (b) of this subsection are not applicable and a written warning must be issued when a traffic infraction for a violation of RCW 46.44.041 occurs and the following applies:

(A) A vehicle or combination of vehicles carrying farm products, as defined in RCW 7.48.310, from the field where the farm product was grown or harvested, exceeds the gross vehicle weight limits in RCW 46.44.041 by five percent or less; and

(B) The driver of the vehicle has not been issued a traffic infraction or has received no more than one written warning for a violation of RCW 46.44.041 within the calendar year in which the violation occurs.

(ii) The state patrol must track the issuance of written warnings issued for RCW 46.44.041 for the purposes of determining whether a violation of RCW 46.44.041 is the first in a calendar year.

(2) Any person found to have violated any posted limitations of a highway or section of highway shall be assessed a monetary penalty of not less than one hundred ~~(and)~~ fifty dollars, and the court shall in addition thereto upon second violation within a twelve-month period involving the same power unit, suspend the certificate of license registration for not less than thirty days.

~~((4))~~ (3) It is unlawful for the driver of a vehicle to fail or refuse to stop and submit the vehicle and load to a weighing, or to fail or refuse, when directed by an officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with the provisions of this section. It is unlawful for a driver of a commercial motor vehicle as defined in RCW 46.32.005, other than the driver of a bus as defined in RCW 46.32.005(3) or a vehicle with a gross vehicle weight rating or gross combination weight rating of 7,257 kilograms or less (16,000 pounds or less) and not transporting hazardous materials in accordance with RCW 46.32.005(4), to fail or refuse to stop at a weighing station when proper traffic control signs indicate scales are open. However, unladen tow trucks regardless of weight and farm vehicles carrying farm produce with a gross vehicle weight rating or gross combination weight rating of 11,794 kilograms or less (26,000 pounds or less) may fail or refuse to stop at a weighing station when proper traffic control signs indicate scales are open.

Any police officer is authorized to require the driver of any vehicle or combination of vehicles to stop and submit to a weighing either by means of a portable or stationary scale and may require that the vehicle be driven to the nearest public scale. Whenever a police officer, upon weighing a vehicle and load, determines that the weight is unlawful, the officer may require the driver to stop the vehicle in a suitable location and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of the vehicle to the limit permitted by law. If the vehicle is loaded with grain or other perishable commodities, the driver shall be permitted to proceed without removing any of the load, unless the gross weight of the vehicle and load exceeds by more than ten percent the limit permitted by this chapter. The owner or operator of the vehicle shall care for all materials unloaded at the risk of the owner or operator.

Any vehicle whose driver or owner represents that the vehicle is disabled or otherwise unable to proceed to a weighing location shall have its load sealed or otherwise marked by any police officer. The owner or driver shall be directed that upon completion of repairs, the vehicle shall submit to weighing with the load and markings and/or seal intact and undisturbed. Failure to report for weighing, appearing for weighing with the seal broken or the markings disturbed, or removal of any cargo prior to weighing is unlawful. Any person so convicted shall be fined one thousand dollars, and in addition the certificate of license registration shall be suspended for not less than thirty days.

~~((5))~~ (4) Any other provision of law to the contrary notwithstanding, district courts having venue have concurrent jurisdiction with the superior courts for the imposition of any penalties authorized under this section.

~~((6))~~ (5) For the purpose of determining additional penalties as provided by subsection ~~((2))~~ (1)(b) of this section, "overweight" means the poundage in excess of the maximum allowable gross weight or axle/axle grouping weight prescribed by RCW 46.44.041, 46.44.042, 46.44.047, 46.44.091, and 46.44.095.

~~((7))~~ (6) The penalties provided in subsection ~~((8))~~ (1)(a) and ~~((2))~~ (b) of this section shall be remitted as provided in chapter 3.62 RCW or RCW 10.82.070. For the purpose of computing the basic penalties and additional penalties to be imposed under subsection ~~((8))~~ (1)(a) and ~~((2))~~ (b) of this section, the convictions shall be on the same vehicle or combination of vehicles within a twelve-month period under the same ownership.

~~((8))~~ (7) Any state patrol officer or any weight control officer who finds any person operating a vehicle or a combination of vehicles in violation of the conditions of a permit issued under RCW 46.44.047, 46.44.090, and 46.44.095 may confiscate the permit and forward it to the state department of transportation which may return it to the permittee or revoke, cancel, or suspend it without refund. The department of transportation shall keep a record of all action taken upon permits so confiscated, and if a permit is returned to the permittee the action taken by the department of transportation shall be endorsed thereon. Any permittee whose permit is suspended or revoked may upon request receive a hearing before the department of transportation or person designated by that department. After the hearing the department of transportation may reinstate any permit or revise its previous action.

Every permit issued as provided for in this chapter shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any law enforcement officer or authorized agent of any authority granting such a permit.

Upon the third finding within a calendar year of a violation of the requirements and conditions of a permit issued under RCW 46.44.095, the permit shall be canceled, and the canceled permit shall be immediately transmitted by the court or the arresting officer to the department of transportation. The vehicle covered by the canceled permit is not eligible for a new permit for a period of thirty days.

~~((9))~~ (8) For the purposes of determining gross weights the actual scale weight taken by the arresting officer is prima facie evidence of the total gross weight.

~~((40))~~ (9) It is a traffic infraction to direct the loading of a vehicle with knowledge that it violates the requirements in RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 and that it is to be operated on the public highways of this state.

~~((44))~~ (10) The chief of the state patrol, with the advice of the department, may adopt reasonable rules to aid in the enforcement of this section."

Correct the title.

Signed by Representatives Fey, Chair; Valdez, 2nd Vice Chair; Wylie, 1st Vice Chair; Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke; Chambers; Chapman; Dent; Doglio; Dufault; Entenman; Eslick; Slatter, 2nd Vice Chair; Goehner; Irwin; Lovick; McCaslin; Mead; Orcutt; Ortiz-Self; Paul; Pellicciotti; Ramos; Riccelli; Shea; Shewmake; Van Werven and Gregerson.

MINORITY recommendation: Without recommendation. Signed by Representative Kloba.

Referred to Committee on Rules for second reading.

April 8, 2019

2SSB 5903 Prime Sponsor, Committee on Ways & Means: Concerning children's mental health. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Human Services & Early Learning. Signed by Representatives Tharinger; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Ormsby, Chair and Ybarra.

Referred to Committee on Rules for second reading.

April 8, 2019

SB 5918 Prime Sponsor, Senator Lovelett: Providing whale watching guidelines in the boating safety education program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 79A.60.630 and 2011 c 171 s 118 are each amended to read as follows:

(1) The commission shall establish and implement by rule a program to provide required boating safety education. The boating safety education program shall include training on preventing the spread of aquatic invasive species. The boating safety education program shall include educational materials regarding whale watching guidelines and other voluntary and regulatory measures related to whale watching. The program shall be phased in so that all boaters not exempted under RCW 79A.60.640(3) are required to obtain a boater education card by January 1, 2016. To obtain a boater education card, a boater shall provide a certificate of accomplishment issued by a boating educator for taking and passing an accredited boating safety education course, or pass an equivalency exam, or provide proof of completion of a course that meets the standard adopted by the commission.

(2) As part of the boating safety education program, the commission shall:

(a) Establish a program to be phased over eleven years starting July 1, 2005, with full implementation by January 1, 2016. The period July 1, 2005, through December 31, 2007, will be program development, boater notification of the new requirements for mandatory education, and processing cards to be issued to individuals having taken an accredited course prior to January 1, 2008. The schedule for phase-in of the mandatory education requirement by age group is as follows:

- January 1, 2008 - All boat operators twenty years old and younger;
- January 1, 2009 - All boat operators twenty-five years old and younger;
- January 1, 2010 - All boat operators thirty years old and younger;
- January 1, 2011 - All boat operators thirty-five years old and younger;
- January 1, 2012 - All boat operators forty years old and younger;
- January 1, 2013 - All boat operators fifty years old and younger;
- January 1, 2014 - All boat operators sixty years old and younger;
- January 1, 2015 - All boat operators seventy years old and younger;
- January 1, 2016 - All boat operators;

(b) Establish a minimum standard of boating safety education accomplishment. The standard must be consistent with the applicable standard established by the national association of state boating law administrators;

(c) Adopt minimum standards for boating safety education course of instruction and examination that ensures compliance with the national association of state boating law administrators minimum standards;

(d) Approve and provide accreditation to boating safety education courses operated by volunteers, or commercial or nonprofit organizations, including, but not limited to, courses given by the United States coast guard auxiliary and the United States power squadrons;

(e) Develop an equivalency examination that may be taken as an alternative to the boating safety education course;

(f) Establish a fee of ten dollars for the boater education card to fund all commission activities related to the boating safety education program created by chapter 392, Laws of 2005, including the initial costs of developing the program. Any surplus funds resulting from the fees received shall be distributed by the commission as grants to local marine law enforcement programs approved by the commission as provided in RCW 88.02.650;

(g) Establish a fee for the replacement of the boater education card that covers the cost of replacement;

(h) Consider and evaluate public agency and commercial opportunities to assist in program administration with the intent to keep administrative costs to a minimum;

(i) Approve and provide accreditation to boating safety education courses offered online; and

(j) Provide a report to the legislature by January 1, 2008, on its progress of implementation of the mandatory education program.

**NEW SECTION. Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Tarleton; Sullivan; Steele; Stanford; Springer; Senn; Ryu; Pollet; Pettigrew; Mosbrucker; Macri; Jinkins; Hudgins; Hoff; Hansen; Fitzgibbon; Dye; Dolan; Cody; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Ormsby, Chair; Tharinger and Ybarra.

MINORITY recommendation: Do not pass. Signed by Representatives Kraft; Sutherland and Schmick.

Referred to Committee on Rules for second reading.

April 8, 2019

SJR 8200

Prime Sponsor, Senator Takko: Amending the state Constitution to provide governmental continuity during emergency periods resulting from a catastrophic incident. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Tharinger; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier; Chandler; Cody; Dolan; Dye; Fitzgibbon; Hansen; Hoff; Hudgins; Jinkins; Kraft; Macri; Mosbrucker; Pettigrew; Pollet; Ryu; Schmick; Senn; Springer; Stanford; Steele; Sullivan; Sutherland; Tarleton; Ormsby, Chair and Ybarra.

Referred to Committee on Rules for second reading.

There being no objection, the bills listed on the day's committee reports under the fifth order of business were referred to the committees so designated.

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

**SECOND READING**

**SUBSTITUTE SENATE BILL NO. 5689, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Liias, Saldaña, Pedersen, Wellman, Wilson, C., Randall, Hunt, McCoy, Salomon, Darneille, Hasegawa, Keiser, Kuderer and Nguyen)**

**Concerning harassment, intimidation, bullying, and discrimination in public schools.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Education was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 80, April 3, 2019).

Representative Ortiz-Self moved the adoption of amendment (513) to the committee striking amendment:

On page 4, beginning on line 18 of the striking amendment, strike "that meet the requirements of (a) of this subsection"

Representative Ortiz-Self spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (513) to the committee striking amendment was adopted.

Representative Kraft moved the adoption of amendment (507) to the committee striking amendment:

On page 6, line 7 of the striking amendment, after "chooses" strike "to" and insert ":

(1) To"

On page 6, line 11 of the striking amendment, after "area" insert "; or

(2) Not to use curriculum or instructional materials that address subject matter related to sexual orientation including gender expression or identity"

Representative Kraft spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Santos spoke against the adoption of the amendment to the committee striking amendment.

Amendment (507) to the committee striking amendment was not adopted.

Representative Steele moved the adoption of amendment (520) to the committee striking amendment:

On page 6, line 7 of the striking amendment, after "impacted" strike "if a teacher chooses to use" and insert "solely because the teacher used a school district-approved"

On page 6, line 10 of the striking amendment, after "matter" strike "is" and insert "was"

Representative Steele spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Santos spoke against the adoption of the amendment to the committee striking amendment.

Amendment (520) to the committee striking amendment was not adopted.

Representative Steele moved the adoption of amendment (508) to the committee striking amendment:

On page 6, beginning on line 4 of the striking amendment, strike all of section 4

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

Representative Steele spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Santos spoke against the adoption of the amendment to the committee striking amendment.

Amendment (508) to the committee striking amendment was not adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Santos, Steele, Ortiz-Self, Kilduff, Rude, Stonier and Jenkins spoke in favor of the passage of the bill.

Representatives Kraft, Jenkin, Shea, Young and Sutherland spoke against the passage of the bill.

## MOTION

On motion of Representative Riccelli, Representative Morris was excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5689, as amended by the House.

## ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5689, as amended by the House, and the bill passed the House by the following vote: Yeas, 60; Nays, 36; Absent, 0; Excused, 2.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Harris, Hudgins, Irwin, Jenkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Wylie and Mr. Speaker.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Hoff, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Schmick, Shea, Smith, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton and Morris.

SUBSTITUTE SENATE BILL NO. 5689, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5212, by Senate Committee on Higher Education & Workforce Development (originally sponsored by Palumbo, Wilson, L., Rolfes, Mullet, Wilson, C., Hunt and Kuderer)**

**Concerning the adoption of dogs and cats used for science or research purposes.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on College & Workforce Development was adopted. (For Committee amendment, see Journal, Day 79, April 2, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Leavitt and Van Werven spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5212, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5212, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representatives Appleton and Morris.

SUBSTITUTE SENATE BILL NO. 5212, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5002, by Senators Pedersen and Padden****Concerning limited cooperative associations.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Jinkins and Irwin spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5002.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5002, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells,

Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representatives Appleton and Morris.

SENATE BILL NO. 5002, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5265, by Senate Committee on State Government, Tribal Relations & Elections (originally sponsored by Zeiger, Hunt, Bailey and Hawkins)****Concerning the role of volunteerism within state government.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Walsh, Gregerson and Eslick spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5265.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5265, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representatives Appleton and Morris.

SUBSTITUTE SENATE BILL NO. 5265, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5723, by Senate Committee on Transportation (originally sponsored by Randall, Saldaña, Liias, Rolfes, Billig and Nguyen)**

**Increasing safety on roadways for pedestrians, bicyclists, and other roadway users.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Transportation was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 85, April 8, 2019).

Representative Young moved the adoption of amendment (523) to the committee striking amendment:

On page 2, line 13, after "RCW 46.63.110(3)" insert "when an affirmative determination is made by the law enforcement officer who determines that a violation of (a) of this subsection occurred that the operator of the motorcycle, motor-driven cycle, or moped was not in violation of an offense under this chapter at the time the violation of (a) of this subsection occurred"

On page 3, line 12, after "RCW 46.63.110(3)" insert "when an affirmative determination is made by the law enforcement officer who determines that a violation of this subsection (2) occurred that the individual traveling as a pedestrian or on a bicycle, riding an animal, or using a farm tractor or implement of husbandry without an enclosed shell was not in violation of an offense under this chapter at the time the violation of this subsection (2) occurred"

On page 4, line 10, after "RCW 46.63.110(3)" insert "when an affirmative determination is made by the law enforcement officer who determines that a violation of this section occurred that the vulnerable user of a public way was not in violation of an offense under this chapter at the time the violation of this section occurred"

On page 5, line 10, after "RCW 46.63.110(3)" insert "when an affirmative determination is made by the law enforcement officer who determines that a violation of this section occurred that the vulnerable user of a public way was not in violation of an offense under this chapter at the time the violation of this section occurred"

On page 5, line 32, after "RCW 46.63.110(3)" insert "when an affirmative determination is made by the law enforcement officer who determines that a violation of this section occurred that the vulnerable user of a public way was not in violation of an offense under this chapter at the time the violation of this section occurred"

On page 7, line 1, after "RCW 46.63.110(3)" insert "when an affirmative determination is made by the law enforcement officer who determines that a violation of this section occurred that the vulnerable user of a public way was not in violation of an offense under this chapter at the time the violation of this section occurred"

On page 7, line 20, after "RCW 46.63.110(3)" insert "when an affirmative determination is made by the law enforcement officer who determines that a violation of this section occurred that the vulnerable user of a public way was not in violation of an offense under this chapter at the time the violation of this section occurred"

Representatives Young and Irwin spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Valdez spoke against the adoption of the amendment to the committee striking amendment.

Division was demanded on the adoption of Amendment (523) to the committee striking amendment and the demand was sustained. The Speaker (Representative Orwall presiding) divided the House. The result was 41 - YEAS; 55 - NAYS.

Amendment (523) to the committee striking amendment was not adopted.

Representative Young moved the adoption of amendment (522) to the committee striking amendment.

On page 2, line 15, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 3, line 14, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 4, line 12, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 5, line 11, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 5, line 33, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 7, line 3, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 7, line 22, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 10, after line 26, insert the following:

"**Sec. 13.** RCW 46.63.070 and 2011 c 372 s 3 are each amended to read as follows:

(1) Any person who receives a notice of traffic infraction shall respond to such notice as provided in this section within fifteen days of the date of the notice.

(2) If the person determined to have committed the infraction does not contest the determination the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response and order shall be furnished to the department in accordance with RCW 46.20.270.

(3) If the person determined to have committed the infraction wishes to contest the determination the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The

court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

(4) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing.

(5)(a) Except as provided in (b), (c), and (d) of this subsection, in hearings conducted pursuant to subsections (3) and (4) of this section, the court may defer findings, or in a hearing to explain mitigating circumstances may defer entry of its order, for up to one year and impose conditions upon the defendant the court deems appropriate. Upon deferring findings, the court may assess costs as the court deems appropriate for administrative processing. If at the end of the deferral period the defendant has met all conditions and has not been determined to have committed another traffic infraction, the court may dismiss the infraction.

(b) A person may not receive more than one deferral within a seven-year period for traffic infractions for moving violations and more than one deferral within a seven-year period for traffic infractions for nonmoving violations.

(c) A person who is the holder of a commercial driver's license or who was operating a commercial motor vehicle at the time of the violation may not receive a deferral under this section.

(d) A person who commits negligent driving in the second degree with a vulnerable user victim may not receive a deferral for this infraction under this section.

(6) If any person issued a notice of traffic infraction:

(a) Fails to respond to the notice of traffic infraction as provided in subsection (2) of this section; or

(b) Fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section;

the court shall enter an appropriate order assessing the monetary penalty prescribed for the traffic infraction and any other penalty authorized by this chapter and shall notify the department in accordance with RCW 46.20.270, of the failure to respond to the notice of infraction or to appear at a requested hearing.

(7) If the person determined to have committed the infraction wishes to explain mitigating circumstances in accordance with the requirements of subsection (4) of this section and one of the mitigating circumstances is that this infraction is the first infraction committed within the court's jurisdiction for which the person received the additional penalty under RCW 46.61.145, 46.61.180, 46.61.185, 46.61.190, or 46.61.205, the court shall waive the additional penalty in hearings conducted under subsections (3) and (4) of this section.

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

Representative Young and Young (again) spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Valdez spoke against the adoption of the amendment to the committee striking amendment.

Amendment (522) to the committee striking amendment was not adopted.

Representative Young moved the adoption of amendment (521) to the committee striking amendment:

On page 2, line 18, after "(ii)" strike "The" and insert "One-half of the"

On page 2, line 20, after "RCW 46.61.145" insert ", and one-half of the additional fine imposed under (b)(i) of this subsection must be deposited into the motor vehicle fund created in RCW 46.68.070"

On page 3, line 17, after "(c)" strike "The" and insert "One-half of the"

On page 3, line 19, after "RCW 46.61.145" insert ", and one-half of the additional fine imposed under (b) of this subsection must be deposited into the motor vehicle fund created in RCW 46.68.070"

On page 4, line 17, after "(5)" strike "The" and insert "One-half of the"

On page 4, line 19, after "section" insert ", and one-half of the additional fine imposed under subsection (4) of this section must be deposited into the motor vehicle fund created in RCW 46.68.070"

On page 5, line 17, after "(4)" strike "The" and insert "One-half of the"

On page 5, line 19, after "RCW 46.61.145" insert ", and one-half of the additional fine imposed under subsection (3) of this section must be deposited into the motor vehicle fund created in RCW 46.68.070"

On page 6, line 1, after "(3)" strike "The" and insert "One-half of the"

On page 6, line 3, after "RCW 46.61.145" insert ", and one-half of the additional fine imposed under subsection (2) of this section must be deposited into the motor vehicle fund created in RCW 46.68.070"

On page 7, line 8, after "(5)" strike "The" and insert "One-half of the"

On page 7, line 10, after "RCW 46.61.145" insert ", and one-half of the additional fine imposed under subsection (4) of this section must be deposited into the motor vehicle fund created in RCW 46.68.070"

On page 7, line 27, after "(3)" strike "The" and insert "One-half of the"

On page 7, line 29, after "RCW 46.61.145" insert "and one-half of the additional fine imposed under subsection (2) of this section must be deposited into the motor vehicle fund created in RCW 46.68.070"

Representative Young spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Valdez spoke against the adoption of the amendment to the committee striking amendment.

Amendment (521) to the committee striking amendment was not adopted.

The committee amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

Representative Young spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5723, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5723, as amended by the House, and the bill passed the House by the following vote: Yeas, 70; Nays, 26; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Caldier, Callan, Chambers, Chapman, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hudgins, Irwin, Jenkins, Kilduff, Kirby, Kloba, Kretz, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Voting nay: Representatives Boehnke, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Griffey, Hoff, Jenkin, Klippert, Kraft, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Steele, Sutherland, Vick and Young.

Excused: Representatives Appleton and Morris.

SUBSTITUTE SENATE BILL NO. 5723, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5895, by Senators Wilson, C., Nguyen and Darneille**

#### **Concerning fingerprint background checks for guardians ad litem.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5895.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5895, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jenkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representatives Appleton and Morris.

SENATE BILL NO. 5895, having received the necessary constitutional majority, was declared passed.

#### **SENATE BILL NO. 5398, by Senators Keiser, King, Van De Wege and Conway**

#### **Concerning unemployment benefit eligibility for apprentices.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5398.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5398, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representatives Appleton and Morris.

SENATE BILL NO. 5398, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5480, by Senate Committee on Labor & Commerce (originally sponsored by Brown, Conway, Honeyford and Takko)**

**Concerning the renewal of real estate appraiser certificates, licenses, and registrations.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Kirby and Vick spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5480.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5480, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford,

Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representatives Appleton and Morris.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5480, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SENATE BILL NO. 5937, by Senators Lovelett, Nguyen, Fortunato, Das, Billig and Hunt**

**Clarifying the required color of certain lamps on vehicles.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Transportation was adopted. (For Committee amendment, see Journal, Day 68, March 22, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5937, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5937, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representatives Appleton and Morris.

ENGROSSED SENATE BILL NO. 5937, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5405, by Senate Committee on Health & Long Term Care (originally sponsored by Padden, Randall, Zeiger, Fortunato, Billig, Wilson, C., Nguyen and Kuderer)**

**Concerning nondiscrimination in access to organ transplants.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Health Care & Wellness was adopted. (For Committee amendment, see Journal, Day 78, April 1, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Cody and Harris spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5405, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5405, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representatives Appleton and Morris.

SUBSTITUTE SENATE BILL NO. 5405, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5300, by Senators Padden, Liias, Pedersen and Van De Wege**

**Providing coroners with additional subpoena duces tecum authority.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Civil Rights & Judiciary was adopted. (For Committee amendment, see Journal, Day 72, March 26, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Irwin and Jinkins spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5300, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5300, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representatives Appleton and Morris.

SENATE BILL NO. 5300, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5001, by Senate Committee on Labor & Commerce (originally sponsored by Pedersen, King, Rivers, Keiser, Palumbo, Saldaña, Liias, Carlyle, Conway, Kuderer and Van De Wege)**

**Concerning human remains.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Consumer Protection & Business was adopted. (For Committee amendment, see Journal, Day 40, February 22, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Kirby and Vick spoke in favor of the passage of the bill.

Representative Shea spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5001, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5001, as amended by the House, and the bill passed the House by the following vote: Yeas, 80; Nays, 16; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Caldier, Callan, Chambers, Cody, Corry, Davis, Doglio, Dolan, Dufault, Dye, Entenman, Fey, Fitzgibbon, Frame, Gildon, Goodman, Graham, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Voting nay: Representatives Boehnke, Chandler, Chapman, DeBolt, Dent, Eslick, Goehner, Griffey, Klippert, Kraft, McCaslin, Shea, Smith, Sutherland, Van Werven and Young.

Excused: Representatives Appleton and Morris.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5001, as amended by the House, having received the necessary constitutional majority, was declared passed.

#### SENATE BILL NO. 5177, by Senators Braun and Takko

##### Concerning cemetery district withdrawal of territory.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Orcutt, Pollet and DeBolt spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5177.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5177, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representatives Appleton and Morris.

SENATE BILL NO. 5177, having received the necessary constitutional majority, was declared passed.

#### ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5290, by Senate Committee on Ways & Means (originally sponsored by Darneille, Wellman, Kuderer, Randall, Palumbo, Das, Hasegawa, McCoy, Nguyen, Saldaña, Wilson and C.)

##### Eliminating the use of the valid court order exception to place youth in detention for noncriminal behavior.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Human Services & Early Learning was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 79, April 2, 2019).

Representative Walsh moved the adoption of amendment (505) to the committee striking amendment:

On page 1, beginning on line 3, strike all of sections 1 and 2

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

On page 3, beginning on line 16, after "(e)" strike all material through "13.32A.250" on line 18 and insert "~~(H eases)~~ (i) Under chapters 13.32A, 13.34, and 28A.225 RCW"

On page 3, line 27, after "(ii)" strike all material through "at-risk" and insert "Prior to committing any"

On page 3, beginning on line 28, after "under" strike all material through "chapter" on line 29 and insert "chapters 13.34, 28A.225, and"

On page 3, line 40, after "youth" strike ":" and insert ";

On page 4, beginning on line 1, after "(iii)" strike all material through "period" on line 8 and insert "Detention imposed as a contempt sanction under chapters 13.32A, 13.34, and 28A.225 RCW shall be imposed no more than twice, for no more than seventy-two hours for each sanction, in any thirty-day period.

(iv) The court may not order detention pursuant to this subsection if placement is available in a secure crisis residential center or other secure juvenile facility in the county in which the action is pending

Beginning on page 4, line 19, strike all of section 4

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

On page 6, line 19, after "party" strike "in an at-risk youth proceeding"

On page 6, line 23, after "(3)" strike "For at-risk youth proceedings only."

On page 6, at the beginning of line 36 insert "subject to the limitations provided under RCW 7.21.030(2)(e)"

Beginning on page 6, line 39, after "available" strike all material through "period" on page 7, line 4

On page 7, beginning on line 9, after "~~((5))~~" strike all material through "section." on line 10

On page 7, line 15, after "(5)" strike "For at-risk youth proceedings only, whenever" and insert "Whenever"

Beginning on page 8, line 1, strike all of section 6

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

Beginning on page 10, line 33, after "(2)" strike all material through "(4))" on page 11, line 1 and insert "(a) If the child fails to comply with the court order, the court may impose:

(i) Community restitution;

(ii) Nonresidential programs with intensive wraparound services;

(iii) A requirement that the child meet with a mentor for a specified number of times; or

(iv) Other services and interventions that the court deems appropriate.

(b) The maximum term of confinement that may be imposed as a remedial sanction for contempt of court under this section is confinement for up to ~~((seven days))~~ seventy-two hours subject to the limitations provided under RCW 7.21.030(2)(e) if (i) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order occurred, or (ii) the court makes a finding that none of the less restrictive alternatives is available.

(3) A child held for contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

(4)"

On page 11, at the beginning of line 5, strike "~~((3))~~" and insert "(5)"

On page 12, line 25, after "(2)" strike "~~((a))~~" and insert "(a)"

On page 12, at the beginning of line 27, strike "~~((a))~~" and insert "(i)"

On page 12, at the beginning of line 28, strike "~~((b))~~" and insert "(ii)"

On page 12, at the beginning of line 30, strike "~~((c))~~" and insert "(iii)"

On page 12, at the beginning of line 32, strike "~~((d))~~" and insert "(iv)"

Beginning on page 12, line 34, strike all material through "~~present.~~)" on page 13, line 8, and insert "(b) If the child continues to fail to comply with the court order and the court makes a finding that other measures to secure compliance have been tried but have been unsuccessful and no less restrictive alternative is available, the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e). Failure by a child to comply with an order issued under this subsection shall not be subject to detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW. Detention ordered under this subsection may be for no longer than ~~((seven days))~~ seventy-two hours subject to the limitations provided under RCW 7.21.030(2)(e). Detention ordered under this subsection shall preferably be served at a secure crisis residential center close to the child's home rather than in a juvenile detention facility. A warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present."

On page 13, beginning on line 29, after "may" strike all material through "~~may~~)" on line 30 and insert "order the child to be subject to detention, as provided in RCW 7.21.030(2)(e), or may"

Beginning on page 14, line 1, strike all of section 10

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

On page 16, line 32, after "43.185C.260(1)(c)" strike "~~((d))~~" and insert "or (d)"

On page 16, line 37, strike all material through "center." on page 17, line 5 and insert "center's secure facility. If the secure facility is not available, not located within a reasonable distance, or full, the officer shall take the child to a semi-secure crisis residential center. An officer taking a child into custody under RCW 43.185C.260(1)(d) may place the child in a juvenile detention facility as provided in RCW 43.185C.270 or a secure facility, except that the child shall be taken to detention whenever the officer has been notified that a juvenile court has entered a detention order under this chapter or chapter 13.34 RCW."

On page 18, beginning on line 16, after "petition." strike all material through "petitions." on line 25 and insert

"The administrative office of the courts shall ensure that the annual statewide report delivered to the legislature in 2021 provides sufficient information to measure the impacts of this act on reducing the use of juvenile detention as a remedy for contempt of a valid court order for youth referenced in this subsection."

Beginning on page 18, line 32, strike all of sections 14 and 15

Correct any internal references accordingly.

Representative Walsh spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Senn spoke against the adoption of the amendment to the committee striking amendment.

An electronic roll call was requested.

### ROLL CALL

The Clerk called the roll on the adoption of amendment (505) to the committee striking amendment and the amendment was adopted by the following vote: Yeas, 44; Nays, 52; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Morgan, Mosbrucker, Orcutt, Ormsby, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Voting nay: Representatives Bergquist, Callan, Chapman, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Wylie and Mr. Speaker.

Excused: Representatives Appleton and Morris.

Amendment (505) to the committee striking amendment was not adopted.

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on amendment (505) to the committee striking amendment to Engrossed Second Substitute Senate Bill No. 5290.

Representative Ormsby, 3rd District

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on amendment (505) to the committee striking amendment to Engrossed Second Substitute Senate Bill No. 5290.

Representative Morgan, 29th District

Representative McCaslin moved the adoption of amendment (518) to the committee striking amendment:

On page 2, at the beginning of line 1, strike "(1)"

On page 2, beginning on line 4, after "RCW." strike all material through "RCW." on line 30

On page 3, line 40, after "youth" strike ":" and insert " ;"

On page 4, line 1, after "(iii)" strike "Until July 1, 2022, detention" and insert "Detention"

On page 5, at the beginning of line 5, after "to" strike all material through "services" on line 13 and insert "juvenile detention for a period of time not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. The court may only order detention as a sanction for contempt of court in at-risk youth proceedings if no secure crisis residential center beds are available for the child. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction"

On page 5, beginning on line 15, after "to" strike all material through "services" on line 16 and insert "juvenile detention"

On page 5, line 23, after "options," insert "that no secure crisis residential center beds are available."

On page 5, beginning on line 28, after "youth" strike all material through "period)" on line 36 and insert " ."

(iii) Detention periods for at-risk youth sanctioned to juvenile detention for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, shall be:

(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period"

On page 8, beginning on line 27, after "confinement" strike all material through "services" on line 29 and insert "for up to seventy-two hours"

On page 8, beginning on line 33, after "available." strike all material through "period)" on line 37 and insert "The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period."

Beginning on page 8, line 39, after "section" strike all material through "only." on page 9, line 8, and insert "shall be placed in confinement only in a secure juvenile

detention facility operated by or pursuant to a contract with a county.

(iii) The court may only order detention as a sanction for contempt of court in at-risk youth proceedings if no secure crisis residential center beds are available for the child."

On page 18, at the beginning of line 24, strike "residential programs with intensive wraparound services" and insert "crisis residential centers"

Representatives McCaslin and Irwin spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Senn spoke against the adoption of the amendment to the committee striking amendment.

Amendment (518) to the committee striking amendment was not adopted.

Representative Klippert moved the adoption of amendment (516) to the committee striking amendment:

On page 3, line 40, after "youth" strike ":" and insert " ; "

On page 4, after line 8, insert the following:

"(iv) Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise."

On page 5, beginning on line 28, after "youth" strike all material through "~~(iii) Until~~" on line 29 and insert " .

(iii) ~~((Until~~

On page 5, line 36, strike "~~period~~)." and insert "period."

~~(iv))~~ Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise."

On page 7, after line 40, insert the following:

"(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise."

On page 9, after line 36, insert the following:

"(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise."

On page 11, after line 18, insert the following:

"(4) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise."

On page 13, line 36, after "(5)" insert "Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

(6)"

Representatives Klippert and Kilduff spoke in favor of the adoption of the amendment to the committee striking amendment.

An electronic roll call was requested.

## ROLL CALL

The Clerk called the roll on the adoption of amendment (516) to the committee striking amendment and the amendment was adopted by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra, Young and Mr. Speaker.

Excused: Representatives Appleton and Morris.

Amendment (516) to the committee striking amendment was adopted.

Representative Klippert moved the adoption of amendment (517) to the committee striking amendment:

On page 18, after line 25, insert the following:

"NEW SECTION. Sec. 13. The sum of seven hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2020, from the general fund, and the sum of seven hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2021, from the general fund to the department of commerce to provide funding for secure crisis residential centers in counties that do not currently have a secure crisis residential center."

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

Representatives Klippert and Stokesbary spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Robinson spoke against the adoption of the amendment to the committee striking amendment.

An electronic roll call was requested.

### ROLL CALL

The Clerk called the roll on the adoption of amendment (517) to the committee striking amendment and the amendment was not adopted by the following vote: Yeas, 41; Nays, 55; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Voting nay: Representatives Bergquist, Blake, Callan, Chapman, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Wylie and Mr. Speaker.

Excused: Representatives Appleton and Morris.

Amendment (517) to the committee striking amendment was not adopted.

Representative Klippert moved the adoption of amendment (515) to the committee striking amendment:

On page 19, line 1, before "Sections" insert "(1)"

On page 19, line 2, after "2022" insert ", only if the condition described in subsection (2) of this section is satisfied.

(2) On May 1, 2022, the office of financial management must determine whether there are enough secure crisis residential center beds available at that time to serve the number of individuals detained as a court contempt sanction for an at-risk youth court proceeding based on the most recent annual at-risk youth detention information, and if so, the office of financial management must immediately provide written notice of the effective date of sections 4 and 6 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed necessary by the office of financial management"

Representative Klippert spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Senn spoke against the adoption of the amendment to the committee striking amendment.

An electronic roll call was requested.

### ROLL CALL

The Clerk called the roll on the adoption of amendment (515) to the committee striking amendment and the

amendment was not adopted by the following vote: Yeas, 39; Nays, 57; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Ybarra and Young.

Voting nay: Representatives Bergquist, Callan, Chapman, Cody, Davis, DeBolt, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Wilcox, Wylie and Mr. Speaker.

Excused: Representatives Appleton and Morris.

Amendment (515) to the committee striking amendment was not adopted.

Division was demanded on the adoption of the committee striking amendment, as amended, and the demand was sustained. The Speaker (Representative Orwall presiding) divided the House. The result was 53 - YEAS; 43 - NAYS.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Frame, Ortiz-Self, Kilduff, Senn and Frame (again) spoke in favor of the passage of the bill.

Representatives Dent, Caldier, Irwin, Klippert, Irwin (again), Corry, and Walsh spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5290, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5290, as amended by the House, and the bill passed the House by the following vote: Yeas, 52; Nays, 44; Absent, 0; Excused, 2.

Voting yea: Representatives Bergquist, Callan, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford,

Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Wylie and Mr. Speaker.

Voting nay: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Chapman, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Kirby, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton and Morris.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5290, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

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

**MOTIONS**

There being no objection, the Committee on Rules was relieved of the following bills and the bills were placed on the second reading calendar:

- ENGROSSED SENATE BILL NO. 5008
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5035
- SENATE BILL NO. 5074
- SECOND SUBSTITUTE SENATE BILL NO. 5082
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5127
- SENATE BILL NO. 5179
- SUBSTITUTE SENATE BILL NO. 5181
- SENATE BILL NO. 5199
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5258
- SENATE BILL NO. 5263
- SUBSTITUTE SENATE BILL NO. 5266
- ENGROSSED SENATE BILL NO. 5274
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5288
- SUBSTITUTE SENATE BILL NO. 5305
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5383
- SECOND SUBSTITUTE SENATE BILL NO. 5433
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5485
- SUBSTITUTE SENATE BILL NO. 5488
- SUBSTITUTE SENATE BILL NO. 5502
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5526
- SUBSTITUTE SENATE BILL NO. 5550
- SUBSTITUTE SENATE BILL NO. 5560
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5600
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5688
- SUBSTITUTE SENATE BILL NO. 5763

- SENATE BILL NO. 5782
- SENATE BILL NO. 5786
- SUBSTITUTE SENATE BILL NO. 5851
- SUBSTITUTE SENATE BILL NO. 5894

There being no objection, the Committee on Appropriations was relieved of SENATE BILL NO. 5959, and the bill was referred to the Committee on Rules.

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

**SUPPLEMENTAL REPORTS OF STANDING COMMITTEES**

April 9, 2019

2SSB 5376 Prime Sponsor, Committee on Ways & Means: Protecting consumer data. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Innovation, Technology & Economic Development.

Strike everything after the enacting clause and insert the following:

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

(a) Washington explicitly recognizes its people's right to privacy under Article I, section 7 of the state Constitution. Nothing in this act diminishes this right.

(b) There is rapid growth in the volume and variety of personal data being generated, collected, stored, and analyzed. The protection of individual privacy and freedom in relation to the processing of personal data requires the recognition of the principle that consumers retain ownership interest of their personal data, including personal data that undergoes processing or is in possession of another party. Consumers desire greater transparency and control over the collection, disclosure, and sharing of their personal data.

(c) Nothing in this act affects the consumer protections in chapter 19.86 RCW, the consumer protection act.

(d) Personal data should be collected with a clear purpose and with consumers' consent.

(2) Possession of personal data brings with it an obligation of care and to fulfill requirements under this act, no matter the source of data, or the size of the entity holding or processing personal data. To preserve trust and confidence that personal data will be protected appropriately, the legislature recognizes that with regard to processing of personal data, Washington consumers have the rights to:

(a) Confirm whether or not personal data is being processed by a controller;

- (b) Obtain a copy of the personal data undergoing processing;
- (c) Correct inaccurate personal data;
- (d) Obtain deletion of personal data;
- (e) Restrict processing of personal data;
- (f) Be provided with any of the consumer's personal data that the consumer provided to a controller;
- (g) Object to processing of personal data; and
- (h) Not be subject to a decision based solely on profiling.

(3) The European Union recently updated its privacy law through the passage and implementation of the general data protection regulation, affording its residents the strongest privacy protections in the world.

(4) Washington residents have long enjoyed an expectation of privacy in their public movements. The development of new technology like facial recognition could, if deployed indiscriminately and without proper regulation, enable the constant surveillance of any individual. Washington residents should have the right to a reasonable expectation of privacy in their movements, and thus should be free from ubiquitous and surreptitious surveillance using facial recognition technology. Further, Washington residents have the right to information about the capabilities, possible bias, and limitations of facial recognition technology and that it should not be deployed by private sector organizations without proper public notice."

Correct the title.

Signed by Representatives Ormsby, Chair; Tharinger; Tarleton; Sullivan; Springer; Senn; Ryu; Pollet; Pettigrew; Macri; Jinkins; Hudgins; Hansen; Fitzgibbon; Dolan; Cody; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair and Stanford.

MINORITY recommendation: Do not pass. Signed by Representatives Sutherland; Steele; Schmick; Mosbrucker; Kraft; Hoff; Dye; Chandler; Caldier; Rude, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Ranking Minority Member; Volz and Ybarra.

Referred to Committee on Rules for second reading.

There being no objection, the bills listed on the day's supplemental committee reports under the fifth order of business were referred to the committees so designated.

There being no objection, the House adjourned until 9:00 a.m., April 10, 2019, the 87th Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## EIGHTY SEVENTH DAY

House Chamber, Olympia, Wednesday, April 10, 2019

The House was called to order at 9:00 a.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Justin Walker and Cassie Laney. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Dean Iverson, Triumph Lutheran Church, affiliated with the Association of Free Lutheran Congregation, Ferndale, Washington.

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

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

**INTRODUCTION & FIRST READING**

HB 2166 by Representatives Orcutt, Lovick, Chapman, Barkis, Blake and Kretz

AN ACT Relating to creating special license plates that support working forests; amending RCW 46.18.200, 46.17.220, and 46.68.420; and adding a new section to chapter 46.04 RCW.

Referred to Committee on Transportation.

HB 2167 by Representative Tarleton

AN ACT Relating to tax revenue; and creating a new section.

Referred to Committee on Finance.

HB 2168 by Representative Tarleton

AN ACT Relating to tax preferences; and creating a new section.

Referred to Committee on Finance.

HJM 4012 by Representatives Lekanoff, Stokesbary, DeBolt, Irwin, Stonier, Chapman, Kilduff, Wylie, Pellicciotti, Orwall, Sullivan, Pettigrew, Peterson, Paul, Slatter, Blake, Shewmake, Tharinger, Doglio, Goodman, Cody, Ormsby, Pollet, Valdez, Callan, Ramos, Leavitt, Stanford, Sells and Appleton

Recognizing the international year of the salmon.

Referred to Committee on Rural Development, Agriculture, & Natural Resources.

There being no objection, the bills listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated.

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

**SECOND READING**

**SENATE BILL NO. 5199, by Senators Keiser, Conway, McCoy, Hunt, Das, Saldaña, Wilson, C., Hasegawa and Van De Wege**

**Granting certain correctional employees binding interest arbitration.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representative Sells and Irwin spoke in favor of the passage of the bill.

Representative Mosbrucker spoke against the passage of the bill.

**MOTIONS**

On motion of Representative Jenkin, Representative Young was excused.

On motion of Representative Riccelli, Representatives Appleton and Frame were excused.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5199.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5199, and the bill passed the House by the following vote: Yeas, 75; Nays, 20; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Davis, Dent, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Gildon, Goodman, Graham, Gregerson, Griffey, Hansen,

Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Walsh, Wylie and Mr. Speaker.

Voting nay: Representatives Boehnke, Corry, DeBolt, Dufault, Dye, Eslick, Goehner, Harris, Hoff, Jenkin, Klippert, Kraft, Mosbrucker, Schmick, Stokesbary, Sutherland, Van Werven, Vick, Wilcox and Ybarra.

Excused: Representatives Appleton, Frame and Young.

SENATE BILL NO. 5199, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5035, by Senate Committee on Labor & Commerce (originally sponsored by Saldaña, Hasegawa, Conway, Keiser, Wellman and Kuderer)**

**Enhancing the prevailing wage laws to ensure contractor and owner accountability and worker protection.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Labor & Workplace Standards was adopted. (For Committee amendment, see Journal, Day 72, March 26, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

Representative Mosbrucker spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5035, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5035, as amended by the House, and the bill passed the House by the following vote: Yeas, 59; Nays, 36; Absent, 0; Excused, 3.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Goodman, Gregerson, Hansen, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Kretz, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu,

Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Walsh, Wylie and Mr. Speaker.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Jenkin, Klippert, Kraft, MacEwen, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Wilcox and Ybarra.

Excused: Representatives Appleton, Frame and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5035, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5082, by Senate Committee on Ways & Means (originally sponsored by McCoy, Hasegawa, Kuderer and Saldaña)**

**Creating a committee to promote and expand social emotional learning. Revised for 2nd Substitute: Promoting and expanding social emotional learning.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

Representative Dolan moved the adoption of amendment (547) to the committee striking amendment:

On page 3, beginning on line 32 of the striking amendment, after "(1)" strike all material through "schools."" on line 36 and insert "The office of the superintendent of public instruction shall review the recommendations of the social-emotional learning work group convened as directed in the 2017 omnibus appropriations act and the recommendations of the social-emotional learning committee created in section 1 of this act. The office of the superintendent of public instruction shall adopt social-emotional learning standards and benchmarks by January 1, 2020, and revise the social-emotional learning standards and benchmarks as appropriate."

Representatives Dolan and Steele spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (547) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Santos, Steele, Ortiz-Self and Wilcox spoke in favor of the passage of the bill.

Representative Kraft spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5082, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5082, as amended by the House and the bill passed the House by the following vote: Yeas, 71; Nays, 24; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Callan, Chapman, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Kretz, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Wilcox, Wylie, Ybarra and Mr. Speaker.

Voting nay: Representatives Caldier, Chambers, Chandler, Dent, Dufault, Dye, Eslick, Gildon, Griffey, Hoff, Irwin, Jenkin, Klippert, Kraft, MacEwen, McCaslin, Orcutt, Schmick, Shea, Stokesbary, Sutherland, Van Werven, Vick and Walsh.

Excused: Representatives Appleton, Frame and Young.

SECOND SUBSTITUTE SENATE BILL NO. 5082, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5550, by Senate Committee on Ways & Means (originally sponsored by Saldaña, Warnick, Conway, Das, Hasegawa, Keiser, King, Rolfes and Van De Wege)**

**Implementing the recommendations of the pesticide application safety work group.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Labor & Workplace Standards was adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Dent, Valdez and Ybarra spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5550, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5550, as amended by the House, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Excused: Representatives Appleton, Frame and Young.

SUBSTITUTE SENATE BILL NO. 5550, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5131, by Senate Committee on Housing Stability & Affordability (originally sponsored by Takko, Short and Kuderer)**

**Regarding foreclosure and distraint sales of manufactured/mobile or park model homes.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Jinkins and Irwin spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5131.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5131, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner,

Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Excused: Representatives Appleton, Frame and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5131, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5399, by Senate Committee on Law & Justice (originally sponsored by Pedersen, Walsh, Dhingra, Frockt, Kuderer, Salomon, Mullet, Palumbo, Holy, Wellman, Wilson and C.)**

**Concerning child relocation by a person with joint decision-making authority and equal residential time. Revised for 1st Substitute: Concerning child relocation by a person with substantially equal residential time.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Jinkins and Irwin spoke in favor of the passage of the bill.

Representatives Walsh, Caldier and Dufault spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5399.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5399, and the bill passed the House by the following vote: Yeas, 63; Nays, 32; Absent, 0; Excused, 3.

Voting yea: Representatives Bergquist, Blake, Boehnke, Callan, Chapman, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Goodman, Gregerson, Hansen, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Mead, Morgan, Morris, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Wylie, Ybarra and Mr. Speaker.

Voting nay: Representatives Barkis, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick,

Gildon, Goehner, Graham, Griffey, Harris, Hoff, Jenkin, Kraft, Kretz, Maycumber, McCaslin, Mosbrucker, Rude, Schmick, Shea, Steele, Stokesbary, Sutherland, Van Werven, Vick, Walsh and Wilcox.

Excused: Representatives Appleton, Frame and Young.

SUBSTITUTE SENATE BILL NO. 5399, having received the necessary constitutional majority, was declared passed.

#### MOTION

On motion of Representative Riccelli, Representative Ortiz-Self was excused.

**ENGROSSED SENATE BILL NO. 5439, by Senators Keiser, King, Kuderer, Conway, McCoy, Saldaña and Wellman**

**Concerning confidentiality of employment security department records and data.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5439.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5439, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Excused: Representatives Appleton, Frame, Ortiz-Self and Young.

ENGROSSED SENATE BILL NO. 5439, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5490, by Senators Frockt, Brown, Hobbs and Mullet**

**Transferring duties of the life sciences discovery fund.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Morris and Boehnke spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5490.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5490, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Excused: Representatives Appleton, Frame, Ortiz-Self and Young.

SENATE BILL NO. 5490, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5670, by Senate Committee on Local Government (originally sponsored by Wagoner, Palumbo, Holy, Hobbs and Honeyford)**

**Expanding the allowable powers of fire protection districts.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Local Government was adopted. (For Committee amendment, see Journal, Day 68, March 22, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Eslick, Peterson and Ybarra spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5670, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5670, as amended by the House, and the bill passed the House by the following vote: Yeas, 93; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Voting nay: Representative Kraft.

Excused: Representatives Appleton, Frame, Ortiz-Self and Young.

SUBSTITUTE SENATE BILL NO. 5670, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5885, by Senate Committee on Law & Justice (originally sponsored by Padden, Dhingra, O'Ban, Wilson, C. and Nguyen)**

**Creating an exemption to hearsay for child sex trafficking victims.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Jinkins and Irwin spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5885.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5885, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Excused: Representatives Appleton, Frame and Young.

SUBSTITUTE SENATE BILL NO. 5885, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SENATE BILL NO. 5958, by Senators Lovelett and Nguyen**

**Concerning public works contracts and interlocal agreements by second-class cities and towns. (REVISED FOR ENGROSSED: Concerning public works contracts and interlocal agreements.)**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

Representative Kraft spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5958.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5958, and the bill passed the House by the following vote: Yeas, 94; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick,

MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Voting nay: Representative Kraft.

Excused: Representatives Appleton, Frame and Young.

ENGROSSED SENATE BILL NO. 5958, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5181, by Senate Committee on Ways & Means (originally sponsored by Kuderer, Saldaña, Pedersen, Wilson, C., Dhingra, Billig, Takko, McCoy, Hunt, Cleveland, Wellman, Darneille, Carlyle, Das and Liias)**

**Concerning certain procedures upon initial detention under the involuntary treatment act.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

Representative Irwin spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5181, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5181, as amended by the House, and the bill passed the House by the following vote: Yeas, 55; Nays, 40; Absent, 0; Excused, 3.

Voting yea: Representatives Bergquist, Callan, Chapman, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Wylie and Mr. Speaker.

Voting nay: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault,

Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Walsh, Wilcox and Ybarra.

Excused: Representatives Appleton, Frame and Young.

SUBSTITUTE SENATE BILL NO. 5181, as amended by the House, having received the necessary constitutional majority, was declared passed.

#### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Substitute Senate Bill No. 5181.

Representative Volz, 6th District

**SENATE BILL NO. 5649, by Senators Dhingra, Pedersen, Palumbo, Saldaña, Das, Wilson, C., Frockt, Keiser and Kuderer**

#### Adjusting the statute of limitations for sexual assault.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Griffey, Orwall, Kraft, Caldier and Goodman spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5649.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5649, and the bill passed the House by the following vote: Yeas, 94; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Voting nay: Representative Santos.

Excused: Representatives Appleton, Frame and Young.

SENATE BILL NO. 5649, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5383, by Senate Committee on Housing Stability & Affordability (originally sponsored by Zeiger, Palumbo, Nguyen, Short, Van De Wege, Wilson, C., Wilson and L.)**

#### Concerning tiny houses.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Local Government was adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Pollet, Kraft and Gildon spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5383, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5383, as amended by the House, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Excused: Representatives Appleton, Frame and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5383, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5127, by Senate Committee on Ways & Means (originally sponsored by McCoy, Billig, Darneille, Hunt, Rolfes and Schoesler)**

#### Increasing the traumatic brain injury fee.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5127, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5127, as amended by the House, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Excused: Representatives Appleton, Frame and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5127, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5218, by Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Zeiger, Takko and King)**

#### Concerning mobile food units.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Local Government was adopted. (For Committee amendment, see Journal, Day 72, March 26, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Kraft, Pollet and Irwin spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5218, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5218, as amended by the House, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Excused: Representatives Appleton, Frame and Young.

SUBSTITUTE SENATE BILL NO. 5218, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5433, by Senate Committee on Ways & Means (originally sponsored by Wilson, C., Nguyen, Das, Darneille, Dhingra, Hasegawa, Kuderer and Saldaña)**

**Providing postsecondary education opportunities to enhance public safety.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on College & Workforce Development was adopted. (For Committee amendment, see Journal, Day 79, April 2, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Leavitt and Sutherland spoke in favor of the passage of the bill.

Representatives Van Werven, Orcutt and Eslick spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5433, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5433, as amended by the House, and the bill passed the House by the following vote: Yeas, 67; Nays, 28; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Caldier, Callan, Chambers, Chapman, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Goehner, Goodman, Gregerson, Hansen, Harris, Hudgins, Irwin, Jenkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Walen, Wylie and Mr. Speaker.

Voting nay: Representatives Boehnke, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Graham, Griffey, Hoff, Jenkin, Klippert, Kraft, Kretz, Maycumber, McCaslin, Mosbrucker, Orcutt, Schmick, Shea, Van Werven, Vick, Volz, Walsh, Wilcox and Ybarra.

Excused: Representatives Appleton, Frame and Young.

SECOND SUBSTITUTE SENATE BILL NO. 5433, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5688, by Senate Committee on Health & Long Term Care (originally sponsored by Cleveland, Walsh and Becker)**

**Concerning athletic trainers.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Health Care & Wellness was adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5688, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5688, as amended by the House, and the bill passed the House by the following vote: Yeas, 92; Nays, 3; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman,

Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jenkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Voting nay: Representatives Cody, Fitzgibbon and MacEwen.

Excused: Representatives Appleton, Frame and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5688, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5621, by Senate Committee on Law & Justice (originally sponsored by Warnick, Padden, Holy, Wagoner, Wilson and L.)**

**Increasing the jurisdictional amount for small claims courts.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5621.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5621, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jenkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Excused: Representatives Appleton, Frame and Young.

SUBSTITUTE SENATE BILL NO. 5621, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SENATE BILL NO. 5210, by Senators Palumbo, Bailey, Rolfes, Wilson, C., Randall, Hunt, Das and Keiser**

**Notifying purchasers of hearing instruments about uses and benefits of telecoil and bluetooth technology.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Health Care & Wellness was adopted. (For Committee amendment, see Journal, Day 78, April 1, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5210, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5210, as amended by the House, and the bill passed the House by the following vote: Yeas, 93; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Voting nay: Representatives Corry and Vick.

Excused: Representatives Appleton, Frame and Young.

ENGROSSED SENATE BILL NO. 5210, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

### MESSAGES FROM THE SENATE

April 10, 2019

MR. SPEAKER:

The Senate has passed:

SUBSTITUTE HOUSE BILL NO. 1485,  
HOUSE BILL NO. 1647,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

April 10, 2019

MR. SPEAKER:

The Senate has passed:

HOUSE BILL NO. 1177,  
HOUSE BILL NO. 1208,  
ENGROSSED HOUSE BILL NO. 1219,  
HOUSE BILL NO. 1408,  
HOUSE BILL NO. 1432,  
SUBSTITUTE HOUSE BILL NO. 1512,  
SUBSTITUTE HOUSE BILL NO. 1532,  
ENGROSSED HOUSE BILL NO. 1584,  
SUBSTITUTE HOUSE BILL NO. 1594,  
HOUSE BILL NO. 1657,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

April 10, 2019

MR. SPEAKER:

The President has signed:

HOUSE BILL NO. 1020,  
ENGROSSED SUBSTITUTE HOUSE BILL NO.  
1138,  
HOUSE BILL NO. 1431,  
HOUSE BILL NO. 1743,  
HOUSE BILL NO. 2038,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

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

### SECOND READING

**SENATE BILL NO. 5205, by Senators Dhingra, King, Frockt, Zeiger, Pedersen, Das, Rolfes, Palumbo, Kuderer, Keiser, Wellman, Hunt, Mullet and Saldaña**

**Concerning provisions governing firearms possession by persons who have been found incompetent to stand trial and who have a history of one or more violent acts.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Civil Rights & Judiciary was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 78, April 1, 2019).

Representative Chambers moved the adoption of amendment (530) to the committee striking amendment:

On page 3, line 6 of the striking amendment, after "RCW 9A.04.047." insert "For the purposes of this section, "violent act" means a conviction for an offense that resulted in death, bodily injury, or the threat of bodily injury, as defined in RCW 9A.04.010."

Representatives Chambers and Irwin spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Jenkins spoke against the adoption of the amendment to the committee striking amendment.

**MOTION**

On motion of Representative Jenkin, Representatives Griffey and Dent were excused. On motion of Representative Riccelli, Representative Paul was excused.

Amendment (530) was not adopted.

Division was demanded on the adoption of the committee striking amendment and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The result was 53 - YEAS; 39 - NAYS.

The committee striking amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

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

Representatives Shea and Walsh spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5205, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5205, as amended by the House, and the bill passed

the House by the following vote: Yeas, 53; Nays, 39; Absent, 0; Excused, 6.

Voting yea: Representatives Bergquist, Callan, Chapman, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Goodman, Gregerson, Hansen, Hudgins, Jenkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Wylie and Mr. Speaker.

Voting nay: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox and Ybarra.

Excused: Representatives Appleton, Dent, Frame, Griffey, Paul and Young.

SENATE BILL NO. 5205, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5514, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Padden, Wellman, Zeiger and Frockt)**

**Concerning first responder agency notifications to schools regarding potential threats.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Goodman and Klippert spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5514.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5514, and the bill passed the House by the following vote: Yeas, 92; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jenkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves,

Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Excused: Representatives Appleton, Dent, Frame, Griffey, Paul and Young.

SUBSTITUTE SENATE BILL NO. 5514, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5403, by Senate Committee on Health & Long Term Care (originally sponsored by Bailey, Darneille, Conway, Rivers, Keiser and Kuderer)**

**Concerning safe egress from adult family homes.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5403.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5403, and the bill passed the House by the following vote: Yeas, 92; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mr. Speaker.

Excused: Representatives Appleton, Dent, Frame, Griffey, Paul and Young.

SUBSTITUTE SENATE BILL NO. 5403, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5526, by Senate Committee on Health & Long Term**

**Care (originally sponsored by Frockt, Cleveland, Kuderer, Randall, Keiser, Dhingra, Conway, Wellman, Darneille, Hunt, Hobbs, Das, Liias, Nguyen, Pedersen, Rolfes, Saldaña and Van De Wege)**

**Increasing the availability of quality, affordable health coverage in the individual market.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

With the consent of the house, amendment (517) to the committee striking amendment was withdrawn.

Representative Schmick moved the adoption of amendment (567) to the committee striking amendment:

On page 1, line 5 of the striking amendment, after "(1) The" strike "exchange, in consultation with the commissioner" and insert "commissioner, in consultation with the exchange"

On page 1, line 15 of the striking amendment, after "(b) The" strike "exchange" and insert "commissioner"

On page 1, line 17 of the striking amendment, after "The" strike "exchange" and insert "commissioner"

On page 1, line 19 of the striking amendment, after "(d) The" strike "exchange" and insert "commissioner"

On page 1, at the beginning of line 22 of the striking amendment, strike "exchange" and insert "commissioner"

Representative Schmick spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Cody spoke against the adoption of the amendment to the committee striking amendment.

Amendment (567) to the committee striking amendment was not adopted.

Representative Caldier moved the adoption of amendment (588) to the committee striking amendment:

On page 4, line 14 of the striking amendment, after "for" insert "services performed by a provider regulated under chapter 18.130 RCW who is not employed by a hospital or by an entity affiliated with a hospital or for"

Representatives Caldier and Cody spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (588) to the committee striking amendment was adopted.

Representative Caldier moved the adoption of amendment (577) to the committee striking amendment:

On page 5, line 11 of the striking amendment, after "than" strike "five" and insert "three"

Representative Caldier spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Macri spoke against the adoption of the amendment to the committee striking amendment.

Amendment (577) to the committee striking amendment was not adopted.

Representative Schmick moved the adoption of amendment (566) to the committee striking amendment:

On page 5, after line 26 of the striking amendment, insert the following:

"**NEW SECTION. Sec. 7.** A new section is added to chapter 48.43 RCW to read as follows:

The commissioner shall submit an annual report to the appropriate committees of the legislature on the effect each state mandated benefit has on the cost of coverage."

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

Representative Schmick spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (566) to the committee striking amendment was withdrawn.

Representative Caldier moved the adoption of amendment (575) to the committee striking amendment:

On page 5, after line 26 of the striking amendment, insert the following:

"**NEW SECTION. Sec. 7.** A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to amounts received by a health care provider for services performed on patients covered by a qualified health plan offered under section 3 of this act, including reimbursement from the qualified health plan and any amounts collected from the patient as part of his or her cost sharing obligation."

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

Representatives Caldier and Cody spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Cody spoke against the adoption of the amendment to the committee striking amendment.

Amendment (575) to the committee striking amendment was adopted.

Representative Caldier moved the adoption of amendment (576) to the committee striking amendment:

On page 5, after line 26 of the striking amendment, insert the following:

"**NEW SECTION. Sec. 7.** A new section is added to chapter 48.43 RCW to read as follows:

A health carrier shall allow an individual to purchase an individual market health plan offered by the carrier outside of the individual's county of residence if the individual's county of residence is in the same geographic rating area as the health plan he or she is purchasing."

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

Representative Caldier spoke in favor of the adoption of the amendment to the committee striking amendment.

An electronic roll call was requested.

#### ROLL CALL

The Clerk called the roll on the adoption of amendment (576) to the committee striking amendment and the amendment was not adopted by the following vote: Yeas, 41; Nays, 51; Absent, 0; Excused, 6.

Voting yea: Representatives Barkis, Boehnke, Caldier, Callan, Chambers, Chandler, Corry, DeBolt, Doglio, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Hansen, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox and Ybarra.

Voting nay: Representatives Bergquist, Blake, Chapman, Cody, Davis, Dolan, Entenman, Fey, Fitzgibbon, Goodman, Gregerson, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Wylie and Mr. Speaker.

Excused: Representatives Appleton, Dent, Frame, Griffey, Paul and Young.

Amendment (576) to the committee striking amendment was not adopted.

#### STATEMENT FOR THE JOURNAL

I intended to vote NAY on amendment (576) to the committee striking amendment to Engrossed Substitute Senate Bill No. 5526.

Representative Doglio, 22nd District

#### STATEMENT FOR THE JOURNAL

I intended to vote NAY on amendment (576) to the committee striking amendment to Engrossed Substitute Senate Bill No. 5526.

Representative Callan, 5th District

Division was demanded on the adoption of the committee striking amendment, as amended, and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The result was 54 - YEAS; 38 - NAYS.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Cody and Macri spoke in favor of the passage of the bill.

Representatives Schmick, Caldier, Walsh and DeBolt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5526, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5526, as amended by the House, and the bill passed the House by the following vote: Yeas, 54; Nays, 38; Absent, 0; Excused, 6.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Wylie and Mr. Speaker.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox and Ybarra.

Excused: Representatives Appleton, Dent, Frame, Griffey, Paul and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5526, as amended by the House, having received the necessary constitutional majority, was declared passed.

#### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Engrossed Substitute Senate Bill No. 5526.

Representative Doglio, 22nd District

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

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

#### MOTION

There being no objection, the Committee on Rules was relieved of the following bills and the bills were placed on the second reading calendar:

SECOND SUBSTITUTE SENATE BILL NO. 5021  
SENATE BILL NO. 5022

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

There being no objection, the House reverted to the sixth order of business.

#### SECOND READING

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5258, by Senate Committee on Labor & Commerce (originally sponsored by Keiser, Wellman, Saldaña, Randall, Das, Dhingra, Cleveland, Conway, Wilson, C., Darneille, Kuderer, Takko, Salomon, Hasegawa and Hunt)**

**Preventing the sexual harassment and sexual assault of certain isolated workers.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Labor & Workplace Standards was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 80, April 3, 2019).

Representative Corry moved the adoption of amendment (550) to the committee striking amendment:

On page 2, beginning on line 3 of the striking amendment, after "(iii)" strike all material through "worked." on line 7 and insert "The number of work locations at which janitorial services are provided by employees of the property services contractor, and the total number of employees or contractors of the property services contractor who perform janitorial services and spend a majority of his or her working hours alone or whose primary work responsibility involves working without another coworker present."

Representative Chandler and Chandler (again) spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Sells spoke against the adoption of the amendment to the committee striking amendment.

An electronic roll call was requested.

### ROLL CALL

The Clerk called the roll on the adoption of amendment (550) to the committee striking amendment and the amendment was not adopted by the following vote: Yeas, 39; Nays, 54; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox and Ybarra.

Voting nay: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Excused: Representatives Appleton, Dent, Frame, Paul and Young.

Amendment (550) to the committee striking amendment was not adopted.

Representative Mosbrucker moved the adoption of amendment (551) to the committee striking amendment:

On page 2, line 23 of the striking amendment, after "employer" insert ", except that if an employee is the only worker on the premises, the emergency contact device may summon immediate on-scene assistance from law enforcement"

Representatives Mosbrucker and Orcutt spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Sells spoke against the adoption of the amendment to the committee striking amendment.

An electronic roll call was requested.

### ROLL CALL

The Clerk called the roll on the adoption of amendment (551) to the committee striking amendment and the amendment was not adopted by the following vote: Yeas, 39; Nays, 53; Absent, 0; Excused, 6.

Voting yea: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber,

McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox and Ybarra.

Voting nay: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Excused: Representatives Appleton, Dent, Frame, Morris, Paul and Young.

Amendment (551) to the committee striking amendment was not adopted.

The committee striking amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

Representative Mosbrucker spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5258, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5258, as amended by the House, and the bill passed the House by the following vote: Yeas, 57; Nays, 35; Absent, 0; Excused, 6.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, DeBolt, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Goodman, Gregerson, Hansen, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Jenkin, Klippert, Kraft, Kretz, MacEwen, McCaslin, Mosbrucker, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox and Ybarra.

Excused: Representatives Appleton, Dent, Frame, Morris, Paul and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5258, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5166, by Senate Committee on Higher Education & Workforce Development (originally sponsored by Hasegawa, Carlyle, Frockt, Palumbo and Nguyen)**

**Providing religious accommodations for postsecondary students.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on College & Workforce Development was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 79, April 2, 2019).

Representative Kraft moved the adoption of amendment (540) to the committee striking amendment:

On page 1, at the beginning of line 5 of the striking amendment, strike all material through "institutions" on line 6 and insert "Institutions of higher education"

On page 1, beginning on line 28 of the striking amendment, strike all of subsection (5)

Representative Kraft spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Hansen spoke against the adoption of the amendment to the committee striking amendment.

Amendment (540) to the committee striking amendment was not adopted.

Representative Sutherland moved the adoption of amendment (544) to the committee striking amendment:

On page 1, line 7 of the striking amendment, after "absences" strike all material through "~~year~~)" and insert "for up to ~~((two))~~ thirty days per academic year,"

Representative Sutherland spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Hansen spoke against the adoption of the amendment to the committee striking amendment.

Amendment (544) to the committee striking amendment was not adopted.

Representative Gildon moved the adoption of amendment (542) to the committee striking amendment:

On page 1, line 12 of the striking amendment, after "(2)" insert "(a)"

On page 1, after line 19 of the striking amendment, insert the following:

"(b) For the purposes of providing equal access for all students, if a reasonable accommodation is made for a student based on this section, such as rescheduling or exempting the student from participating in examinations or other activities, the faculty providing that accommodation must allow any student in the course access to that same accommodation regardless of the student's religion.

(c) Any student seeking reasonable accommodations under this section must provide written notice to the faculty, within the first two weeks of the beginning of the course, of the specific dates the student requests accommodations regarding examinations or other activities."

Representative Gildon spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Hansen spoke against the adoption of the amendment to the committee striking amendment.

Amendment (542) to the committee striking amendment was not adopted.

Representative Gildon moved the adoption of amendment (543) to the committee striking amendment:

On page 1, line 12 of the striking amendment, after "(2)" strike "The" and insert "Except as provided in subsection (3) of this section, the"

On page 1, line 20 of the striking amendment, after "(3)" insert "(a) Accommodations are not required in specific programs or courses if:

(i) Absences, rescheduling, or broad-based exemptions or alternatives of any nature would impact the efficacy of the program or course or impact the proper delivery of instruction, materials, or resources in the program or course; or

(ii) The academic reputation or ranking of the program or course within the broader academic community, or the ranking or grading system within the program or course, would be negatively impacted.

(b) When accommodations cannot be provided in a program or course based on reasons established under this subsection, notice must be provided in the program or course syllabus, in registration materials, and on the institution's website.

(4)"

Renumber the remaining subsections consecutively.

Representative Gildon spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Hansen spoke against the adoption of the amendment to the committee striking amendment.

Amendment (543) to the committee striking amendment was not adopted.

Representative Gildon moved the adoption of amendment (541) to the committee striking amendment:

On page 1, line 20 of the striking amendment, after "(3)" insert "Any student seeking reasonable accommodations under this section must provide written notice to the faculty, within the first two weeks of the beginning of the course, of the specific dates the student requests accommodations regarding examinations or other activities.

(4)"

Renumber the remaining subsections consecutively.

Representatives Gildon and Hansen spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (541) to the committee striking amendment was adopted.

Representative Van Werven moved the adoption of amendment (545) to the committee striking amendment:

On page 1, line 25 of the striking amendment, after "(4)" insert "(a) Postsecondary educational institutions shall track, per academic year, the number and types of requests for accommodations made, granted, and denied, and in which programs and courses the requests were made, granted, and denied.

(b) Beginning December 1, 2019 and each December 1 thereafter, postsecondary educational institutions shall provide a report to the appropriate committees of the legislature summarizing the number and types of accommodations made, granted, and denied; the programs or courses in which the requests were made, granted, or denied; and any other information the postsecondary educational institution considers relevant.

(c) The personal identifying information of a student requesting accommodations is confidential, except to the extent necessary to provide accommodations for the student. Postsecondary educational institutions may not include any personal identifying information of students in any reports made under this section.

(5)"

Renumber the remaining subsection consecutively.

Representative Van Werven spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Hansen spoke against the adoption of the amendment to the committee striking amendment.

Amendment (545) to the committee striking amendment was not adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Hansen, Entenman and Rude spoke in favor of the passage of the bill.

Representative Van Werven spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5166, as amended by the House.

## ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5166, as amended by the House, and the bill passed the House by the following vote: Yeas, 64; Nays, 28; Absent, 0; Excused, 6.

Voting yea: Representatives Bergquist, Blake, Caldier, Callan, Chapman, Chopp, Cody, Corry, Davis, Doglio, Dolan, Dufault, Entenman, Fey, Fitzgibbon, Gildon, Goodman, Gregerson, Hansen, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Chambers, Chandler, DeBolt, Dye, Eslick, Goehner, Graham, Griffey, Harris, Hoff, Jenkin, Klippert, Kraft, Kretz, MacEwen, McCaslin, Schmick, Shea, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox and Ybarra.

Excused: Representatives Appleton, Dent, Frame, Morris, Paul and Young.

SUBSTITUTE SENATE BILL NO. 5166, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5148, by Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Wilson, L., Becker, Fortunato, Palumbo, Short, Takko, Wagoner and Warnick)**

**Concerning visible clothing requirements for hunting.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Blake, Chandler, Kraft and Walsh spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5148.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5148, and the bill passed the House by the following vote: Yeas, 92; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie and Ybarra.

Excused: Representatives Appleton, Dent, Frame, Morris, Paul and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5148, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5021, by Senate Committee on Ways & Means (originally sponsored by Van De Wege, Walsh, Keiser, Conway, Hunt, Hobbs, Wellman, Hasegawa and Kuderer)**

**Granting interest arbitration to department of corrections employees. Revised for 2nd Substitute: Granting interest arbitration to certain department of corrections employees.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5021, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5021, as amended by the House, and the bill passed the House by the following vote: Yeas, 83; Nays, 9; Absent, 0; Excused, 6.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Davis, DeBolt, Doglio, Dolan, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Walsh, Wilcox and Wylie.

Voting nay: Representatives Corry, Dufault, Hoff, Klippert, Kraft, Stokesbary, Van Werven, Vick and Ybarra.

Excused: Representatives Appleton, Dent, Frame, Morris, Paul and Young.

SECOND SUBSTITUTE SENATE BILL NO. 5021, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5022, by Senators Keiser, Conway, Van De Wege, Hunt, Hobbs, Wellman and Kuderer**

**Granting binding interest arbitration rights to certain higher education uniformed personnel.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5022, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5022, as amended by the House, and the bill passed the House by the following vote: Yeas, 68; Nays, 24; Absent, 0; Excused, 6.

Voting yea: Representatives Bergquist, Blake, Caldier, Callan, Chandler, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Eslick, Fey, Fitzgibbon, Goodman, Graham, Gregerson, Griffey, Hansen, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer,

Stanford, Steele, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Volz, Walen, Walsh and Wylie.

Voting nay: Representatives Barkis, Boehnke, Chambers, Corry, DeBolt, Dufault, Dye, Gildon, Goehner, Harris, Hoff, Jenkin, Klippert, Kraft, McCaslin, Mosbrucker, Schmick, Shea, Smith, Stokesbary, Sutherland, Vick, Wilcox and Ybarra.

Excused: Representatives Appleton, Dent, Frame, Morris, Paul and Young.

SENATE BILL NO. 5022, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

### MOTION

There being no objection, the Committee on Rules was relieved of the following bills and the bills were placed on the second reading calendar:

HOUSE BILL NO. 1793  
 SUBSTITUTE SENATE BILL NO. 5003  
 SUBSTITUTE SENATE BILL NO. 5012  
 ENGROSSED SECOND SUBSTITUTE SENATE  
 BILL NO. 5116  
 SENATE BILL NO. 5124  
 SUBSTITUTE SENATE BILL NO. 5151  
 SUBSTITUTE SENATE BILL NO. 5175  
 ENGROSSED SECOND SUBSTITUTE SENATE  
 BILL NO. 5223  
 ENGROSSED SUBSTITUTE SENATE BILL NO.  
 5298  
 SENATE BILL NO. 5337  
 SECOND SUBSTITUTE SENATE BILL NO. 5352  
 SENATE BILL NO. 5359  
 SUBSTITUTE SENATE BILL NO. 5394  
 SENATE BILL NO. 5404  
 SENATE BILL NO. 5415  
 SECOND SUBSTITUTE SENATE BILL NO. 5437  
 ENGROSSED SECOND SUBSTITUTE SENATE  
 BILL NO. 5438  
 SECOND SUBSTITUTE SENATE BILL NO. 5489  
 SUBSTITUTE SENATE BILL NO. 5597  
 SUBSTITUTE SENATE BILL NO. 5638  
 SENATE BILL NO. 5651  
 SECOND SUBSTITUTE SENATE BILL NO. 5718  
 SENATE BILL NO. 5831  
 SENATE BILL NO. 5865  
 SENATE BILL NO. 5881  
 SUBSTITUTE SENATE BILL NO. 5883  
 SECOND SUBSTITUTE SENATE BILL NO. 5903  
 SENATE BILL NO. 5918  
 ENGROSSED SUBSTITUTE SENATE BILL NO.  
 5959  
 SENATE JOINT RESOLUTION NO. 8200

There being no objection, the House adjourned until 9:00 a.m., April 11, 2019, the 88th Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## EIGHTY EIGHTH DAY

House Chamber, Olympia, Thursday, April 11, 2019

The House was called to order at 9:00 a.m. by the Speaker (Representative Orwall presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Emma Jackson and Frankie Black. The Speaker (Representative Orwall presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by President Mark Lybbert, Tacoma Washington South Stake, of the Church of Jesus Christ of Latter Day Saints, University Place, Washington.

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

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

## MESSAGE FROM THE SENATE

April 10, 2019

MR. SPEAKER:

The President has signed:

SENATE BILL NO. 5002,  
SENATE BILL NO. 5162,  
SENATE BILL NO. 5177,  
SENATE BILL NO. 5207,  
SENATE BILL NO. 5230,  
SUBSTITUTE SENATE BILL NO. 5265,  
SUBSTITUTE SENATE BILL NO. 5355,  
SENATE BILL NO. 5398,  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5480,  
SUBSTITUTE SENATE BILL NO. 5588,  
SUBSTITUTE SENATE BILL NO. 5710,  
SENATE BILL NO. 5895,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

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

## SECOND READING

**SENATE JOINT RESOLUTION NO. 8200, by Senators Takko, Zeiger, Rolfes, Hobbs, O'Ban, Keiser, Warnick, Hunt, Pedersen, Bailey, Conway, McCoy, Carlyle, Frockt, Palumbo and Van De Wege**

**Amending the state Constitution to provide governmental continuity during emergency periods resulting from a catastrophic incident.**

The joint resolution was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the joint resolution was placed on final passage.

Representative Goodman spoke in favor of the passage of the resolution.

Representative Shea spoke against the passage of the resolution.

## MOTIONS

On motion of Representative Riccelli, Representative Kloba was excused.

On motion of Representative Chambers, Representative Griffey was excused.

There being no objection, the House deferred action on SENATE JOINT RESOLUTION NO. 8200, and the bill held its place on the third reading calendar.

**SUBSTITUTE SENATE BILL NO. 5175, by Senate Committee on Labor & Commerce (originally sponsored by Braun, Keiser, Becker, Fortunato, Palumbo, Wilson, L., Rivers, Kuderer, O'Ban, Van De Wege and Wagoner)**

**Concerning firefighter safety.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5175.

## ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5175, and the bill passed the

House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Griffey and Kloba.

SUBSTITUTE SENATE BILL NO. 5175, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5305, by Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Van De Wege, Warnick, McCoy, Takko, Short, Sheldon and Nguyen)**

**Concerning electric utility wildland fire prevention.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Blake and Chandler spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5305.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5305, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake,

Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Griffey and Kloba.

SUBSTITUTE SENATE BILL NO. 5305, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5352, by Senate Committee on Ways & Means (originally sponsored by Walsh, Warnick, McCoy, Kuderer, Van De Wege and Hasegawa)**

**Concerning the Walla Walla watershed management pilot program.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Jenkin and Blake spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5352.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5352, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Griffey and Kloba.

SUBSTITUTE SENATE BILL NO. 5352, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5415, by Senators McCoy, Rivers, Cleveland, Saldaña, Van De Wege, Billig, Conway, Frockt, Kuderer, Nguyen and Rolfes**

**Creating the Washington Indian health improvement act.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Health Care & Wellness was adopted. (For Committee amendment, see Journal, Day 86, April 8, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5415, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5415, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Griffey and Kloba.

SENATE BILL NO. 5415, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5438, by Senate Committee on Ways & Means (originally sponsored by McCoy, Saldaña, Conway, Van De Wege, Keiser, Rolfes, Wellman, Dhingra, Hasegawa and Kuderer)**

**Concerning the H-2A temporary agricultural program. Revised for 2nd Substitute: Establishing the office of agricultural and seasonal workforce services within the employment security department.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5438, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5438, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Griffey and Kloba.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5438, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5831, by Senators Keiser, Van De Wege, Salomon and Saldaña**

**Concerning an employer's payment of indebtedness.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5831.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5831, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Griffey and Kloba.

SENATE BILL NO. 5831, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5959, by Senate Committee on Ways & Means (originally sponsored by Warnick)**

**Revising livestock identification law.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Rural Development, Agriculture, & Natural Resources was not adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Blake and Chandler spoke in favor of the passage of the bill.

Representative Shewmake spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5959, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5959, as amended by the House, and the bill passed the House by the following vote: Yeas, 84; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kraft, Kretz, Lekanoff, Lovick, MacEwen, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Vick, Volz, Walen, Wilcox, Wylie and Ybarra.

Voting nay: Representatives Chapman, Dufault, Leavitt, Macri, McCaslin, Paul, Ramos, Shea, Shewmake, Van Werven, Walsh and Young.

Excused: Representatives Griffey and Kloba.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5959, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5894, by Senate Committee on Ways & Means (originally sponsored by Braun)**

**Clarifying that the firefighters' pension levy may continue to be levied to fund benefits under the law enforcement officers' and firefighters' retirement system.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 82, April 5, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Stokesbary and Bergquist spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5894, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5894, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kraft, Kretz, Leavitt,

Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Griffey and Kloba.

SUBSTITUTE SENATE BILL NO. 5894, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5116, by Senate Committee on Ways & Means (originally sponsored by Carlyle, Palumbo, McCoy, Pedersen, Wellman, Das, Rolfes, Frockt, Wilson, C., Kuderer, Nguyen, Keiser, Liias, Hunt, Saldaña, Darneille and Billig)**

**Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.**

The bill was read the second time.

Representative DeBolt moved the adoption of the striking amendment (610):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.285.030 and 2017 c 315 s 1 are each amended to read as follows:

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

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for qualifying utilities under its jurisdiction that are not investor-owned utilities; or (b) an independent auditor selected by a qualifying utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(3)(a) "Biomass energy" includes: (i) Organic by-products of pulping and the wood manufacturing process; (ii) animal manure; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) untreated wooden demolition or construction debris; (vi) food waste and food processing residuals; (vii) liquors derived from algae; (viii) dedicated energy crops; and (ix) yard waste.

(b) "Biomass energy" does not include: (i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth forests; or (iii) municipal solid waste.

(4) "Coal transition power" has the same meaning as defined in RCW 80.80.010.

(5) "Commission" means the Washington state utilities and transportation commission.

(6) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(7) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(8) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(9) "Customer" means a person or entity located in Washington state that purchases electricity for ultimate consumption and not for resale.

(10) "Department" means the department of commerce or its successor.

(11) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than five megawatts.

(12) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located in the (~~(Pacific Northwest)~~) western interconnection; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services;

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the (~~(Pacific Northwest)~~) western interconnection where the additional generation does not result in new water diversions or impoundments;

(c) Hydroelectric generation from a project completed after March 31, 1999, where the generation facility is located in irrigation pipes, irrigation canals, water pipes whose primary purpose is for conveyance of water for municipal use, and wastewater pipes located in Washington where the generation does not result in new water diversions or impoundments;

(d) Qualified biomass energy;

(e) For a qualifying utility that serves customers in other states, electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located within a state in which the qualifying utility serves retail electrical customers; and (ii) the qualifying utility owns the facility in whole or in part or has a long-term contract with the facility of at least twelve months or more; (~~(e)~~)

(f)(i) Incremental electricity produced as a result of a capital investment completed after January 1, 2010, that

increases, relative to a baseline level of generation prior to the capital investment, the amount of electricity generated in a facility that generates qualified biomass energy as defined under subsection (18)(c)(ii) of this section and that commenced operation before March 31, 1999.

(ii) Beginning January 1, 2007, the facility must demonstrate its baseline level of generation over a three-year period prior to the capital investment in order to calculate the amount of incremental electricity produced.

(iii) The facility must demonstrate that the incremental electricity resulted from the capital investment, which does not include expenditures on operation and maintenance in the normal course of business, through direct or calculated measurement;

(g) Beginning January 1, 2019, the portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a qualifying utility's share of electricity output from hydroelectric generation projects whose energy output is marketed by the Bonneville power administration, where the additional generation does not result in new water diversions or impoundments; or

(h) The environmental attributes, including renewable energy credits, from (g) of this subsection transferred to investor-owned utilities pursuant to the Bonneville power administration's residential exchange program.

(13) "Investor-owned utility" has the same meaning as defined in RCW 19.29A.010.

(14) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers.

(15)(a) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(b) "Nonpower attributes" does not include any aspects, claims, characteristics, and benefits associated with the on-site capture and destruction of methane or other greenhouse gases at a facility through a digester system, landfill gas collection system, or other mechanism, which may be separately marketable as greenhouse gas emission reduction credits, offsets, or similar tradable commodities. However, these separate avoided emissions may not result in or otherwise have the effect of attributing greenhouse gas emissions to the electricity.

(16) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest electric power planning and conservation act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(17) "Public facility" has the same meaning as defined in RCW 39.35C.010.

(18) "Qualified biomass energy" means electricity produced from a biomass energy facility that: (a) Commenced operation before March 31, 1999; (b) contributes to the qualifying utility's load; and (c) is owned either by: (i) A qualifying utility; or (ii) an industrial facility that is directly interconnected with electricity facilities that are owned by a qualifying utility and capable of carrying electricity at transmission voltage.

(19) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington. The number of customers served may be based on data reported by a utility in form 861, "annual electric utility report," filed with the energy information administration, United States department of energy.

(20) "Renewable energy credit" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where, except as provided in subsection (12)(h) of this section, the generation facility is not powered by freshwater. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

(21) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; or (i) biomass energy.

(22) "Rule" means rules adopted by an agency or other entity of Washington state government to carry out the intent and purposes of this chapter.

(23) "Year" means the twelve-month period commencing January 1st and ending December 31st.

(24) "Carbon reduction investment" means an investment in support of eligible projects or actions that reduce, prevent, or remove from the atmosphere the emissions of greenhouse gases in the state. An eligible project or action includes, but is not limited to, investment in the following: (a) Installation of electric vehicle chargers and related infrastructure and other transportation electrification measures; (b) demand side management of electricity consumption, including energy efficiency, demand response, and changes to codes and standards; (c) energy storage technologies; and (d) carbon sequestration programs, including forest health investments.

(25) "Clean energy resource" includes: (a) A resource that emits no greenhouse gas pollution as part of its generation activity; or (b) a renewable resource.

(26) "Consumer-owned utility" has the same meaning as defined in RCW 19.29A.010.

(27) "Greenhouse gas" means carbon dioxide, methane, nitrogen trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, perfluorocarbons, and other fluorinated greenhouse gases.

(28) "New energy or capacity need" means any electricity generation needed to serve Washington retail electric customers by an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, to meet any of the following:

(a) Electricity load growth;

(b) Changes in capacity needs;

(c) Changes in ancillary services needs;

(d) Changes in reliability needs;

(e) Changes in flexibility needs;

(f) Needs arising due to replacing electricity generation; or

(g) Needs arising due to replacing expiring electricity resource contracts.

(29) "North American electric reliability corporation" means the electricity reliability organization designated by the federal energy regulatory commission to ensure legal compliance with mandatory electricity reliability standards in accordance with the energy policy act of 2005 (119 Stat. 941; 16 U.S.C. Sec. 824o).

(30) "Utility-scale renewable resource" means a renewable generation resource or energy storage device that delivers electricity onto an electric utility's system at transmission voltage.

(31) "Western interconnection" means the geographic area spanning the western United States in which the operation of bulk power system components is synchronized for the purpose of maintaining reliability.

**Sec. 2.** RCW 19.285.040 and 2017 c 315 s 2 are each amended to read as follows:

(1) Each qualifying utility (~~(shall)~~) must pursue all available conservation that is cost-effective, reliable, and feasible.

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in the most recently published regional power plan as it existed on June 12, 2014, or a subsequent date as may be provided by the department or the commission by rule, each qualifying utility (~~(shall)~~) must identify its achievable cost-effective conservation potential through 2019. Nothing in the rule adopted under this subsection precludes a qualifying utility from using its utility specific conservation measures, values, and assumptions in identifying its achievable cost-effective conservation potential. At least every two years thereafter, the qualifying utility (~~(shall)~~) must review and update this assessment for the subsequent ten-year period.

(b) Beginning January 2010, each qualifying utility (~~(shall)~~) must establish and make publicly available a

biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period.

(c)(i) Except as provided in (c)(ii) and (iii) of this subsection, beginning on January 1, 2014, cost-effective conservation achieved by a qualifying utility in excess of its biennial acquisition target may be used to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty percent of any biennial target may be met with excess conservation savings.

(ii) Beginning January 1, 2014, a qualifying utility may use single large facility conservation savings in excess of its biennial target to meet up to an additional five percent of the immediately subsequent two biennial acquisition targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined. For the purposes of this subsection (1)(c)(ii), "single large facility conservation savings" means cost-effective conservation savings achieved in a single biennial period at the premises of a single customer of a qualifying utility whose annual electricity consumption prior to the conservation savings exceeded five average megawatts.

(iii) Beginning January 1, 2012, and until December 31, 2017, a qualifying utility with an industrial facility located in a county with a population between ninety-five thousand and one hundred fifteen thousand that is directly interconnected with electricity facilities that are capable of carrying electricity at transmission voltage may use cost-effective conservation from that industrial facility in excess of its biennial acquisition target to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined.

(d) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output. The reduction in load due to high-efficiency cogeneration (~~(shall)~~) must be: (i) Calculated as the ratio of the fuel chargeable to power heat rate of the cogeneration facility compared to the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine; and (ii) counted towards meeting the biennial conservation target in the same manner as other conservation savings.

(e) The commission may determine if a conservation program implemented by an investor-owned utility is cost-effective based on the commission's policies and practice.

(f) The commission may rely on its standard practice for review and approval of investor-owned utility conservation targets.

(2)(a) Except as provided in (j) of this subsection, each qualifying utility (~~(shall)~~) must use eligible renewable resources or acquire equivalent renewable energy credits, or any combination of them, to meet the following annual targets:

(i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least nine percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least fifteen percent of its load by January 1, 2020, and each year thereafter.

(b) A qualifying utility may count distributed generation at double the facility's electrical output if the utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

(c) In meeting the annual targets in (a) of this subsection, a qualifying utility (~~(shall)~~) must calculate its annual load based on the average of the utility's load for the previous two years.

(d) A qualifying utility (~~(shall be)~~) is considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than coal transition power or renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

(e) The requirements of this section may be met for any given year with renewable energy credits produced during that year, the preceding year, or the subsequent year. Each renewable energy credit may be used only once to meet the requirements of this section.

(f) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; or

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090.

(g) Where fossil and combustible renewable resources are cofired in one generating unit located in the (~~(Pacific Northwest)~~) western interconnection where the cofiring commenced after March 31, 1999, the unit (~~(shall be)~~) is considered to produce eligible renewable resources in direct

proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

(h)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council (~~(shall)~~) must establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

(i) A qualifying utility (~~(shall be)~~) is considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

(j)(i) Beginning January 1, 2016, only a qualifying utility that owns or is directly interconnected to a qualified biomass energy facility may use qualified biomass energy to meet its compliance obligation under this subsection.

(ii) A qualifying utility may no longer use electricity and associated renewable energy credits from a qualified biomass energy facility if the associated industrial pulping or wood manufacturing facility ceases operation other than for purposes of maintenance or upgrade.

(k) An industrial facility that hosts a qualified biomass energy facility may only transfer or sell renewable energy credits associated with qualified biomass energy generated at its facility to the qualifying utility with which it is directly interconnected with facilities owned by such a qualifying utility and that are capable of carrying electricity at transmission voltage. The qualifying utility may only use an amount of renewable energy credits associated with qualified biomass energy that are equivalent to the proportionate amount of its annual targets under (a)(ii) and (iii) of this subsection that was created by the load of the industrial facility. A qualifying utility that owns a qualified biomass energy facility may not transfer or sell renewable energy credits associated with qualified biomass energy to another person, entity, or qualifying utility.

(l) Beginning January 1, 2019, a qualifying utility may use eligible renewable resources as identified under RCW 19.285.030(12) (g) and (h) to meet its compliance obligations under this subsection (2). A qualifying utility may not transfer or sell these eligible renewable resources to another utility for compliance purposes under this chapter.

(m) Renewable energy credits allocated under RCW 19.285.030(12)(h) may not be transferred or sold to another qualifying utility for compliance under this chapter.

(3) Utilities that become qualifying utilities after December 31, 2006, ~~(shall)~~ **must** meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006.

**NEW SECTION. Sec. 3.** A new section is added to chapter 19.285 RCW to read as follows:

(1) Subject to sections 4 and 5 of this act, beginning January 1, 2029, each electric utility must use clean energy resources to meet any new energy or capacity need for Washington retail electric customers.

(2)(a) The requirement established under subsection (1) of this section applies, at a minimum, to: (i) Any new or increased ownership interest in a new or existing electricity generation facility or unit; and (ii) any new or increased contractual commitment that obligates or allows an electric utility to purchase a specified amount of megawatts or megawatt-hours from an electricity generation facility or unit, or a specified percentage of an electricity generation facility or unit.

(b) An electric utility may not enter into a contract for electricity generation to meet new energy or capacity needs if the contract does not specify the sources or origins of the electricity generation.

(3) Except as provided in RCW 19.285.030(15)(b), any tradable certificate of proof of a clean energy resource, including but not limited to a renewable energy credit, associated with the portion of any resource or resources used to meet new energy or capacity needs under this section must be retired for the purposes of this section and cannot be sold, transferred, or used for other purposes. An electric utility may not use a tradable certificate or proof of a clean energy resource, including but not limited to a renewable energy credit, to meet the requirements of this section if the associated energy or capacity has been sold, transferred, or otherwise used separately.

(4) Nothing in this section precludes the use of any of the following resources to meet new energy or capacity needs:

(a) Any purchase at any time by a consumer-owned qualifying utility or small utility from the Bonneville power administration up to a designated amount. The designated amount is the same as the consumer-owned qualifying utility's or small utility's contract high water mark amount identified in their Bonneville regional dialogue power sales contract on the effective date of this section. Any new public utility forming after the effective date of this section would still be eligible for this exemption based on the contract high water mark provided to them by the Bonneville power administration;

(b) Short-term spot market purchases;

(c) Renewal or extension of contracts in effect as of January 1, 2020, where the renewal or extension does not lead to any increase in the energy or capacity provided;

(d) Coal transition power;

(e) Generation resources owned as of the effective date of this section by an electric utility and used by that utility to meet the needs of its customers, until the generation resources are at the end of the facility's useful life, are retired, or cease operations;

(f) Increased megawatt-hours from a generation facility that is owned by an electric utility as of the effective date of this section where the utility uses the increased megawatt-hours to serve the utility's customers and where the utility's ownership interest in the facility does not increase;

(g) Incremental generation from a utility-scale renewable resource or distributed energy resource that results from additional generation that is achieved from increased efficiency or additions of capacity made on or after the effective date of this section; and

(h) Electricity generation that is found by the commission, in accordance with section 3 of this act, or the utility's governing board, in accordance with section 4 of this act, to be required to maintain reliable service and comply with applicable standards of the North American electric reliability corporation or its successor.

(5) An electric utility may procure one or more natural gas-fired generation units if such natural gas-fired generation is necessary to avoid potential conflicts with or compromises to the electric utility's obligation to comply with the mandatory and enforceable reliability standards of the North American electric reliability corporation.

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

(a) "Short-term spot market purchase" means: (i) The purchase of energy on the spot market for immediate delivery; or (ii) a contract for the purchase of electricity on the spot market that is for a term of one month or less.

(b) "Spot market" means a public financial market in which electricity is bought, sold, or traded for immediate delivery.

**NEW SECTION. Sec. 4.** A new section is added to chapter 19.285 RCW to read as follows:

(1) Upon its own motion or at the request of an investor-owned utility, the commission must suspend the requirements of section 3 of this act if:

(a) It is likely to result in conflicts with or compromises to the investor-owned utility's obligation to comply with the mandatory and enforceable reliability standards of the North American electric reliability corporation or compromises to the integrity of the investor-owned utility's electrical system; or

(b) The utility demonstrates that the cost of compliance with section 3 of this act would result in costs that would exceed the lowest reasonable cost resource by five percent. An investor-owned utility making a request under this subsection must submit an application to the commission that includes:

(i) An explanation of the reliability or integrity issue and how a temporary exemption from complying with the requirements of section 3 of this act will avoid the reliability or integrity issue; or

(ii) An analysis that demonstrates that the cost of compliance with section 3 of this act would exceed the lowest reasonable cost resource by five percent.

(2)(a) A suspension of the requirements of section 3 of this act must be granted at the time of the motion for such by the utility. The suspension may not be lifted until such time as the commission determines that none of the conditions for the suspension under subsection (1) of this section apply.

(b)(i) As long as a suspension of the requirements in section 3 of this act is in place, the investor-owned utility must file a progress report at least annually, or within an amount of time determined to be reasonable by the commission, on achieving full compliance with the requirements of section 3 of this act; and

(ii) Directing the investor-owned utility to take specific actions to achieve full compliance with the requirements of section 3 of this act.

(3) This section does not permanently relieve an investor-owned utility of its obligation to comply with the requirements of section 3 of this act.

**NEW SECTION. Sec. 5.** A new section is added to chapter 19.285 RCW to read as follows:

(1) Upon its own motion or at the request of a consumer-owned utility, the governing board of a consumer-owned utility must suspend the requirements of section 3 of this act if:

(a) It is likely to result in conflicts with or compromises to the consumer-owned utility's obligation to comply with the mandatory and enforceable reliability standards of the North American electric reliability corporation or compromises to the integrity of the consumer-owned utility's electrical system; or

(b) The utility demonstrates that the cost of compliance with section 3 of this act would result in costs that would exceed the lowest reasonable cost resource by five percent. A consumer-owned utility making a request under this subsection must submit an application to the governing board that includes:

(i) An explanation of the reliability or integrity issue and how a temporary exemption from complying with the requirements of section 3 of this act will avoid the reliability or integrity issue; or

(ii) An analysis that demonstrates that the cost of compliance with section 3 of this act would exceed the lowest reasonable cost resource by five percent.

(2)(a) A suspension of the requirements of section 3 of this act must be granted at the time of the motion for such by the utility. The suspension may not be lifted until such time as the governing board determines that none of the conditions for the suspension under subsection (1) of this section apply.

(b)(i) As long as a suspension of the requirements in section 3 of this act is in place, the consumer-owned utility must file a progress report at least annually, or within an amount of time determined to be reasonable by the governing board, on achieving full compliance with the requirements of section 3 of this act; and

(ii) Directing the consumer-owned utility to take specific actions to achieve full compliance with the requirements of section 3 of this act.

(3) This section does not permanently relieve a consumer-owned utility of its obligation to comply with the requirements of section 3 of this act.

**NEW SECTION. Sec. 6.** (1) This section is the tax preference performance statement for the tax preferences established in sections 7 through 12, chapter . . . , Laws of 2019 (sections 7 through 12 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes the tax preferences created under sections 7 through 12, chapter . . . , Laws of 2019 (sections 7 through 12 of this act) as intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to reduce the cost of transitioning to electric generation sources that have very low or zero carbon dioxide emissions. It is the intent of the legislature to provide a suite of tax preferences in order to reduce the cost to ratepayers of constructing and operating new renewable energy generation capacity equal to or greater than necessary to serve projected Washington electricity load growth, as measured by projections in the most recently adopted Northwest power and conservation council power plan.

(4) The legislature does not intend to extend the expiration date of the tax preferences contained in this act.

(5) Because the tax preferences contained in this act are not for the primary purpose of creating or retaining jobs or attracting or attaining businesses, and because the legislature does not intend to extend the expiration of the tax preferences, the legislature does not intend for a review by the joint legislative audit and review committee.

**NEW SECTION. Sec. 7.** A new section is added to chapter 82.08 RCW to read as follows:

(1) A person who has paid tax under RCW 82.08.020 for personal property used for carbon reduction investments at, or to offset the greenhouse gas emissions of, an energy-intensive trade-exposed facility; tangible personal property that will be incorporated as an ingredient or component of buildings or other structures for carbon reduction investments at, or to offset the greenhouse gas emissions of, an energy-intensive trade-exposed facility; or for labor and services rendered with respect to such buildings, structures, or personal property, is eligible for an exemption from the state share of the tax in the form of a credit, as provided in this section. A person claiming an exemption must pay the

tax and then take a credit equal to the state share of retail sales tax paid under RCW 82.08.020. The person must submit information, in a form and manner prescribed by the department, specifying the amount of qualifying purchases or acquisitions for which the exemption is claimed and the amount of exempted tax.

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

(a) "Carbon reduction investment" means an investment in support of eligible projects or actions that reduce, prevent, or remove from the atmosphere the emissions of greenhouse gases in the state. An eligible project or action includes, but is not limited to, investment in the following: (i) Installation of electric vehicle chargers and related infrastructure and other transportation electrification measures; (ii) demand side management of electricity consumption, including energy efficiency, demand response, and changes to codes and standards; (iii) energy storage technologies; and (iv) carbon sequestration programs, including forest health investments.

(b) "Energy-intensive trade-exposed facility" means a facility with a primary North American industry classification system (NAICS) code, as those codes existed as of January 1, 2019, included in the following list:

(i) 311411: Frozen fruit, juice, and vegetable manufacturing;

(ii) 311423: Dried and dehydrated food manufacturing;

(iii) 311611: Animal (except poultry) slaughtering;

(iv) 322110: Pulp mills;

(v) 322121: Paper (except newsprint) mills;

(vi) 322122: Newsprint mills;

(vii) 322130: Paperboard mills;

(viii) 325188: All other basic inorganic chemical manufacturing;

(ix) 325199: All other basic organic chemical manufacturing;

(x) 325311: Nitrogenous fertilizer manufacturing;

(xi) 327211: Flat glass manufacturing;

(xii) 327213: Glass container manufacturing;

(xiii) 327310: Cement manufacturing;

(xiv) 327410: Lime manufacturing;

(xv) 327420: Gypsum product manufacturing;

(xvi) 327992: Ultra high purity silicon manufacturing;

(xvii) 331111: Iron and steel mills;

(xviii) 331312: Primary aluminum production;

(xix) 331315: Aluminum sheet, plate, and foil manufacturing;

(xx) 331419: Primary smelting and refining of nonferrous metal (except copper and aluminum);

(xxi) 334413: Semiconductor and related device manufacturing;

(xxii) 336411: Aircraft manufacturing;

(xxiii) 336413: Other aircraft parts and auxiliary equipment manufacturing.

(c) "Greenhouse gas" includes carbon dioxide, methane, nitrogen trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, perfluorocarbons, and other fluorinated greenhouse gases.

(3) A person claiming the tax preference provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) Credits may not be claimed under this section for taxable events occurring on or after January 1, 2029.

NEW SECTION. Sec. 8. A new section is added to chapter 82.12 RCW to read as follows:

(1) A person who is subject to tax under RCW 82.12.020 for personal property used for carbon reduction investments at, or to offset the greenhouse gas emissions of, an energy-intensive trade-exposed facility, or for tangible personal property that will be incorporated as an ingredient or component of buildings or other structures for carbon reduction investments at, or to offset the greenhouse gas emissions of, an energy-intensive trade-exposed facility, or for labor and services rendered with respect to such buildings, structures, or personal property, is eligible for an exemption from the state share of the tax in the form of a credit, as provided in this section. The amount of the credit equals the state share of use tax computed to be due under RCW 82.12.020. The person must submit information, in a form and manner prescribed by the department, specifying the amount of qualifying purchases or acquisitions for which the exemption is claimed and the amount of exempted tax.

(2) For the purposes of this section, the terms "energy-intensive trade-exposed facility," "carbon reduction investment," and "greenhouse gas" have the same meaning as provided in section 7 of this act.

(3) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) Credits may not be claimed under this section for taxable events occurring on or after January 1, 2029.

NEW SECTION. Sec. 9. A new section is added to chapter 82.08 RCW to read as follows:

(1) A person who has paid tax under RCW 82.08.020 for machinery and equipment used to reduce the greenhouse gas emissions associated with the transportation of gas through a gas pipeline, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, is eligible for an exemption from the state share of the tax in the form of a credit, as provided in this section. A person claiming an exemption must pay the tax and then take a credit equal to the state share of retail

sales tax paid under RCW 82.08.020. The person must submit information, in a form and manner prescribed by the department, specifying the amount of qualifying purchases or acquisitions for which the exemption is claimed and the amount of exempted tax.

(2) The definitions in this subsection apply throughout this section and section 10 of this act unless the context clearly requires otherwise.

(a) "Gas" means natural gas, flammable gas, or toxic or corrosive gas.

(b)(i) "Gas pipeline" means all parts of a pipeline facility through which gas moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.

(ii) "Gas pipeline" does not include any pipeline facilities, other than a master meter system, owned by a consumer or consumers of the gas, located exclusively on the consumer or consumers' property, and none of the gas leaves that property through a pipeline.

(c) "Greenhouse gas" includes carbon dioxide, methane, nitrogen trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, perfluorocarbons, and other fluorinated greenhouse gases.

(d)(i) "Machinery and equipment" includes fixtures, devices, and support facilities that are integral and necessary to the transportation of gas through a gas pipeline.

(ii) "Machinery and equipment" does not include: (A) Hand-powered tools; (B) property with a useful life of less than one year; (C) repair parts required to restore machinery and equipment to normal working order; (D) replacement parts that do not increase productivity, improve efficiency, reduce greenhouse gas emissions, or extend the useful life of machinery and equipment; (E) buildings; or (F) building fixtures that are not integral and necessary to the transportation of gas that are permanently affixed to and become a physical part of a building.

(3) A person claiming the tax preference provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) Credits may not be claimed under this section for taxable events occurring on or after January 1, 2029.

**NEW SECTION. Sec. 10.** A new section is added to chapter 82.12 RCW to read as follows:

(1) A person who has paid tax under RCW 82.12.020 for machinery and equipment used to reduce the greenhouse gas emissions associated with the transportation of gas through a gas pipeline, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, is eligible for an exemption from the state share of the tax in the form of a credit, as provided in this section. A person claiming an exemption must pay the tax and then take a credit equal to the state share of use tax paid under RCW 82.12.020. The person must submit information, in a form and manner prescribed by the

department, specifying the amount of qualifying purchases or acquisitions for which the exemption is claimed and the amount of exempted tax.

(2) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) Credits may not be claimed under this section for taxable events occurring on or after January 1, 2029.

(4) The definitions in section 9 of this act apply to this section.

**Sec. 11.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to read as follows:

(1) In computing tax under this chapter there ~~((shall be))~~ is deducted from the gross income:

(a) An amount equal to the cost of production at the plant for consumption within the state of Washington of:

(i) Electrical energy produced or generated from ~~((cogeneration))~~ combined heat and power as defined in RCW ~~((82.35.020))~~ 19.280.020; and

(ii) Electrical energy or gas produced or generated from renewable ~~((energy))~~ resources ~~((such as solar energy, wind energy, hydroelectric energy, geothermal energy, wood, wood wastes, municipal wastes, agricultural products and wastes, and end use waste heat))~~ as defined in RCW 19.285.030; and

(b) Those amounts expended to improve consumers' efficiency of energy end use or to otherwise reduce the use of electrical energy or gas by the consumer.

(2) This section applies only to the following facilities:

(a) New facilities for the production or generation of energy from ~~((cogeneration or renewable energy resources))~~ combined heat and power or renewable resources or measures to improve the efficiency of energy end use on which construction or installation is begun after June 12, 1980, and before January 1, 1990; and

(b) New facilities for the production or generation of electricity from renewable resources on which construction or installation is begun after January 1, 2020, and before January 1, 2028.

(3) Deductions under subsection (1)(a) of this section ~~((shall be))~~ are allowed for a period not to exceed thirty years after the project is placed in operation.

(4) Measures or projects encouraged under this section ~~((shall))~~ must be reasonably expected to save, produce, or generate energy at a total incremental system cost per unit of energy delivered to end use which is less than or equal to the incremental system cost per unit of energy delivered to end use from similarly available conventional energy resources which utilize nuclear energy or fossil fuels and which the gas or electric utility could acquire to meet energy demand in the same time period.

(5) The department of revenue, after consultation with the utilities and transportation commission in the case of investor-owned utilities and the governing bodies of locally regulated utilities, ~~((shall))~~ must determine the eligibility of individual projects and measures for deductions under this section.

(6) This section expires January 1, 2029.

NEW SECTION. Sec. 12. A new section is added to chapter 82.16 RCW to read as follows:

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

(a) "Carbon reduction investment" means an investment in support of eligible projects or actions that reduce, prevent, or remove from the atmosphere the emissions of greenhouse gases in the state. An eligible project or action includes, but is not limited to, investment in the following: (i) Installation of electric vehicle chargers and related infrastructure and other transportation electrification measures; (ii) demand side management of electricity consumption; (iii) energy storage technologies; and (iv) carbon sequestration programs, including forest health investments.

(b) "Greenhouse gas" means carbon dioxide, methane, nitrogen trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, perfluorocarbons, and other fluorinated greenhouse gases.

(2) In computing the tax imposed under this chapter, a credit is authorized for persons who reduce their own greenhouse gas emissions through carbon reduction investment projects.

(3)(a) The credit is equal to the total amount of carbon reduction investment project expenditures of a person.

(b) Credit may be earned by a person for multiple carbon reduction investment projects.

(c) Credit earned under this section may equal or exceed the tax otherwise due under this chapter for the tax reporting period. Any unused credit may be accrued and carried over until it is used.

(4) No application is necessary for the tax credit. The person must keep records necessary for the department to verify eligibility under this section. The person is subject to all of the requirements of chapter 82.32 RCW. No refunds may be granted for credits under this section.

(5) If at any time the department finds that a person is not eligible for the tax credit under this section, the amount of taxes for which a credit has been claimed is immediately due. The department must assess interest, but not penalties, on the taxes for which the person is not eligible. The interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, is retroactive to the date the tax credit was taken, and accrues until the taxes for which a credit has been used are repaid.

(6) A person claiming the credit under this section must file a complete annual report with the department under RCW 82.32.534.

(7) The total statewide amount of credit allowed under this section must not exceed fifty million dollars.

(8) This section expires January 1, 2029.

NEW SECTION. Sec. 13. A new section is added to chapter 82.04 RCW to read as follows:

(1) A person who is subject to tax under this chapter on gross income from sales of natural or manufactured gas, timber, timber products, wood products, or agricultural products, or an energy-intensive trade-exposed business, is allowed a credit against the tax due under this chapter for forest fire risk reduction activities, as provided in this section. The credit equals fifteen dollars multiplied by the forest fire risk reduction factor, as determined by this section.

(2) Credits are available on a first-in-time basis. The department must keep a running total of all credits allowed under this section and section 14 of this act during each fiscal year. The department may not allow credits that would cause the total credits taken under this section and section 14 of this act to exceed eight million three hundred thousand dollars in any fiscal year. If all or part of a claim for credit is disallowed under this subsection, the disallowed portion is carried over to the next fiscal year. However, the carryover into the next fiscal year is only permitted to the extent that the limit on total credits for the next fiscal year is not exceeded. Priority must be given to credits carried over from a previous fiscal year. The department must provide written notice to any person who has claimed tax credits in excess of the limitation in this subsection. The notice must indicate the amount of tax due and provide that the tax be paid within thirty days from the date of notice. The department may not assess penalties or interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(3) The credit allowed under this section may be used against any tax due under this chapter, and may be carried over until used, except as provided in subsection (2) of this section. No refunds may be granted for credits under this section.

(4) Credits earned under this section may be claimed only on returns filed electronically with the department using the department's online tax filing service or other method of electronic reporting as the department may authorize. No application is required to claim the credit, but the taxpayer must keep records necessary for the department to determine eligibility under this section.

(5) No person may claim a credit against taxes due under both this chapter and chapter 82.16 RCW for the same forest fire risk reduction activity.

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

(a) "Energy-intensive trade-exposed business" means a business that has a primary North American industry classification system (NAICS) code included in the following list:

- (i) 311411: Frozen fruit, juice, and vegetable manufacturing;
- (ii) 311423: Dried and dehydrated food manufacturing;
- (iii) 311611: Animal (except poultry) slaughtering;
- (iv) 322110: Pulp mills;
- (v) 322121: Paper (except newsprint) mills;
- (vi) 322122: Newsprint mills;
- (vii) 322130: Paperboard mills;
- (viii) 325188: All other basic inorganic chemical manufacturing;
- (ix) 325199: All other basic organic chemical manufacturing;
- (x) 325311: Nitrogenous fertilizer manufacturing;
- (xi) 327211: Flat glass manufacturing;
- (xii) 327213: Glass container manufacturing;
- (xiii) 327310: Cement manufacturing;
- (xiv) 327410: Lime manufacturing;
- (xv) 327420: Gypsum product manufacturing;
- (xvi) 327992: Ultra high purity silicon manufacturing;
- (xvii) 331111: Iron and steel mills;
- (xviii) 331312: Primary aluminum production;
- (xix) 331315: Aluminum sheet, plate, and foil manufacturing;
- (xx) 331419: Primary smelting and refining of nonferrous metal (except copper and aluminum);
- (xxi) 334413: Semiconductor and related device manufacturing;
- (xxii) 336411: Aircraft manufacturing;
- (xxiii) 336413: Other aircraft parts and auxiliary equipment manufacturing.

(b) "Forest fire risk reduction factor" means the percentage of risk reduced by engaging in a forest management, fuel treatment practice, or other forest fire risk reduction activity as determined by the department of natural resources in consultation with the Washington forest protection association and the Washington friends of farms and forests.

(7) For the purposes of this section, "timber," "timber products," and "wood products" have the same meanings as provided in RCW 82.04.260.

(8) Credits allowed under this section can be earned for tax reporting periods through June 30, 2029. No credits can be claimed after June 30, 2030.

NEW SECTION. Sec. 14. A new section is added to chapter 82.16 RCW to read as follows:

(1) A person who is subject to tax under this chapter for sales of natural or manufactured gas or sales of electricity is allowed a credit against the tax due under this chapter for forest fire risk reduction activities, as provided in this section. The credit equals fifteen dollars multiplied by the forest fire risk reduction factor, as determined by this section.

(2) Credits are available on a first-in-time basis. The department must keep a running total of all credits allowed under this section and section 13 of this act during each fiscal year. The department may not allow credits that would cause the total credits taken under this section and section 13 of this act to exceed eight million three hundred thousand dollars in any fiscal year. If all or part of a claim for credit is disallowed under this subsection, the disallowed portion is carried over to the next fiscal year. However, the carryover into the next fiscal year is only permitted to the extent that the limit on total credits for the next fiscal year is not exceeded. Priority must be given to credits carried over from a previous fiscal year. The department must provide written notice to any person who has claimed tax credits in excess of the limitation in this subsection. The notice must indicate the amount of tax due and provide that the tax be paid within thirty days from the date of notice. The department may not assess penalties or interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(3) The credit allowed under this section may be used against any tax due under this chapter, and may be carried over until used, except as provided in subsection (2) of this section. No refunds may be granted for credits under this section.

(4) Credits earned under this section may be claimed only on returns filed electronically with the department using the department's online tax filing service or other method of electronic reporting as the department may authorize. No application is required to claim the credit, but the taxpayer must keep records necessary for the department to determine eligibility under this section.

(5) No person may claim a credit against taxes due under both this chapter and chapter 82.04 RCW for the same forest fire risk reduction activity.

(6) The definitions in section 13 of this act apply throughout this section.

(7) Credits allowed under this section can be earned for tax reporting periods through June 30, 2029. No credits can be claimed after June 30, 2030.

NEW SECTION. Sec. 15. This act may be known and cited as the carbon free Washington act."

Correct the title.

Representatives DeBolt, Irwin, Smith, Caldier and Orcutt spoke in favor of the adoption of the striking amendment.

Representative Fitzgibbon spoke against the adoption of the striking amendment.

Amendment (610) was not adopted.

There being no objection, the committee striking amendment by the Committee on Environment was not adopted. (For Committee amendment, see Journal, Day 67, March 21, 2019).

There being no objection, the committee striking amendment by the Committee on Finance was not adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

With the consent of the house, amendments (603), (607), (622), (608), and (609) to the Appropriations committee striking amendment were withdrawn.

Representative Fitzgibbon moved the adoption of amendment (600) to the committee striking amendment:

On page 3, line 32, after "retail" strike "electricity consumers" and insert "electric customers"

On page 9, line 35, after "coal-fired" strike "facility" and insert "resource"

On page 11, line 15, after "RCW 19.285.030," insert "which"

On page 12, line 26, after "generation" strike "resources"

On page 12, line 30, after "nonemitting" insert "electric generation"

On page 21, line 31, after "the" strike "commission and the"

On page 30, line 30, after "appropriate" strike "verification" and insert "specification, verification,"

On page 30, line 33, after "operator" insert "for the purposes of sections 3 through 5 of this act"

On page 36, line 22, after "the" strike "requirement" and insert "requirements"

On page 38, line 2, after "regulations" insert "consistent with (e)(ii)(D) of this subsection"

On page 38, line 19, after "Beginning" strike "January 1, 2020" and insert "July 1, 2019"

On page 39, beginning on line 1, after "(D)" strike all material through "regulations." on line 3 and insert "Has had no findings of violation of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the past twenty-four months."

On page 39, line 11, after "(2)" insert "(a)"

On page 39, beginning on line 11, after "must" strike all material through "2019." on line 13 and insert "adopt emergency and permanent rules"

On page 39, at the beginning of line 14, strike "(a)" and insert "(i)"

On page 39, at the beginning of line 16, strike "(b)" and insert "(ii)"

On page 39, after line 26, insert the following:

"(b) Emergency rules must be adopted by December 1, 2019, and take effect January 1, 2020."

On page 41, line 32, after "after" strike "July 1, 2019" and insert "January 1, 2020"

On page 41, line 38, after "after" strike "January 1, 2020" and insert "July 1, 2019"

On page 43, line 22, after "regulations" insert "consistent with (e)(ii)(D) of this subsection"

On page 44, beginning on line 19, after "(D)" strike all material through "regulations." on line 21 and insert "Has had no findings of violations of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the past twenty-four months."

On page 46, beginning on line 17, after "after" strike all material through "2020" on line 18 and insert "July 1, 2019"

On page 47, at the beginning of line 30, strike "implementation" and insert "action"

Representatives Fitzgibbon and Shea spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (600) was adopted.

Representative Fitzgibbon moved the adoption of amendment (611):

On page 4, line 33 of the striking amendment, after "program or" strike "rate class" and insert "discounts"

Representative Fitzgibbon spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Shea spoke against the adoption of the amendment to the committee striking amendment.

Division was demanded on the adoption of amendment (611) to the committee striking amendment and the demand was sustained. The Speaker (Representative Orwall presiding) divided the House. The result was 57 - YEAS; 41 - NAYS.

Amendment (611) was adopted.

Representative Shea moved the adoption of amendment (604):

On page 12, beginning on line 6, after "(d)" strike all material through "(f)" on line 26

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

On page 16, beginning on line 13, after "(5)" strike all material through "(6)" on line 33

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

Representative Shea and Shea (again) spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Fitzgibbon spoke against the adoption of the amendment to the committee striking amendment.

An electronic roll call was requested.

### ROLL CALL

The Clerk called the roll on the adoption of amendment (604) and the amendment was not adopted by the following vote: Yeas, 41; Nays, 57; Absent, 0; Excused, 0.

Voting yea: Representatives Barkis, Boehnke, Calder, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Voting nay: Representatives Appleton, Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Amendment (604) was not adopted.

Representative Shea moved the adoption of amendment (621):

On page 20, beginning on line 25 of the striking amendment, after "(1)" strike all material through "RCW" on line 31 and insert "Each electric utility must provide to the department, in the case of a consumer-owned utility, or to the commission, in the case of an investor-owned utility, its greenhouse gas content calculation in conformance with this section. A utility's greenhouse gas content calculation must be based on the fuel sources that it reports and discloses in compliance with chapter 19.29A RCW. An investor-owned utility must also report the information required in this subsection to the department"

Representatives Shea and Fitzgibbon spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (621) was adopted.

Representative Steele moved the adoption of amendment (606):

On page 40, line 4, after "resources," insert "hydropower."

On page 40, after line 18, insert the following:

"(e) "Rural county" means a county with a population density of less than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles as determined by the office of financial management and published each year by the department for the period July 1st to June 30th."

On page 40, line 21, after "resources," insert "hydropower."

On page 41, line 39, after "(7)" insert "(a) Subject to the requirements of this subsection, the tax imposed by RCW 82.08.020 does not apply to sales of machinery and equipment used directly in generating electricity using hydropower, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts AC of electricity and only if the facility is located in a rural county. Except as otherwise provided in this subsection, the purchaser must pay the state and local sales tax on such sales and apply to the department for a remittance of the tax paid.

(i) Beginning January 1, 2020, through December 31, 2024, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (7)(a)(i) in an amount equal to fifty percent of the state and local sales tax paid. In order to qualify for the remittance under this subsection (7)(a)(i), installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2024.

(ii) Beginning January 1, 2025, through December 31, 2029, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (7)(a)(ii) in an amount equal to one hundred percent of the state and local sales tax paid. In order to qualify for the remittance under this subsection (7)(a)(ii), installation of the qualifying machinery and equipment must commence no earlier than January 1, 2025, and be completed by December 31, 2029.

(b) A purchaser claiming an exemption in the form of a remittance under this subsection must pay the tax imposed by RCW 82.08.020 and all applicable local sales taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The purchaser may then apply to the department for remittance in a form and manner prescribed by the department. A purchaser may not apply for a remittance under this subsection more frequently than once

per quarter. The purchaser must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The purchaser must retain, in adequate detail, records to enable the department to determine whether the purchaser is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(c) The department must determine eligibility under this subsection based on the information provided by the purchaser, which is subject to audit verification by the department. The department must, on a quarterly basis, remit exempted amounts to qualifying purchasers who submitted applications during the previous quarter.

(8)"

On page 46, line 19, after "(8)" insert "(a) Subject to the requirements of this subsection, the tax imposed by RCW 82.12.020 does not apply to machinery and equipment used directly in generating electricity using hydropower, or to labor and services rendered in respect to installing such machinery and equipment, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts AC of electricity and only if the facility is located in a rural county. Except as otherwise provided in this subsection, the consumer must pay the state and local use tax on the use of such machinery and equipment and labor and services, and apply to the department for a remittance of the tax paid.

(i) Beginning January 1, 2020, through December 31, 2024, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (8)(a)(i) in an amount equal to fifty percent of the state and local use tax paid. In order to qualify for the remittance under this subsection (8)(a)(i), installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2024.

(ii) Beginning January 1, 2025, through December 31, 2029, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (8)(a)(ii) in an amount equal to one hundred percent of the state and local use tax paid. In order to qualify for the remittance under this subsection (8)(a)(ii), installation of the qualifying machinery and equipment must commence no earlier than January 1, 2025, and be completed by December 31, 2029.

(b) A person claiming an exemption in the form of a remittance under this subsection must pay the tax imposed by RCW 82.12.020 and all applicable local use taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The consumer may then apply to the department for remittance in a form and manner prescribed by the department. A consumer may not apply for a remittance under this subsection more frequently than once per quarter. The consumer must specify the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The consumer must retain, in adequate detail, records to enable the department to determine whether the consumer is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(c) The department must determine eligibility for remittances under this subsection based on the information provided by the consumer, which is subject to audit verification by the department. The department must, on a quarterly basis, remit exempted amounts to qualifying consumers who submitted applications during the previous quarter.

(9)"

Representatives Steele, Smith, Goehner and Ybarra spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Tarleton spoke against the adoption of the amendment to the committee striking amendment.

Amendment (606) was not adopted.

Representative Young withdrew amendment (626), (627) and (628) to the committee striking amendment.

Representative Shea moved the adoption of amendment (605):

On page 61, beginning on line 11, after "**Sec. 31.**" strike all material through "immediately." on line 14 and insert "The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

Correct the title.

Representatives Shea, Orcutt, Maycumber, Walsh and Caldier spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Fitzgibbon spoke against the adoption of the amendment to the committee striking amendment.

An electronic roll call was requested.

## ROLL CALL

The Clerk called the roll on the adoption of amendment (605) and the amendment was not adopted by the following vote: Yeas, 41; Nays, 57; Absent, 0; Excused, 0.

Voting yea: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Voting nay: Representatives Appleton, Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu,

Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Amendment (605) to the committee striking amendment was not adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Tarleton, Fitzgibbon, Doglio, Lekanoff, Chapman, Fey, and Shewmake spoke in favor of the passage of the bill.

Representatives DeBolt, Dufault, Jenkin, Harris, MacEwen, Dye, Orcutt, Vick, Smith, Gildon, and Shea spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5116, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5116, and the bill passed the House by the following vote: Yeas, 56; Nays, 42; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Bergquist, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5116, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5612, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Rivers, Salomon, Frockt, Wilson, C., Carlyle, Billig, Wellman, Zeiger, Warnick, Palumbo, Pedersen, Van De Wege, Hasegawa, Holy, Hunt, Keiser, Kuderer, Liias and O'Ban)**

#### Concerning Holocaust education.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Thai, Steele, Appleton, Shea, Dye and Senn spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5612.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5612, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5612, having received the necessary constitutional majority, was declared passed.

#### SPEAKER'S PRIVILEGE

The Speaker (Representative Orwall presiding) was pleased to recognize Joshua Gortler seated in the House Gallery. Mr. Gortler is a humanitarian, author, survivor of the Holocaust and a leader in Washington's Jewish community. Mr. Gortler was previously recognized by the House with the adoption of House Resolution 4633.

The Speaker (Representative Orwall presiding) also recognized members of the Jewish Federation and asked them to stand and be recognized.

**SECOND SUBSTITUTE SENATE BILL NO. 5437, by Senate Committee on Ways & Means (originally sponsored by Wilson, C., Palumbo, Wellman, Hunt, Saldaña, Nguyen, Randall, Das, Billig, Mullet, Darneille, Dhingra, Hasegawa, Kuderer and Takko)**

**Expanding eligibility to the early childhood education and assistance program.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Human Services & Early Learning was adopted. (For Committee amendment, see Journal, Day 73, March 27, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Goodman, Dufault and Leavitt spoke in favor of the passage of the bill.

Representative Dent spoke against the passage of the bill.

**MOTION**

On motion of Representative Griffey, Representative McCaslin was excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5437, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5437, as amended by the House, and the bill passed the House by the following vote: Yeas, 89; Nays, 8; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie and Ybarra.

Voting nay: Representatives Dent, Dye, Jenkin, Klippert, Kraft, Shea, Sutherland and Young.

Excused: Representative McCaslin.

SECOND SUBSTITUTE SENATE BILL NO. 5437, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5651, by Senators King, Saldaña, Walsh, Darnelle, Das, Wilson, C. and Hasegawa**

**Establishing a kinship care legal aid coordinator.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Jinkins and Irwin spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5651, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5651, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie and Ybarra.

Voting nay: Representative Young.

Excused: Representative McCaslin.

SENATE BILL NO. 5651, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5718, by Senate Committee on Ways & Means (originally sponsored by Saldaña, Hasegawa, Nguyen, O'Ban, Das, Keiser, Kuderer and Zeiger)**

**Establishing the child welfare housing assistance program that provides housing assistance to parents reunifying with a child and parents at risk of having a child removed.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Robinson and Eslick spoke in favor of the passage of the bill.

Representative Dent spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5718, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5718, as amended by the House, and the bill passed the House by the following vote: Yeas, 92; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Dent, Jenkin, Klippert, Kraft and Shea.

Excused: Representative McCaslin.

SECOND SUBSTITUTE SENATE BILL NO. 5718, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5461, by Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Cleveland, Darneille, Wilson and C.)**

**Concerning the sharing of information between participants in multidisciplinary coordination of child sexual abuse investigations.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Stonier and Klippert spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5461.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5461, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representative McCaslin.

SUBSTITUTE SENATE BILL NO. 5461, having received the necessary constitutional majority, was declared passed.

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

### MESSAGES FROM THE SENATE

April 10, 2019

MR. SPEAKER:

The Senate has passed:

SUBSTITUTE HOUSE BILL NO. 1034,  
HOUSE BILL NO. 1137,  
SUBSTITUTE HOUSE BILL NO. 1254,  
ENGROSSED SUBSTITUTE HOUSE BILL NO.  
1355,  
SUBSTITUTE HOUSE BILL NO. 1360,  
HOUSE BILL NO. 1426,  
ENGROSSED SUBSTITUTE HOUSE BILL NO.  
1440,  
HOUSE BILL NO. 1490,  
HOUSE BILL NO. 1568,  
ENGROSSED SUBSTITUTE HOUSE BILL NO.  
1643,  
HOUSE BILL NO. 1673,  
SUBSTITUTE HOUSE BILL NO. 1742,

ENGROSSED SUBSTITUTE HOUSE BILL NO.  
1994,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

April 10, 2019

MR. SPEAKER:

The Senate has passed:

ENGROSSED SECOND SUBSTITUTE SENATE  
BILL NO. 5549,

and the same is herewith transmitted.

Brad Hendrickson, Secretary

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

### SECOND READING

**SENATE BILL NO. 5124, by Senator Das**

**Concerning appraisal management company Title XI compliance and license expiration.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Kirby and Vick spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5124.

### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5124, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger,

Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representative McCaslin.

SENATE BILL NO. 5124, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5786, by Senators Brown and Palumbo**

**Concerning research in public institutions of higher education.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Leavitt and Van Werven spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5786.

### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5786, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representative McCaslin.

SENATE BILL NO. 5786, having received the necessary constitutional majority, was declared passed.

The Speaker assumed the chair.

### SIGNED BY THE SPEAKER

The Speaker signed the following bills:

SENATE BILL NO. 5002  
SENATE BILL NO. 5162  
SENATE BILL NO. 5177  
SENATE BILL NO. 5207

SENATE BILL NO. 5230  
 SUBSTITUTE SENATE BILL NO. 5265  
 SUBSTITUTE SENATE BILL NO. 5355  
 SENATE BILL NO. 5398  
 ENGROSSED SUBSTITUTE SENATE BILL NO.  
 5480  
 SUBSTITUTE SENATE BILL NO. 5588  
 SUBSTITUTE SENATE BILL NO. 5710  
 SENATE BILL NO. 5895

SECOND SUBSTITUTE SENATE BILL NO. 5800  
 SUBSTITUTE SENATE BILL NO. 5815  
 SECOND SUBSTITUTE SENATE BILL NO. 5846  
 SUBSTITUTE SENATE BILL NO. 5876  
 SENATE BILL NO. 5909  
 SENATE BILL NO. 5923

There being no objection, the House adjourned until 9:00 a.m., April 12, 2019, the 89th Day of the Regular Session.

The Speaker called upon Representative Orwall to preside.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

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

### MOTION

There being no objection, the Committee on Rules was relieved of the following bills and the bills were placed on the second reading calendar:

HOUSE BILL NO. 2074  
 SENATE BILL NO. 5000  
 SENATE BILL NO. 5054  
 SUBSTITUTE SENATE BILL NO. 5063  
 SUBSTITUTE SENATE BILL NO. 5089  
 ENGROSSED SECOND SUBSTITUTE SENATE  
 BILL NO. 5091  
 SUBSTITUTE SENATE BILL NO. 5106  
 SENATE BILL NO. 5107  
 SENATE BILL NO. 5119  
 ENGROSSED SECOND SUBSTITUTE SENATE  
 BILL NO. 5284  
 SUBSTITUTE SENATE BILL NO. 5297  
 ENGROSSED SUBSTITUTE SENATE BILL NO.  
 5318  
 SUBSTITUTE SENATE BILL NO. 5324  
 ENGROSSED SUBSTITUTE SENATE BILL NO.  
 5330  
 ENGROSSED SUBSTITUTE SENATE BILL NO.  
 5332  
 SENATE BILL NO. 5339  
 SENATE BILL NO. 5350  
 ENGROSSED SECOND SUBSTITUTE SENATE  
 BILL NO. 5356  
  
 SUBSTITUTE SENATE BILL NO. 5380  
 SUBSTITUTE SENATE BILL NO. 5425  
 ENGROSSED SENATE BILL NO. 5429  
 ENGROSSED SECOND SUBSTITUTE SENATE  
 BILL NO. 5432  
 ENGROSSED SENATE BILL NO. 5453  
 ENGROSSED SECOND SUBSTITUTE SENATE  
 BILL NO. 5497  
 SUBSTITUTE SENATE BILL NO. 5552  
 SENATE BILL NO. 5558  
 SECOND SUBSTITUTE SENATE BILL NO. 5602  
 SECOND SUBSTITUTE SENATE BILL NO. 5604  
 SENATE BILL NO. 5605  
 SUBSTITUTE SENATE BILL NO. 5652  
 SENATE BILL NO. 5795

## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## EIGHTY NINTH DAY

House Chamber, Olympia, Friday, April 12, 2019

The House was called to order at 9:00 a.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by the Washington State Sons of the American Revolution Color Guard under the command of Art Dolan, joined by Dick Motz, Stan Wills and Jan Lemmer. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Tito Lyro, Bible Presbyterian Church, Olympia, Washington.

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

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

#### SECOND READING

**SENATE BILL NO. 5054, by Senators O'Ban, Brown, Conway, Wilson, L., Zeiger, Short, Van De Wege and Wagoner**

**Increasing the behavioral health workforce by establishing a reciprocity program to increase the portability of behavioral health licenses and certifications.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Health Care & Wellness was adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

#### MOTIONS

On motion of Representative Ramos, Representative Appleton was excused.

On motion of Representative MacEwen, Representative Eslick was excused.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5054, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5054, as amended by the House, and the bill passed the House by the following vote: Yeas, 95; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie and Ybarra.

Voting nay: Representative Young.

Excused: Representatives Appleton and Eslick.

SENATE BILL NO. 5054, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5297, by Senate Committee on Labor & Commerce (originally sponsored by Hunt, Conway, Keiser, Dhingra, Saldaña, Kuderer and Pedersen)**

**Extending collective bargaining rights to assistant attorneys general.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

Representative Stokesbary spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5297.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5297, and the bill passed the House by the following vote: Yeas, 61; Nays, 35; Absent, 0; Excused, 2.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Griffey, Hansen, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Walsh and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Gildon, Goehner, Graham, Harris, Hoff, Jenkin, Klippert, Kraft, Kretz, Maycumber, McCaslin, Mosbrucker, Orcutt, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Wilcox, Ybarra and Young.

Excused: Representatives Appleton and Eslick.

SUBSTITUTE SENATE BILL NO. 5297, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5324, by Senate Committee on Ways & Means (originally sponsored by Frockt, Zeiger, Darneille, Walsh, Kuderer, Palumbo, Das, Hasegawa, Hunt, Wellman, Cleveland, Pedersen, Keiser, Nguyen, McCoy, Van De Wege, Dhingra and Saldaña)**

**Concerning support for students experiencing homelessness.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Santos, Steele and Fey spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5324, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5324, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton and Eslick.

SUBSTITUTE SENATE BILL NO. 5324, as amended by the House, having received the necessary constitutional majority, was declared passed.

### STATEMENT FOR THE JOURNAL

I intended to vote YEA on Substitute Senate Bill No. 5297.

Representative Volz, 6th District

**SUBSTITUTE SENATE BILL NO. 5089, by Senate Committee on Ways & Means (originally sponsored by Wellman, Darneille, Palumbo, Wilson, C., Kuderer and Saldaña)**

**Increasing early learning access for children ages thirty months and older with developmental delays or disabilities. Revised for 1st Substitute: Increasing early learning access for children ages three and older.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Human Services & Early Learning was adopted. (For Committee amendment, see Journal, Day 73, March 27, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5089, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5089, as amended by the House, and the bill passed the House by the following vote: Yeas, 92; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Calder, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Entenman, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Dye, Jenkin, Kraft and Shea.

Excused: Representatives Appleton and Eslick.

SUBSTITUTE SENATE BILL NO. 5089, as amended by the House, having received the necessary constitutional majority, was declared passed.

#### STATEMENT FOR THE JOURNAL

I intended to vote YEA on Substitute Senate Bill No. 5089.

Representative Shea, 4th District

**SECOND SUBSTITUTE SENATE BILL NO. 5903, by Senate Committee on Ways & Means (originally sponsored by Darneille, Warnick, Das, Nguyen and O'Ban)**

#### Concerning children's mental health.

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Human Services & Early Learning was not adopted. (For Committee amendment, see Journal, Day 73, March 27, 2019).

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

Representative Senn moved the adoption of amendment (634) to the committee striking amendment:

On page 1, beginning on line 25 of the striking amendment, after "**Sec. 2.**" strike all material through "2020." on page 2, line 33 and insert the following:

"2018 c 175 s 2 (uncodified) is amended

to read as follows:

(1) A children's mental health work group is established to identify barriers to and opportunities for

accessing mental health services for children and families and to advise the legislature on statewide mental health services for this population.

(2) The work group shall consist of members and alternates as provided in this subsection. Members must represent the regional, racial, and cultural diversity of all children and families in the state. Members of the children's mental health work group created in chapter 96, Laws of 2016, and serving on the work group as of December 1, 2017, may continue to serve as members of the work group without reappointment.

(a) The president of the senate shall appoint one member and one alternate from each of the two largest caucuses in the senate.

(b) The speaker of the house of representatives shall appoint one member and one alternate from each of the two largest caucuses in the house of representatives.

(c) The governor shall appoint six members representing the following state agencies and offices: The department of children, youth, and families; the department of social and health services; the health care authority; the department of health; the office of homeless youth prevention and protection programs; and the office of the governor.

(d) The governor shall appoint one member representing each of the following:

(i) Behavioral health organizations;

(ii) Community mental health agencies;

(iii) Medicaid managed care organizations;

(iv) A regional provider of co-occurring disorder services;

(v) Pediatricians or primary care providers;

(vi) Providers specializing in infant or early childhood mental health;

(vii) Child health advocacy groups;

(viii) Early learning and child care providers;

(ix) The evidence-based practice institute;

(x) Parents or caregivers who have been the recipient of early childhood mental health services;

(xi) An education or teaching institution that provides training for mental health professionals;

(xii) Foster parents;

(xiii) Providers of culturally and linguistically appropriate health services to traditionally underserved communities;

(xiv) Pediatricians located east of the crest of the Cascade mountains; and

(xv) Child psychiatrists.

(e) The governor shall request participation by a representative of tribal governments.

(f) The superintendent of public instruction shall appoint one representative from the office of the superintendent of public instruction.

(g) The insurance commissioner shall appoint one representative from the office of the insurance commissioner.

(h) The work group shall choose its cochairs, one from among its legislative members and one from among the executive branch members. The representative from the health care authority shall convene at least two, but not more than four, meetings of the work group each year.

(i) The cochairs may invite additional members of the house of representatives and the senate to participate in work

group activities, including as leaders of advisory groups to the work group. These legislators are not required to be formally appointed members of the work group in order to participate in or lead advisory groups.

(3) The work group shall:

(a) Monitor the implementation of enacted legislation, programs, and policies related to children's mental health, including provider payment for depression screenings for youth and new mothers, consultation services for child care providers caring for children with symptoms of trauma, home visiting services, and streamlining agency rules for providers of behavioral health services;

(b) Consider system strategies to improve coordination and remove barriers between the early learning, K-12 education, and health care systems; and

(c) Identify opportunities to remove barriers to treatment and strengthen mental health service delivery for children and youth.

(4) At the direction of the cochairs, the work group may convene advisory groups to evaluate specific issues and report related findings and recommendations to the full work group.

(5) (a) The work group shall convene an advisory group to develop a funding model for:

(i) The partnership access line activities described in RCW 71.24.061, including the partnership access line for moms and kids and community referral facilitation;

(ii) Delivering partnership access line services to educational service districts for the training and support of school staff managing children with challenging behaviors; and

(iii) Expanding partnership access line consultation services to include consultation for health care professionals serving adults.

(b) The work group cochairs shall invite representatives from the following organizations and interests to participate as advisory group members under this subsection:

(i) Private insurance carriers;

(ii) Medicaid managed care plans;

(iii) Self-insured organizations;

(iv) Seattle children's hospital;

(v) The partnership access line;

(vi) The office of the insurance commissioner;

(vii) The University of Washington school of medicine;

and

(viii) Other organizations and individuals, as determined by the cochairs.

(c) The funding model must build upon previous funding model efforts by the health care authority, including work completed pursuant to chapter 288, Laws of 2018. The funding model must:

(i) Determine the annual cost of operating the partnership access line and its various components and collect a proportional share of program cost from each health insurance carrier; and

(ii) Differentiate between partnership access line activities eligible for medicaid funding and activities that are nonmedicaid eligible.

(d) By December 1, 2019, the advisory group formed under this subsection must deliver the funding model and any associated recommendations to the work group.

~~((4))~~ (6) Staff support for the work group, including administration of work group meetings and preparation of the updated report required under subsection ~~((6))~~ (8) of this section, must be provided by the health care authority. Additional staff support for legislative members of the work group may be provided by senate committee services and the house of representatives office of program research.

~~((5))~~ (7) Legislative members of the work group are 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. Advisory group members who are not members of the work group are not entitled to reimbursement.

~~((6))~~ (8) The work group shall update the findings and recommendations reported to the legislature by the children's mental health work group in December 2016 pursuant to chapter 96, Laws of 2016. The work group must submit the updated report to the governor and the appropriate committees of the legislature by December 1, 2020.

~~((7))~~ (9) This section expires December 30, 2020."

On page 4, after line 35 of the striking amendment, insert the following:

"NEW SECTION, Sec. 8. Section 2 of this act is added to chapter 74.09 RCW."

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

Representative Senn spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (634) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Frame and Senn spoke in favor of the passage of the bill.

Representatives Klippert and Dent spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5903, as amended by the House.

## ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5903, and the bill passed the House by the following vote: Yeas, 87; Nays, 9; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Calder, Callan, Chambers, Chandler, Chapman,

Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Wilcox, Wylie and Ybarra.

Voting nay: Representatives Dent, Jenkin, Klippert, McCaslin, Schmick, Shea, Sutherland, Walsh and Young.

Excused: Representatives Appleton and Eslick.

SECOND SUBSTITUTE SENATE BILL NO. 5903, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5558, by Senators Saldaña, Darneille, Keiser and Nguyen**

**Reinstating the authority of the department of social and health services and the health care authority to purchase interpreter services for applicants and recipients of public assistance who are sensory-impaired.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5558.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5558, and the bill passed the House by the following vote: Yeas, 95; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representative DeBolt.

Excused: Representatives Appleton and Eslick.

SENATE BILL NO. 5558, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5394, by Senate Committee on Labor & Commerce (originally sponsored by King, Conway, Palumbo and Keiser)**

**Concerning liquor licensees' use of web sites and social media to promote authorized events. Revised for 1st Substitute: Concerning liquor licensees' use of web sites and social media to promote events.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives MacEwen, Stanford and Jenkin spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5394.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5394, and the bill passed the House by the following vote: Yeas, 90; Nays, 6; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kirby, Klippert, Kloba, Kraft, Kretz, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Corry, Davis, Kilduff, Leavitt, Ramos and Smith.

Excused: Representatives Appleton and Eslick.

SUBSTITUTE SENATE BILL NO. 5394, having received the necessary constitutional majority, was declared passed.

#### STATEMENT FOR THE JOURNAL

I intended to vote YEA on Substitute Senate Bill No. 5394.

Representative Corry, 14th District

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

### INTRODUCTION & FIRST READING

E2SSB 5549 by Senate Committee on Ways & Means (originally sponsored by Liias, King, Hunt and Braun)

Modernizing resident distillery marketing and sales restrictions.

Referred to Committee on Appropriations.

There being no objection, the bills listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated.

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

### SECOND READING

**SUBSTITUTE SENATE BILL NO. 5266, by Senate Committee on State Government, Tribal Relations & Elections (originally sponsored by Saldaña, Hunt, Hasegawa, McCoy, Keiser and Das)**

**Concerning timely elections for governing body members in jurisdictions modifying districting plans under the Washington voting rights act.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on State Government & Tribal Relations was adopted. (For Committee amendment, see Journal, Day 72, March 26, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5266, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5266, as amended by the House, and the bill passed the House by the following vote: Yeas, 60; Nays, 38; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti,

Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Schmick, Shea, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5266, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5600, by Senate Committee on Housing Stability & Affordability (originally sponsored by Kuderer, Das, Nguyen, Frockt, Cleveland, Darneille, Saldaña, Hasegawa, Wilson, C., Conway, Randall, Wellman, Keiser, Hunt, Pedersen and Liias)**

**Concerning residential tenant protections.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Civil Rights & Judiciary was not adopted. (For Committee amendment, see Journal, Day 79, April 2, 2019).

There being no objection, the House deferred action on ENGROSSED SUBSTITUTE SENATE BILL NO. 5600, and the bill held its place on the second reading calendar.

**SENATE BILL NO. 5107, by Senators Das and Mullet**

**Addressing trust institutions.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Consumer Protection & Business was adopted. (For Committee amendment, see Journal, Day 68, March 22, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Kirby and Vick spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5107, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5107, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SENATE BILL NO. 5107, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5815, by Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Nguyen, Darneille, Wilson, C., Saldaña, Das, Keiser and Kuderer)**

**Concerning individuals placed in minimum security status by the department of children, youth, and families.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Human Services & Early Learning was adopted. (For Committee amendment, see Journal, Day 72, March 26, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

Representative Dent spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5815, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5815, as amended by the House, and the bill passed the House by the following vote: Yeas, 84; Nays, 14; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chandler,

Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Entenman, Eslick, Fey, Fitzgibbon, Frame, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Wilcox and Wylie.

Voting nay: Representatives Chambers, Dent, Dye, Gildon, Hoff, Jenkin, Kraft, Schmick, Sutherland, Van Werven, Vick, Walsh, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5815, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5425, by Senate Committee on Health & Long Term Care (originally sponsored by Cleveland, Keiser, Becker and Hasegawa)**

**Concerning maternal mortality reviews.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5425, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5425, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells,

Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5425, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5923, by Senators Hobbs, King and Lovelett**

**Establishing an emergency loan program to be administered by the county road administration board.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5923.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5923, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SENATE BILL NO. 5923, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5846, by Senate Committee on Ways & Means (originally sponsored by Saldaña, Hasegawa, Randall, Nguyen, Wilson, C., Keiser, Das, Cleveland and Dhingra)**

**Concerning the integration of international medical graduates into Washington's health care delivery system.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Health Care & Wellness was adopted. (For Committee amendment, see Journal, Day 78, April 1, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5846, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5846, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representative Kraft.

SECOND SUBSTITUTE SENATE BILL NO. 5846, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5497, by Senate Committee on Ways & Means (originally sponsored by Wellman, Nguyen, Hasegawa, Kuderer, Frockt, Das, Keiser, Saldaña, Mullet, McCoy, Randall, Cleveland, Hunt, Liias, Conway and Darneille)**

**Establishing a statewide policy supporting Washington state's economy and immigrants' role in the workplace.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Civil Rights & Judiciary was not adopted. (For Committee amendment, see Journal, Day 74, March 28, 2019).

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

Representative Walsh moved the adoption of amendment (637) to the committee striking amendment:

On page 1, beginning on line 24 of the striking amendment, strike all of section 2

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

On page 5, beginning on line 6 of the striking amendment, strike all of sections 4, 5, 6, 7, 8, 9, and 10

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

On page 11, beginning on line 20 of the striking amendment, strike all of section 12

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

Correct the title.

Representative Walsh spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (637) was not adopted.

Representative Walsh moved the adoption of amendment (635) to the committee striking amendment:

On page 3, beginning on line 26 of the striking amendment, after "a" strike all material through "system" on line 35 and insert "commissioned law enforcement officer who acts under a memorandum of understanding or whose law enforcement agency contracts with any charter school, educational service district, school, school district, or institution of higher education as defined in RCW 28B.10.016 and whose primary responsibilities are to build relationships with students, ensure school safety, and provide law enforcement services"

Representatives Walsh, Klippert, Santos and Steele spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Dolan spoke against the adoption of the amendment to the committee striking amendment.

There being no objection, the House deferred action on. ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5497, and the bill held its place on the second reading calendar.

The House resumed consideration of. ENGROSSED SUBSTITUTE SENATE BILL NO. 5600 on second reading.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5600, by Senate Committee on Housing Stability & Affordability (originally sponsored by Kuderer, Das, Nguyen, Frockt, Cleveland, Darneille, Saldaña,**

**Hasegawa, Wilson, C., Conway, Randall, Wellman, Keiser, Hunt, Pedersen and Liias)**

**Concerning residential tenant protections.**

Representative Macri moved the adoption of the striking amendment (548):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is declared to be the public policy of the state and a recognized governmental function to assist residents who are experiencing a temporary crisis in retaining stable housing, and by so doing to contribute to the general welfare. Decent housing for the people of Washington state is a most important public concern. An escalation of rents and scarcity of housing supply have made it difficult for many Washingtonians to obtain stable housing, especially if they lose housing after experiencing an extraordinary life event that temporarily leaves them without resources and income. It is the long-standing practice of the state to make rental assistance available in many such urgent situations, and it is the intent of the legislature to provide a payment on the tenant's behalf to the landlord in certain eviction proceedings to give the tenant additional time to access resources that allow the tenants to stay in their home.

**Sec. 2.** RCW 59.12.030 and 1998 c 276 s 6 are each amended to read as follows:

A tenant of real property for a term less than life is (~~(guilty of)~~) liable for unlawful detainer either:

(1) When he or she holds over or continues in possession, in person or by subtenant, of the property or any part thereof after the expiration of the term for which it is let to him or her. When real property is leased for a specified term or period by express or implied contract, whether written or oral, the tenancy shall be terminated without notice at the expiration of the specified term or period;

(2) When he or she, having leased property for an indefinite time with monthly or other periodic rent reserved, continues in possession thereof, in person or by subtenant, after the end of any such month or period, when the landlord, more than twenty days prior to the end of such month or period, has served notice (in manner in RCW 59.12.040 provided) requiring him or her to quit the premises at the expiration of such month or period;

(3) When he or she continues in possession in person or by subtenant after a default in the payment of rent, and after notice in writing requiring in the alternative the payment of the rent or the surrender of the detained premises, served (in manner in RCW 59.12.040 provided) (~~(it)~~) on behalf of the person entitled to the rent upon the person owing it, has remained uncomplied with for the period of three days after service (~~(thereof)~~), or for the period

of fourteen days after service for tenancies under chapter 59.18 RCW. The notice may be served at any time after the rent becomes due. For the purposes of this subsection and as applied to tenancies under chapter 59.18 RCW, "rent" has the same meaning as defined in RCW 59.18.030;

(4) When he or she continues in possession in person or by subtenant after a neglect or failure to keep or perform any (~~other~~) condition or covenant of the lease or agreement under which the property is held, including any covenant not to assign or sublet, other than one for the payment of rent, and after notice in writing requiring in the alternative the performance of such condition or covenant or the surrender of the property, served (in manner in RCW 59.12.040 provided) upon him or her, and if there is a subtenant in actual possession of the premises, also upon such subtenant, shall remain uncomplied with for ten days after service thereof. Within ten days after the service of such notice the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform such condition or covenant and thereby save the lease from such forfeiture. For the purposes of this subsection and as applied to tenancies under chapter 59.18 RCW, "rent" has the same meaning as defined in RCW 59.18.030;

(5) When he or she commits or permits waste upon the demised premises, or when he or she sets up or carries on thereon any unlawful business, or when he or she erects, suffers, permits, or maintains on or about the premises any nuisance, and remains in possession after the service (in manner in RCW 59.12.040 provided) upon him or her of three days' notice to quit;

(6) A person who, without the permission of the owner and without having color of title thereto, enters upon land of another and who fails or refuses to remove therefrom after three days' notice, in writing and served upon him or her in the manner provided in RCW 59.12.040. Such person may also be subject to the criminal provisions of chapter 9A.52 RCW; or

(7) When he or she commits or permits any gang-related activity at the premises as prohibited by RCW 59.18.130.

NEW SECTION. Sec. 3. A new section is added to chapter 59.18 RCW to read as follows:

(1) Every fourteen-day notice served pursuant to RCW 59.12.030(3) must be in substantially the following form:

**"FOURTEEN-DAY NOTICE TO PAY RENT OR VACATE THE PREMISES**

You are receiving the attached 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 by cash, cashier's check, money order, or certified funds pursuant to the terms of the rental agreement.**

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 on its web site. 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, call 2-1-1 to learn about these services.**

**State law 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) The form required in this section does not abrogate any additional notice requirements to tenants as required by federal, state, or local law.

NEW SECTION. Sec. 4. A new section is added to chapter 59.18 RCW to read as follows:

(1) The office of the attorney general shall produce and maintain on its web site translated versions of the notice under section 3 of this act in the top ten languages spoken in Washington state and, at the discretion of the office of the attorney general, other languages. The notice must be made available upon request in printed form on one letter size paper, eight and one-half by eleven inches, and in an easily readable font size.

(2) The office of the attorney general shall also provide on its web site information on where tenants can access legal or advocacy resources, including information on any immigrant and cultural organizations where tenants can receive assistance in their primary language.

(3) The office of the attorney general may also produce and maintain on its web site translated versions of common notices used in unlawful detainer actions, including those relevant to subsidized tenancies, low-income housing tax credit programs, or the federal violence against women act.

**Sec. 5.** RCW 59.18.030 and 2016 c 66 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Certificate of inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of RCW 9A.72.085 by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under RCW 59.18.060 that endangers or impairs the health or safety of a tenant, including (a) structural members that are of insufficient size or strength to carry imposed loads with safety, (b) exposure of the occupants to the weather, (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (d) not providing facilities adequate to supply heat and water and hot water as reasonably required by the tenant, (e) providing heating or ventilation systems that are not functional or are hazardous, (f) defective, hazardous, or missing electrical wiring or electrical service, (g) defective or hazardous exits that increase the risk of injury to occupants, and (h) conditions that increase the risk of fire.

(2) "Commercially reasonable manner," with respect to a sale of a deceased tenant's personal property, means a sale where every aspect of the sale, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a landlord may sell the tenant's property by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) "Comprehensive reusable tenant screening report" means a tenant screening report prepared by a consumer reporting agency at the direction of and paid for by the prospective tenant and made available directly to a prospective landlord at no charge, which contains all of the

following: (a) A consumer credit report prepared by a consumer reporting agency within the past thirty days; (b) the prospective tenant's criminal history; (c) the prospective tenant's eviction history; (d) an employment verification; and (e) the prospective tenant's address and rental history.

(4) "Criminal history" means a report containing or summarizing (a) the prospective tenant's criminal convictions and pending cases, the final disposition of which antedates the report by no more than seven years, and (b) the results of a sex offender registry and United States department of the treasury's office of foreign assets control search, all based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(5) "Designated person" means a person designated by the tenant under RCW 59.18.590.

(6) "Distressed home" has the same meaning as in RCW 61.34.020.

(7) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(8) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(9) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes.

(10) "Eviction history" means a report containing or summarizing the contents of any records of unlawful detainer actions concerning the prospective tenant that are reportable in accordance with state law, are lawful for landlords to consider, and are obtained after a search based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(11) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(12) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

(13) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed property conveyance.

(14) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

(15) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(16) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(17) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(18) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(19) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(20) "Prospective landlord" means a landlord or a person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(21) "Prospective tenant" means a tenant or a person who has applied for residential housing that is governed under this chapter.

(22) "Qualified inspector" means a United States department of housing and urban development certified inspector; a Washington state licensed home inspector; an American society of home inspectors certified inspector; a private inspector certified by the national association of housing and redevelopment officials, the American association of code enforcement, or other comparable professional association as approved by the local municipality; a municipal code enforcement officer; a Washington licensed structural engineer; or a Washington licensed architect.

(23) "Reasonable attorneys' fees," where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

(24) "Reasonable manner," with respect to disposing of a deceased tenant's personal property, means to dispose of the property by donation to a not-for-profit charitable organization, by removal of the property by a trash hauler or recycler, or by any other method that is reasonable under the circumstances.

(25) "Rent" or "rental amount" means recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises, which may include charges for utilities. Except as provided in section 6(3) of this act, these terms do not include nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys' fees.

(26) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

~~((26))~~ (27) A "single-family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single-family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

~~((27))~~ (28) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

~~((28))~~ (29) "Tenant representative" means:

(a) A personal representative of a deceased tenant's estate if known to the landlord;

(b) If the landlord has no knowledge that a personal representative has been appointed for the deceased tenant's estate, a person claiming to be a successor of the deceased tenant who has provided the landlord with proof of death and an affidavit made by the person that meets the requirements of RCW 11.62.010(2);

(c) In the absence of a personal representative under (a) of this subsection or a person claiming to be a successor under (b) of this subsection, a designated person; or

(d) In the absence of a personal representative under (a) of this subsection, a person claiming to be a successor under (b) of this subsection, or a designated person under (c) of this subsection, any person who provides the landlord with reasonable evidence that he or she is a successor of the deceased tenant as defined in RCW 11.62.005. The landlord has no obligation to identify all of the deceased tenant's successors.

~~((29))~~ (30) "Tenant screening" means using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.

~~((30))~~ (31) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service.

NEW SECTION. **Sec. 6.** A new section is added to chapter 59.18 RCW to read as follows:

Under this chapter:

(1) A landlord must first apply any payment made by a tenant toward rent before applying any payment toward late payments, damages, legal costs, or other fees, including attorneys' fees.

(2) Except as provided in RCW 59.18.410, the tenant's right to possession of the premises may not be conditioned on a tenant's payment or satisfaction of any monetary amount other than rent. However, this does not foreclose a landlord from pursuing other lawful remedies to collect late payments, legal costs, or other fees, including attorneys' fees.

(3) When, at the commencement of the tenancy, the landlord has provided an installment payment plan for nonrefundable fees or deposits for the security of the tenant's

obligations and the tenant defaults in payment, the landlord may treat the default in payment as rent owing. Any rights the tenant and landlord have under this chapter with respect to rent owing equally apply under this subsection.

**Sec. 7.** RCW 59.18.410 and 2011 c 132 s 20 are each amended to read as follows:

(1) If ~~((upon the))~~ at trial the verdict of the jury or, if the case ~~((be))~~ is tried without a jury, the finding of the court ~~((be))~~ is in favor of the ~~((plaintiff))~~ landlord and against the ~~((defendant))~~ tenant, judgment shall be entered for the restitution of the premises; and if the proceeding ~~((be))~~ 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 ~~((be))~~ are tried without a jury, shall also assess the damages arising out of the tenancy occasioned to the ~~((plaintiff))~~ landlord by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved ~~((on the))~~ at trial, and, if the alleged unlawful detainer ~~((be after))~~ is based on default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the ~~((defendant guilty of))~~ tenant liable for the forcible entry, forcible detainer, or unlawful detainer for the amount of damages thus assessed ~~((and))~~ 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 ~~((and))~~ . The court may also award reasonable ((attorney's)) attorneys' fees as provided in RCW 59.18.290.

(2) When the ~~((proceeding))~~ tenant is liable for ~~((an))~~ unlawful detainer after a default in the payment of rent, ((and the lease or agreement under which the rent is payable has not by its terms expired,)) execution upon the judgment shall not ~~((be issued))~~ occur until the expiration of five court days after the entry of the judgment~~((, within which)).~~ Before such time has expired, 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 ((for)) or to the landlord the amount of the ((judgment and costs, and thereupon the judgment shall be satisfied and 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((; but)). 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((; as herein provided, be)) 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), 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). Nothing in this subsection (3)(c) 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.

(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.

(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.

**Sec. 8.** RCW 59.18.390 and 2011 c 132 s 19 are each amended to read as follows:

(1) The sheriff shall, upon receiving the writ of restitution, forthwith serve a copy thereof upon the ~~((defendant))~~ tenant, his or her agent, or attorney, or a person in possession of the premises, and shall not execute the same

for three days thereafter (~~and the defendant, or person in possession of the premises within three days after the service of the writ of restitution may execute to the plaintiff a bond to be filed with and approved by the clerk of the court in such sum as may be fixed by the judge, with sufficient surety to be approved by the clerk of the court, conditioned that they will pay to the plaintiff such sum as the plaintiff may recover for the use and occupation of the premises, or any rent found due, together with all damages the plaintiff may sustain by reason of the defendant occupying or keeping possession of the premises, together with all damages which the court theretofore has awarded to the plaintiff as provided in this chapter, and also all the costs of the action. If the writ of restitution was issued after alternative service provided for in RCW 59.18.055, the court shall determine the amount of the bond after considering the rent claimed and any other factors the court deems relevant. The plaintiff, his or her agent or attorneys, shall have notice of the time and place where the court or judge thereof shall fix the amount of the defendant's bond, and shall have notice and a reasonable opportunity to examine into the qualification and sufficiency of the sureties upon the bond before the bond shall be approved by the clerk~~). After the issuance of a writ of restitution, acceptance of a payment by the landlord (~~or plaintiff~~) that only partially satisfies the judgment will not invalidate the writ unless pursuant to a written agreement executed by both parties. The eviction will not be postponed or stopped unless a copy of that written agreement is provided to the sheriff. It is the responsibility of the tenant (~~or defendant~~) to ensure a copy of the agreement is provided to the sheriff. Upon receipt of the agreement, the sheriff will cease action unless ordered to do otherwise by the court. The writ of restitution and the notice that accompanies the writ of restitution required under RCW 59.18.312 shall conspicuously state in bold face type, all capitals, not less than twelve points information about partial payments as set forth in subsection (2) of this section. If the writ of restitution has been based upon a finding by the court that the tenant, subtenant, sublessee, or a person residing at the rental premises has engaged in drug-related activity or has allowed any other person to engage in drug-related activity at those premises with his or her knowledge or approval, neither the tenant (~~or the defendant~~) nor a person in possession of the premises shall be entitled to post a bond in order to retain possession of the premises. The writ may be served by the sheriff, in the event he or she shall be unable to find the (~~defendant~~) tenant, an agent or attorney, or a person in possession of the premises, by affixing a copy of the writ in a conspicuous place upon the premises: PROVIDED, That the sheriff shall not require any bond for the service or execution of the writ. The sheriff shall be immune from all civil liability for serving and enforcing writs of restitution unless the sheriff is grossly negligent in carrying out his or her duty.

(2) The notice accompanying a writ of restitution required under RCW 59.18.312 shall be substantially similar to the following:

**IMPORTANT NOTICE - PARTIAL PAYMENTS**

**YOUR LANDLORD'S ACCEPTANCE OF A PARTIAL PAYMENT FROM YOU AFTER SERVICE OF THIS WRIT OF RESTITUTION WILL NOT AUTOMATICALLY POSTPONE OR STOP YOUR EVICTION. IF YOU HAVE A WRITTEN AGREEMENT WITH YOUR LANDLORD THAT THE EVICTION WILL BE POSTPONED OR STOPPED, IT IS YOUR RESPONSIBILITY TO PROVIDE A COPY OF THE AGREEMENT TO THE SHERIFF. THE SHERIFF WILL NOT CEASE ACTION UNLESS YOU PROVIDE A COPY OF THE AGREEMENT. AT THE DIRECTION OF THE COURT THE SHERIFF MAY TAKE FURTHER ACTION.**

**Sec. 9.** RCW 59.18.365 and 2008 c 75 s 1 are each amended to read as follows:

(1) The summons must contain the names of the parties to the proceeding, the attorney or attorneys if any, the court in which the same is brought, the nature of the action, in concise terms, and the relief sought, and also the return day; and must notify the defendant to appear and answer within the time designated or that the relief sought will be taken against him or her. The summons must contain a street address for service of the notice of appearance or answer and, if available, a facsimile number for the plaintiff or the plaintiff's attorney, if represented. The summons must be served and returned in the same manner as a summons in other actions is served and returned.

(2) A defendant may serve a copy of an answer or notice of appearance by any of the following methods:

(a) By delivering a copy of the answer or notice of appearance to the person who signed the summons at the street address listed on the summons;

(b) By mailing a copy of the answer or notice of appearance addressed to the person who signed the summons to the street address listed on the summons;

(c) By facsimile to the facsimile number listed on the summons. Service by facsimile is complete upon successful transmission to the facsimile number listed upon the summons;

(d) As otherwise authorized by the superior court civil rules.

(3) The summons for unlawful detainer actions for tenancies covered by this chapter shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE

STATE OF WASHINGTON

IN AND

FOR . . . . . COUNTY

Plaintiff/Landlord/Owner,  NO.  
  
 vs.  EVICTION  
 SUMMONS  
  
 (Residential)  
 Defendant/Tenant/Occupant.

If there is a number on the upper right side of the eviction summons and complaint, you must also file your original notice of appearance or answer with the court clerk by the deadline for your written response.

You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon the person signing the summons. Within fourteen days after you serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of this summons and complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

You may also be instructed in a separate order to appear for a court hearing on your eviction. If you receive an order to show cause you must personally appear at the hearing on the date indicated in the order to show cause **IN ADDITION** to delivering and filing your notice of appearance or answer by the deadline stated above.

THIS IS ((NOTICE OF A LAWSUIT)) AN IMPORTANT LEGAL DOCUMENT TO EVICT YOU.

((PLEASE READ IT CAREFULLY.

THE DEADLINE FOR)) YOUR WRITTEN

RESPONSE ((IS)) MUST BE RECEIVED BY: 5:00 p.m., on . . . . .

TO: . . . . . (Defendant's Name)

. . . . . (Defendant's Address)

~~IF YOU DO NOT RESPOND TO THE COMPLAINT IN WRITING BY THE DEADLINE STATED ABOVE YOU WILL LOSE BY DEFAULT. YOUR LANDLORD MAY PROCEED WITH THE LAWSUIT, EVEN IF YOU HAVE MOVED OUT OF THE PROPERTY.~~

The notice of appearance or answer must be delivered to:

.....

Name

.....

Street Address

.....

Telephone Number

.....

Facsimile Number (Required if Available))

((This is notice of a lawsuit to evict you from the property which you are renting. Your landlord is asking the court to terminate your tenancy, direct the sheriff to remove you and your belongings from the property, enter a money judgment against you for unpaid rent and/or damages for your use of the property, and for court costs and attorneys' fees.

If you want to defend yourself in this lawsuit, you must respond to the eviction complaint in writing on or before the deadline stated above. You must respond in writing even if no case number has been assigned by the court yet.

You can respond to the complaint in writing by delivering a copy of a notice of appearance or answer to your landlord's attorney (or your landlord if there is no attorney) by personal delivery, mailing, or facsimile to the address or facsimile number stated below **TO BE RECEIVED NO LATER THAN THE DEADLINE STATED ABOVE.** Service by facsimile is complete upon successful transmission to the facsimile number, if any, listed in the summons.

The notice of appearance or answer must include the name of this case (plaintiff(s) and defendant(s)), your name, the street address where further legal papers may be sent, your telephone number (if any), and your signature.

**GET HELP: If you do not respond by the deadline above, you will lose your right to defend yourself in court and could be evicted. If you cannot afford a lawyer, you may call 2-1-1. They can refer you to free or low-cost legal help. They can help you find help to pay for a lawyer.**

**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.

**Sec. 10.** RCW 59.18.290 and 2010 c 8 s 19028 are each amended to read as follows:

(1) It ~~((shall be))~~ is unlawful for the landlord to remove or exclude from the premises the tenant thereof except under a court order so authorizing. Any tenant so removed or excluded in violation of this section may recover possession of the property or terminate the rental agreement and, in either case, may recover the actual damages sustained. The prevailing party may recover the costs of suit or arbitration and reasonable ~~((attorney's))~~ attorneys' fees.

(2) It ~~((shall be))~~ is unlawful for the tenant to hold over in the premises or exclude the landlord therefrom after the termination of the rental agreement except under a valid court order so authorizing. Any landlord so deprived of possession of premises in violation of this section may

recover possession of the property and damages sustained by him or her, and the prevailing party may recover his or her costs of suit or arbitration and reasonable ~~((attorney's))~~ attorneys' fees subject to subsections (3) and (4) of this section.

(3) Where the court has entered a judgment in favor of the landlord restoring possession of the property to the landlord, the court may award reasonable attorneys' fees to the landlord; however, the court shall not award attorneys' fees in the following instances:

(a) If the judgment for possession is entered after the tenant failed to appear; or

(b) If the total amount of rent awarded in the judgment for rent is equal to or less than two months of the tenant's monthly contract rent or one thousand two hundred dollars, whichever is greater.

(4) If a tenant has filed a motion to stay a writ of restitution from execution, the court may only award attorneys' fees to the landlord if the tenant is permitted to be reinstated. Any attorneys' fees awarded shall be subject to repayment pursuant to RCW 59.18.410(3).

**Sec. 11.** RCW 59.18.055 and 1997 c 86 s 1 are each amended to read as follows:

(1) When the ~~((plaintiff))~~ landlord, after the exercise of due diligence, is unable to personally serve the summons on the ~~((defendant))~~ tenant, the ~~((court))~~ landlord may ~~((authorize))~~ use the alternative means of service ~~((described herein. Upon filing of an affidavit from the person or persons attempting service describing those attempts, and the filing of an affidavit from the plaintiff, plaintiff's agent, or plaintiff's attorney stating the belief that the defendant cannot be found, the court may enter an order authorizing service of the summons))~~ as follows:

(a) The summons and complaint shall be posted in a conspicuous place on the premises unlawfully held, not less than nine days from the return date stated in the summons; and

(b) Copies of the summons and complaint shall be deposited in the mail, postage prepaid, by both regular mail and certified mail directed to the ~~((defendant's))~~ tenant's or ~~((defendants'))~~ tenants' last known address not less than nine days from the return date stated in the summons.

(2) When service on the ~~((defendant))~~ tenant or ~~((defendants))~~ tenants is accomplished by this alternative procedure, the court's jurisdiction is limited to restoring possession of the premises to the ~~((plaintiff))~~ landlord and no money judgment may be entered against the ~~((defendant))~~ tenant or ~~((defendants))~~ tenants until such time as jurisdiction over the ~~((defendant))~~ tenant or ~~((defendants))~~ tenants is obtained.

~~((2))~~ (3) Before the entry of any judgment or issuance of a writ of restitution due to the tenant's failure to appear, the landlord shall provide the court with a declaration from the person or persons who served the tenant that describes the service achieved, and if by alternative service pursuant to this section, that describes the efforts at personal service before alternative service was used and a declaration from the landlord stating his or her belief that the tenant cannot be found.

(4) For the purposes of subsection (1) of this section, the exercise of due diligence is met if the landlord attempts personal service on the tenant at least three times over not less than two days and at different times of the day.

(5) This section shall apply to this chapter and chapter 59.20 RCW.

**Sec. 12.** RCW 43.31.605 and 2018 c 66 s 2 are each 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:

~~((a))~~ (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)~~((a))~~ (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)~~((a))~~ (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;

~~((b))~~ (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;

~~((c))~~ (iii) Reimbursement for damages established pursuant to subsection (2) of this section; and

~~((d))~~ (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, 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 under this subsection (1)(c) is not an entitlement.

(i) The department shall provide for a form on its web site 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.

(2) In order for a claim under subsection (1)~~((e))~~ (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)~~((e))~~ (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 web site 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. 13.** RCW 43.31.615 and 2018 c 66 s 3 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), 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 ~~((ten))~~ 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."

Correct the title.

Representative Barkis moved the adoption of amendment (571) to the striking amendment (548):

On page 2, at the beginning of line 11 of the striking amendment, strike "fourteen" and insert "seven"

On page 3, line 11 of the striking amendment, after "Every" strike "fourteen-day" and insert "seven-day"

On page 3, at the beginning of line 13 of the striking amendment, strike ""**FOURTEEN-DAY**" and insert ""**SEVEN-DAY**"

On page 3, at the beginning of line 28 of the striking amendment, strike "fourteen (14)" and insert "seven (7)"

On page 3, line 31 of the striking amendment, after "within" strike "fourteen (14)" and insert "seven (7)"

Representatives Barkis, Klippert and Barkis (again) spoke in favor of the adoption of the amendment to the striking amendment.

Representative Morgan spoke against the adoption of the amendment to the striking amendment.

### MOTION

On motion of Representative Riccelli, Representative Hansen was excused.

An electronic roll call was requested.

### ROLL CALL

The Clerk called the roll on the adoption of amendment (571) and the amendment was not adopted by the following vote: Yeas, 46; Nays, 51; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Caldier, Chambers, Chandler, Chapman, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Klippert, Kraft, Kretz, Leavitt, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Paul, Pettigrew, Reeves, Rude, Schmick, Shea, Springer, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Voting nay: Representatives Appleton, Bergquist, Blake, Boehnke, Callan, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Jinkins, Kilduff, Kirby, Kloba, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pollet, Ramos, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Excused: Representative Hansen.

Amendment (571) was not adopted.

Representative Vick moved the adoption of amendment (655) ) to the striking amendment (548):

On page 2, line 12 of the striking amendment, after "RCW" insert "in which the landlord holds more than five dwelling units out as available for rent"

On page 2, line 15 of the striking amendment, after "RCW" insert "in which the landlord holds more than five dwelling units out as available for rent"

On page 2, line 32 of the striking amendment, after "RCW" insert "in which the landlord holds more than five dwelling units out as available for rent"

On page 4, at the beginning of line 32 of the striking amendment, strike "As used in this chapter" and insert "~~((As used in this chapter))~~The following definitions apply only to tenancies in which the landlord holds more than five dwelling units out as available for rent"

On page 9, after line 19 of the striking amendment, insert the following:

"NEW SECTION. Sec. 6. A new section is added to chapter 59.18 RCW to read as follows:

The following definitions apply only to tenancies in which the landlord holds five or fewer dwelling units out as available for rent:

(1) "Certificate of inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of RCW 9A.72.085 by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under RCW 59.18.060 that endangers or impairs the health or safety of a tenant, including (a) structural members that are of insufficient size or strength to carry imposed loads with safety, (b) exposure of the occupants to the weather, (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (d) not providing facilities adequate to supply heat and water and hot water as reasonably required by the tenant, (e) providing heating or ventilation systems that are not functional or are hazardous, (f) defective, hazardous, or missing electrical wiring or electrical service, (g) defective or hazardous exits that increase the risk of injury to occupants, and (h) conditions that increase the risk of fire.

(2) "Commercially reasonable manner," with respect to a sale of a deceased tenant's personal property, means a sale where every aspect of the sale, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a landlord may sell the tenant's property by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) "Comprehensive reusable tenant screening report" means a tenant screening report prepared by a consumer reporting agency at the direction of and paid for by the prospective tenant and made available directly to a prospective landlord at no charge, which contains all of the following: (a) A consumer credit report prepared by a consumer reporting agency within the past thirty days; (b) the prospective tenant's criminal history; (c) the prospective tenant's eviction history; (d) an employment verification; and (e) the prospective tenant's address and rental history.

(4) "Criminal history" means a report containing or summarizing (a) the prospective tenant's criminal convictions and pending cases, the final disposition of which antedates the report by no more than seven years, and (b) the results of a sex offender registry and United States department of the treasury's office of foreign assets control search, all based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(5) "Designated person" means a person designated by the tenant under RCW 59.18.590.

(6) "Distressed home" has the same meaning as in RCW 61.34.020.

(7) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(8) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(9) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes.

(10) "Eviction history" means a report containing or summarizing the contents of any records of unlawful detainer actions concerning the prospective tenant that are reportable in accordance with state law, are lawful for landlords to consider, and are obtained after a search based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(11) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(12) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

(13) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed property conveyance.

(14) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

(15) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(16) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(17) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(18) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(19) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(20) "Prospective landlord" means a landlord or a person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(21) "Prospective tenant" means a tenant or a person who has applied for residential housing that is governed under this chapter.

(22) "Qualified inspector" means a United States department of housing and urban development certified inspector; a Washington state licensed home inspector; an American society of home inspectors certified inspector; a private inspector certified by the national association of housing and redevelopment officials, the American association of code enforcement, or other comparable professional association as approved by the local municipality; a municipal code enforcement officer; a Washington licensed structural engineer; or a Washington licensed architect.

(23) "Reasonable attorneys' fees," where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

(24) "Reasonable manner," with respect to disposing of a deceased tenant's personal property, means to dispose of the property by donation to a not-for-profit charitable organization, by removal of the property by a trash hauler or recycler, or by any other method that is reasonable under the circumstances.

(25) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

(26) A "single-family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single-family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

(27) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

(28) "Tenant representative" means:

(a) A personal representative of a deceased tenant's estate if known to the landlord;

(b) If the landlord has no knowledge that a personal representative has been appointed for the deceased tenant's estate, a person claiming to be a successor of the deceased tenant who has provided the landlord with proof of death and an affidavit made by the person that meets the requirements of RCW 11.62.010(2);

(c) In the absence of a personal representative under (a) of this subsection or a person claiming to be a successor under (b) of this subsection, a designated person; or

(d) In the absence of a personal representative under (a) of this subsection, a person claiming to be a successor under (b) of this subsection, or a designated person under (c) of this subsection, any person who provides the landlord with reasonable evidence that he or she is a successor of the deceased tenant as defined in RCW 11.62.005. The landlord has no obligation to identify all of the deceased tenant's successors.

(29) "Tenant screening" means using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.

(30) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service."

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

On page 9, at the beginning of line 22 of the striking amendment, strike "Under this chapter:" and insert "This section applies only to tenancies in which the landlord holds more than five dwelling units out as available for rent:"

On page 10, after line 2 of the striking amendment, insert the following:

"The following provisions apply only to tenancies in which the landlord holds more than five dwelling units out as available for rent:"

On page 15, after line 16, insert the following:

**"NEW SECTION. Sec. 7.** A new section is added to chapter 59.18 RCW to read as follows:

The following provisions apply only to tenancies in which the landlord holds five or fewer dwelling units out as available for rent:

If upon the trial the verdict of the jury or, if the case be tried without a jury, the finding of the court be in favor of the plaintiff and against the defendant, judgment shall be entered for the restitution of the premises; and if the proceeding be 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 be tried without a jury, shall also assess the damages arising out of the tenancy occasioned to the plaintiff by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved on the trial, and, if the alleged unlawful detainer be after default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the defendant guilty of the forcible entry, forcible detainer, or unlawful detainer for the amount of damages thus assessed and for the rent, if any, found due, and the court may award statutory costs and reasonable attorney's fees. When the proceeding is for an unlawful detainer after default in the payment of rent, and the lease or agreement under which the rent is payable has not by its terms expired, execution upon the judgment shall not be issued until the expiration of five days after the entry of the judgment, within which time 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 for the landlord the amount of the judgment and costs, and thereupon the judgment shall be satisfied and the tenant restored to his or her tenancy; but if payment, as herein

provided, be not made within five days the judgment may be enforced for its full amount and for the possession of the premises. In all other cases the judgment may be enforced immediately. If writ of restitution shall have been executed prior to judgment no further writ or execution for the premises shall be required. 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."

Renumber the remaining sections consecutively and correct internal references accordingly.

On page 17, after line 3 of the striking amendment, insert:

"(3) This section applies only to tenancies in which the landlord holds more than five dwelling units out as available for rent.

**NEW SECTION. Sec. 9.** A new section is added to chapter 59.18 RCW to read as follows:

(1) The sheriff shall, upon receiving the writ of restitution, forthwith serve a copy thereof upon the defendant, his or her agent, or attorney, or a person in possession of the premises, and shall not execute the same for three days thereafter, and the defendant, or person in possession of the premises within three days after the service of the writ of restitution may execute to the plaintiff a bond to be filed with and approved by the clerk of the court in such sum as may be fixed by the judge, with sufficient surety to be approved by the clerk of the court, conditioned that they will pay to the plaintiff such sum as the plaintiff may recover for the use and occupation of the premises, or any rent found due, together with all damages the plaintiff may sustain by reason of the defendant occupying or keeping possession of the premises, together with all damages which the court theretofore has awarded to the plaintiff as provided in this chapter, and also all the costs of the action. If the writ of restitution was issued after alternative service provided for in RCW 59.18.055, the court shall determine the amount of the bond after considering the rent claimed and any other factors the court deems relevant. The plaintiff, his or her agent or attorneys, shall have notice of the time and place where the court or judge thereof shall fix the amount of the defendant's bond, and shall have notice and a reasonable opportunity to examine into the qualification and sufficiency of the sureties upon the bond before the bond shall be approved by the clerk. After the issuance of a writ of restitution, acceptance of a payment by the landlord or plaintiff that only partially satisfies the judgment will not invalidate the writ unless pursuant to a written agreement executed by both parties. The eviction will not be postponed or stopped unless a copy of that written agreement is provided to the sheriff. It is the responsibility of the tenant or defendant to ensure a copy of the agreement is provided to the sheriff. Upon receipt of the agreement the sheriff will cease action unless ordered to do otherwise by the court. The writ of restitution and the notice that accompanies the writ of restitution required under RCW 59.18.312 shall conspicuously state in bold face type, all capitals, not less than twelve points information about partial payments as set forth in subsection (2) of this section. If the writ of restitution has been based upon a finding by the court that the tenant, subtenant, sublessee, or a person residing at the rental premises has engaged in drug-related activity or has allowed

any other person to engage in drug-related activity at those premises with his or her knowledge or approval, neither the tenant, the defendant, nor a person in possession of the premises shall be entitled to post a bond in order to retain possession of the premises. The writ may be served by the sheriff, in the event he or she shall be unable to find the defendant, an agent or attorney, or a person in possession of the premises, by affixing a copy of the writ in a conspicuous place upon the premises: PROVIDED, That the sheriff shall not require any bond for the service or execution of the writ. The sheriff shall be immune from all civil liability for serving and enforcing writs of restitution unless the sheriff is grossly negligent in carrying out his or her duty.

(2) The notice accompanying a writ of restitution required under RCW 59.18.312 shall be substantially similar to the following:

**IMPORTANT NOTICE - PARTIAL PAYMENTS  
YOUR LANDLORD'S ACCEPTANCE OF A  
PARTIAL PAYMENT FROM YOU AFTER SERVICE  
OF THIS WRIT OF RESTITUTION WILL NOT  
AUTOMATICALLY POSTPONE OR STOP YOUR  
EVICTION. IF YOU HAVE A WRITTEN  
AGREEMENT WITH YOUR LANDLORD THAT THE  
EVICTION WILL BE POSTPONED OR STOPPED, IT  
IS YOUR RESPONSIBILITY TO PROVIDE A COPY  
OF THE AGREEMENT TO THE SHERIFF. THE  
SHERIFF WILL NOT CEASE ACTION UNLESS YOU  
PROVIDE A COPY OF THE AGREEMENT. AT THE  
DIRECTION OF THE COURT THE SHERIFF MAY  
TAKE FURTHER ACTION.**

(3) This section applies only to tenancies in which the landlord holds five or fewer dwelling units out as available for rent."

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

On page 20, after line 31 of the striking amendment, insert the following:

"(4) This section applies only to tenancies in which the landlord holds more than five dwelling units out as available for rent.

NEW SECTION. Sec. 10. A new section is added to chapter 59.18 RCW 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.  
  
vs.  EVICTION  
 SUMMONS  
 (Residential)  
Defendant.

THIS IS NOTICE OF A LAWSUIT TO EVICT YOU.  
PLEASE READ IT CAREFULLY.  
THE DEADLINE FOR YOUR WRITTEN  
RESPONSE IS: 5:00 p.m., on . . . . .  
TO: . . . . . (Name)  
. . . . . (Address)

This is notice of a lawsuit to evict you from the property which you are renting. Your landlord is asking the court to terminate your tenancy, direct the sheriff to remove you and your belongings from the property, enter a money judgment against you for unpaid rent and/or damages for your use of the property, and for court costs and attorneys' fees.

If you want to defend yourself in this lawsuit, you must respond to the eviction complaint in writing on or before the deadline stated above. You must respond in writing even if no case number has been assigned by the court yet.

You can respond to the complaint in writing by delivering a copy of a notice of appearance or answer to your landlord's attorney (or your landlord if there is no attorney) by personal delivery, mailing, or facsimile to the address or facsimile number stated below **TO BE RECEIVED NO LATER THAN THE DEADLINE STATED ABOVE.** Service by facsimile is complete upon successful transmission to the facsimile number, if any, listed in the summons.

The notice of appearance or answer must include the name of this case (plaintiff(s) and defendant(s)), your name, the street address where further legal papers may be sent, your telephone number (if any), and your signature.

If there is a number on the upper right side of the eviction summons and complaint, you must also file your original notice of appearance or answer with the court clerk by the deadline for your written response.

You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon the person signing the summons. Within fourteen days after you serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of this summons and complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

You may also be instructed in a separate order to appear for a court hearing on your eviction. If you receive an order to show cause you must personally appear at the hearing on the date indicated in the order to show cause **IN ADDITION** to delivering and filing your notice of appearance or answer by the deadline stated above.

**IF YOU DO NOT RESPOND TO THE COMPLAINT IN WRITING BY THE DEADLINE STATED ABOVE YOU WILL LOSE BY DEFAULT. YOUR LANDLORD MAY PROCEED WITH THE LAWSUIT, EVEN IF YOU HAVE MOVED OUT OF THE PROPERTY.**

The notice of appearance or answer must be delivered to:

.....  
Name  
.....  
Street Address  
.....  
Telephone Number  
.....  
Facsimile Number (Required if Available)

(4) This section applies only to tenancies in which the landlord holds five or fewer dwelling units out as available for rent."

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

On page 21, after line 24 of the striking amendment, insert the following:

"(5) This section applies only to tenancies in which the landlord holds more than five dwelling units out as available for rent.

**NEW SECTION. Sec. 11.** A new section is added to chapter 59.18 RCW to read as follows:

(1) It shall be unlawful for the landlord to remove or exclude from the premises the tenant thereof except under a court order so authorizing. Any tenant so removed or excluded in violation of this section may recover possession of the property or terminate the rental agreement and, in either case, may recover the actual damages sustained. The prevailing party may recover the costs of suit or arbitration and reasonable attorney's fees.

(2) It shall be unlawful for the tenant to hold over in the premises or exclude the landlord therefrom after the termination of the rental agreement except under a valid court order so authorizing. Any landlord so deprived of possession of premises in violation of this section may recover possession of the property and damages sustained by him or her, and the prevailing party may recover his or her costs of suit or arbitration and reasonable attorney's fees.

(3) This section applies only to tenancies in which the landlord holds five or fewer dwelling units out as available for rent."

On page 22, line 25 of the striking amendment, after "apply" strike "to this chapter and" and insert "((to this chapter and))only to tenancies under this chapter in which the landlord holds more than five dwelling units out as available for rent and to"

On page 22, after line 26 of the striking amendment, insert the following:

**"NEW SECTION. Sec. 12.** A new section is added to chapter 59.18 RCW to read as follows:

(1) When the plaintiff, after the exercise of due diligence, is unable to personally serve the summons on the defendant, the court may authorize the alternative means of service described herein. Upon filing of an affidavit from the person or persons attempting service describing those attempts, and the filing of an affidavit from the plaintiff, plaintiff's agent, or plaintiff's attorney stating the belief that the defendant cannot be found, the court may enter an order authorizing service of the summons as follows:

(a) The summons and complaint shall be posted in a conspicuous place on the premises unlawfully held, not less than nine days from the return date stated in the summons; and

(b) Copies of the summons and complaint shall be deposited in the mail, postage prepaid, by both regular mail and certified mail directed to the defendant's or defendants' last known address not less than nine days from the return date stated in the summons.

When service on the defendant or defendants is accomplished by this alternative procedure, the court's jurisdiction is limited to restoring possession of the premises to the plaintiff and no money judgment may be entered against the defendant or defendants until such time as jurisdiction over the defendant or defendants is obtained.

(2) This section shall only apply to tenancies under this chapter in which the landlord holds five or fewer dwelling units out as available for rent."

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

On page 25, after line 2 of the striking amendment, insert the following:

"(viii) Landlords holding five or fewer dwelling units out as available for rent are eligible to submit claims for reimbursement from the landlord mitigation program account for any unpaid judgment for rent, late fees, attorneys' fees, and costs after a court order."

Representatives Vick, Vick (again), Corry, Walsh, Kraft, Orcutt, Hoff, Caldier, Vick (again), Jenkin, Chambers and Maycumber spoke in favor of the adoption of the amendment to the striking amendment.

Representatives Jenkins, Jenkins (again) and Macri spoke against the adoption of the amendment to the striking amendment.

An electronic roll call was requested.

**ROLL CALL**

The Clerk called the roll on the adoption of amendment (655) and the amendment was not adopted by the following vote: Yeas, 45; Nays, 52; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Morris, Mosbrucker, Orcutt, Pettigrew, Rude, Schmick, Shea, Smith, Springer, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Voting nay: Representatives Appleton, Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Excused: Representative Hansen.

Amendment (655) was not adopted.

Representative Dufault moved the adoption of amendment (593):

On page 3, line 17 of the striking amendment, after "charges" insert "and/or nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys' fees,"

On page 3, after line 23 of the striking amendment, insert the following:

"(4) Other nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys' fees for (list month(s)): \$ (dollar amount)"

On page 8, beginning on line 18 of the striking amendment, after "utilities" strike all material through "include" on line 19 and insert "and"

On page 9, beginning on line 20 of the striking amendment, strike all of section 6 and insert the following:

"**Sec. 6.** RCW 59.18.180 and 2011 c 132 s 10 are each amended to read as follows:

(1) If the tenant fails to comply with any portion of RCW 59.18.130 or 59.18.140, and such noncompliance can (a) substantially affect the health and safety of the tenant or other tenants, or substantially increase the hazards of fire or accident, and (b) be remedied by repair, replacement of a damaged item, or cleaning, the tenant shall comply within thirty days after written notice by the landlord specifying the noncompliance, or, in the case of emergency as promptly as conditions require. If the tenant fails to remedy the noncompliance within that period the landlord may enter the dwelling unit and cause the work to be done and submit an itemized bill of the actual and reasonable cost of repair, to be payable on the next date when periodic rent is due, or on terms mutually agreed to by the landlord and tenant, or immediately if the rental agreement has terminated. The tenant shall have a defense to an unlawful detainer action filed solely on this ground if it is determined at the hearing authorized under the provisions of chapter 59.12 RCW that the tenant is in substantial compliance with the provisions of this section, or if the tenant remedies the noncomplying condition within the thirty day period provided for above or any shorter period determined at the hearing to have been required because of an emergency: PROVIDED, That if the defective condition is remedied after the commencement of an unlawful detainer action, the tenant may be liable to the landlord for statutory costs and reasonable attorneys' fees.

(2) (a) Any other substantial noncompliance by the tenant of RCW 59.18.130 or 59.18.140

constitutes a ground for commencing an action in unlawful detainer in accordance with chapter 59.12 RCW. Except as provided in (b) of this subsection, a landlord may commence such action at any time after written notice pursuant to chapter 59.12 RCW.

(b) A landlord may commence an action in unlawful detainer for nonpayment of rent when the amount of rent that is overdue is equal to or exceeds half of the recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises and after notice pursuant to chapter 59.12 RCW.

(3) If drug-related activity is alleged to be a basis for termination of tenancy under RCW 59.18.130(6), 59.12.030(5), or 59.20.140(5), the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action.

(4) If criminal activity on the premises as described in RCW 59.18.130(8) is alleged to be the basis for termination of the tenancy, and the tenant is arrested as a result of this activity, then the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action against the tenant who was arrested for this activity.

(5) If gang-related activity, as prohibited under RCW 59.18.130(9), is alleged to be the basis for termination of the tenancy, then the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action in accordance with chapter 59.12 RCW, and a landlord may commence such an action at any time after written notice under chapter 59.12 RCW.

(6) A landlord may not be held liable in any cause of action for bringing an unlawful detainer action against a tenant for drug-related activity, for creating an imminent hazard to the physical safety of others, or for engaging in gang-related activity that renders people in at least two or more dwelling units or residences insecure in life or the use of property or that injures or endangers the safety or health of people in at least two or more dwelling units or residences under this section, if the unlawful detainer action was brought in good faith. Nothing in this section shall affect a landlord's liability under RCW 59.18.380 to pay all damages sustained by the tenant should the writ of restitution be wrongfully sued out."

Representatives Dufault, Irwin, Orcutt, Walsh, Harris, Chambers, Schmick, Caldier and Dufault (again) spoke in favor of the adoption of the amendment to the striking amendment.

Representatives Macri, Kilduff, and Jinkins spoke against the adoption of the amendment to the striking amendment.

An electronic roll call was requested.

#### ROLL CALL

The Clerk called the roll on the adoption of amendment (593) and the amendment was not adopted by the following vote: Yeas, 41; Nays, 56; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Voting nay: Representatives Appleton, Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Excused: Representative Hansen.

Amendment (593) was not adopted.

Representative Dufault moved the adoption of amendment (592):

On page 10, line 24 of the striking amendment, after "fees" strike "as provided in RCW 59.18.290" and insert "except if the court makes a finding that the landlord acted in bad faith, in which case the landlord is not entitled to an award of reasonable attorneys' fees"

On page 21, beginning on line 10 of the striking amendment, after "fees" strike all material through "59.18.410(3)" on line 24 and insert "except if the court makes a finding that the landlord acted in bad faith, in which case the landlord is not entitled to an award of reasonable attorneys' fees"

Representative Dufault spoke in favor of the adoption of the amendment to the striking amendment.

Representative Jinkins spoke against the adoption of the amendment to the striking amendment.

Amendment (592) was not adopted.

Representative Dufault moved the adoption of amendment (594):

On page 11, line 25 of the striking amendment, after "agreement." insert "and"

On page 11, beginning on line 26 of the striking amendment, after "(vi)" strike all material through "(vii)" on line 27

Representatives Dufault and Barkis spoke in favor of the adoption of the amendment to the striking amendment.

Representative Frame spoke against the adoption of the amendment to the striking amendment.

Amendment (594) was not adopted.

Representative Barkis moved the adoption of amendment (572):

On page 28, after line 25, insert the following:

"NEW SECTION. Sec. 14. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus capital or omnibus appropriations acts, this act is null and void."

Representatives Barkis, Jinkins and Riccelli spoke in favor of the adoption of the amendment.

An electronic roll call was requested.

### ROLL CALL

The Clerk called the roll on the adoption of amendment (572) and the amendment was adopted by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representative Hansen.

Amendment (572) was adopted.

The striking amendment (548), as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Macri, Riccelli, and Morgan spoke in favor of the passage of the bill.

Representatives Irwin, Gildon, Dufault, Vick, Walsh, Orcutt, and Barkis spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5600, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5600, as amended by

the House, and the bill passed the House by the following vote: Yeas, 51; Nays, 46; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Bergquist, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pollet, Ramos, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Pettigrew, Reeves, Rude, Schmick, Shea, Smith, Springer, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representative Hansen.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5600, as amended by the House, having received the necessary constitutional majority, was declared passed.

The House resumed consideration of ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5497 on second reading.

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5497, by Senate Committee on Ways & Means (originally sponsored by Wellman, Nguyen, Hasegawa, Kuderer, Frockt, Das, Keiser, Saldaña, Mullet, McCoy, Randall, Cleveland, Hunt, Liias, Conway and Darneille)**

**Establishing a statewide policy supporting Washington state's economy and immigrants' role in the workplace.**

With the consent of the house, amendment (635) was withdrawn.

Representative Klippert moved the adoption of amendment (656):

On page 3, beginning on line 26 of the striking amendment, after "a" strike all material through "system" on line 35 and insert "commissioned law enforcement officer in the state of Washington with sworn authority to uphold the law and assigned by the employing police department or sheriff's office to work in schools to ensure school safety. By building relationships with students, school resource officers work alongside school administrators and staff to help students make good choices. School resource officers are encouraged to focus on keeping students out of the criminal justice system when possible and not impose criminal sanctions in matters that are more appropriately handled within the educational system"

Representatives Klippert and Dolan spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (656) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Ortiz-Self, Valdez, Goodman and Hudgins spoke in favor of the passage of the bill.

Representatives Irwin, Klippert, Corry, Dent and Ybarra spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5497, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5497, and the bill passed the House by the following vote: Yeas, 57; Nays, 38; Absent, 0; Excused, 3.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Wilcox, Wylie and Ybarra.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Steele, Sutherland, Van Werven, Vick, Volz, Walsh and Young.

Excused: Representatives Appleton, Hansen and Morris.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5497, as amended by the House, having received the necessary constitutional majority, was declared passed.

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Engrossed Second Substitute Senate Bill No. 5497.

Representative Ybarra, 13th District

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Engrossed Second Substitute Senate Bill No. 5497.

Representative Wilcox, 2nd District

**SUBSTITUTE SENATE BILL NO. 5004, by Senate Committee on Health & Long Term Care (originally sponsored by Cleveland, Rivers, Conway, Fortunato, Frockt, Palumbo, Rolfes, Saldaña and Kuderer)**

**Allowing animal care and control agencies and nonprofit humane societies to provide additional veterinary services to low-income households.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5004.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5004, and the bill passed the House by the following vote: Yeas, 77; Nays, 18; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Caldier, Callan, Chambers, Chapman, Chopp, Cody, Davis, DeBolt, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Vick, Volz, Walen, Wilcox and Wylie.

Voting nay: Representatives Boehnke, Chandler, Corry, Dent, Dufault, Dye, Eslick, Gildon, Jenkin, Klippert, McCaslin, Schmick, Shea, Sutherland, Van Werven, Walsh, Ybarra and Young.

Excused: Representatives Appleton, Hansen and Morris.

SUBSTITUTE SENATE BILL NO. 5004, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5604, by Senate Committee on Ways & Means (originally sponsored by Pedersen, Padden, Conway, Kuderer, Keiser, Salomon, Bailey and Dhingra)**

**Concerning the uniform guardianship, conservatorship, and other protective arrangements act.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Civil Rights & Judiciary was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 79, April 2, 2019).

Representative Jinkins moved the adoption of amendment (654) to the committee striking amendment:

On page 22, line 25 of the striking amendment, after "model" insert "lay guardian,"

On page 22, line 25 of the striking amendment, after "litem" insert ","

Representatives Jinkins and Irwin spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (654) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Jinkins, Irwin and Harris spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5604, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5604, and the bill passed the House by the following vote: Yeas, 85; Nays, 10; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Caldier, Callan, Chambers, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie and Ybarra.

Voting nay: Representatives Boehnke, Chandler, Jenkin, Kraft, Kretz, Maycumber, McCaslin, Shea, Stokesbary and Young.

Excused: Representatives Appleton, Hansen and Morris.

SECOND SUBSTITUTE SENATE BILL NO. 5604, as amended by the House, having received the necessary constitutional majority, was declared passed.

#### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Second Substitute Senate Bill No. 5604.

Representative Klippert, 8th District

**ENGROSSED SENATE BILL NO. 5274, by Senators Hasegawa, Hunt, Wilson, C., Billig, Nguyen, Conway, Das, Frockt, Keiser, Randall and Saldaña**

**Concerning dental coverage for Pacific islanders residing in Washington.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was not adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

With the failure to adopt the committee striking amendment by the Committee on Appropriations, amendment (574) was ruled out of order.

With the consent of the house, amendment (649) was withdrawn.

Representative Riccelli moved the adoption of the striking amendment (653):

Strike everything after the enacting clause and insert the following:

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

(a) The legislature recognized the important relationship between the citizens of the compact of free association (COFA) nations and the United States by enacting the COFA premium assistance program in 2018 to pay for premiums and out-of-pocket expenses for COFA citizens who purchase qualifying health coverage;

(b) While other Washingtonians who are income-eligible for medicaid receive dental coverage through apple health, individuals enrolled in the COFA premium assistance program do not currently have affordable access to dental coverage;

(c) Affordable access to dental care, including preventative care, is critical to treating the whole body health of an individual and preventing systemic health problems such as stroke, heart attack, and diabetes. Poor oral health is also associated with a wide range of hardships including difficulty obtaining employment, work absences due to pain, and decreased productivity; and

(d) Research shows that people living in households in which the primary language spoken at home is not English, seniors, people with disabilities, and people who

identify as Native Hawaiian or Pacific Islanders are disproportionately impacted by oral health inequities.

(2) The legislature therefore intends to increase access to dental services for COFA islanders residing in Washington by establishing a dental services program that provides dental coverage to income-eligible members of this population.

**Sec. 2.** RCW 43.71A.020 and 2018 c 161 s 3 are each amended to read as follows:

(1) An individual is eligible for the COFA premium assistance program if the individual:

(a) Is a resident;

(b) Is a COFA citizen;

(c) Enrolls in a silver qualified health plan;

(d) Has income that is less than one hundred thirty-three percent of the federal poverty level; and

(e) Is ineligible for a federal or state medical assistance program administered by the authority under chapter 74.09 RCW.

(2) Subject to the availability of amounts appropriated for this specific purpose, the authority shall pay the premium cost for a qualified health plan and the out-of-pocket costs for the coverage provided by the plan for an individual who is eligible for the premium assistance program under subsection (1) of this section.

(3) The authority may disqualify a participant from the program if the participant:

(a) No longer meets the eligibility criteria in subsection (1) of this section;

(b) Fails, without good cause, to comply with procedural or documentation requirements established by the authority in accordance with subsection (4) of this section;

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

(d) Withdraws the participant's application or requests termination of coverage; or

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

(4) The authority shall establish:

(a) Application, enrollment, and renewal processes for the COFA premium assistance program;

(b) The qualified health plans that are eligible for reimbursement under the program;

(c) Procedural requirements for continued participation in the program, including participant documentation requirements that are necessary for the authority to administer the program; and

(d) Open enrollment periods and special enrollment periods consistent with the enrollment periods for the health ((insurance [health benefit])) benefit exchange(;; and

~~(e) A comprehensive community education and outreach campaign, working with stakeholder and community organizations, to facilitate applications for, and enrollment in, the program. Subject to the availability of amounts appropriated for this specific purpose, the education and outreach program shall provide culturally and linguistically accessible information to facilitate participation in the program, including but not limited to enrollment procedures, benefit utilization, and patient responsibilities.~~

~~(5) The community education and outreach campaign conducted by the authority must begin no later than September 1, 2018).~~

~~((6))~~ (5) The first open enrollment period for the COFA premium assistance program must begin no later than November 1, 2018.

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

The authority, in consultation with the Washington state commission on Asian Pacific American affairs, shall establish an annual comprehensive community education and outreach program to COFA citizens, including contracting with a Washington organization that has multilingual language capacity, and working with stakeholder and community organizations, to facilitate applications for, and enrollment in, the COFA premium assistance and dental care programs. Subject to the availability of amounts appropriated for this specific purpose, the education and outreach program shall provide culturally and linguistically accessible information to facilitate participation in the programs, including but not limited to enrollment procedures, benefit utilization, and patient responsibilities.

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

(1) The COFA islander dental care program is established to provide dental services to COFA citizens who meet the requirements in subsection (2) of this section. The authority shall begin administering this program by January 1, 2020.

(2) Subject to the availability of amounts appropriated for this specific purpose, the program shall provide dental services as covered under RCW 74.09.520 to an individual who is eligible for the COFA premium assistance program under RCW 43.71A.020, or:

(a) Is a resident;

(b) Is a COFA citizen;

(c) Has income that is less than one hundred thirty-three percent of the federal poverty level; and

(d) Is enrolled in medicare coverage under Title XVIII of the social security act (42 U.S.C. Sec. 1395 et seq., as amended).

(3) The authority may disqualify a participant from the program if the participant:

(a) No longer meets the eligibility criteria in subsection (2) of this section;

(b) Fails, without good cause, to comply with procedural or documentation requirements established by the authority in accordance with subsection (4) of this section;

(c) Fails, without good cause, to notify the authority of a change of address in a timely manner; or

(d) Withdraws the participant's application or requests termination of coverage.

(4) The authority shall establish:

(a) Application, enrollment, and renewal processes for the COFA islander dental care program; and

(b) Procedural requirements for continued participation in the program, including participant documentation requirements that are necessary for the authority to administer the program.

(5) For the purposes of this section, "COFA citizen" has the same meaning as in RCW 43.71A.010.

**Sec. 5.** RCW 43.71A.800 and 2018 c 161 s 4 are each amended to read as follows:

The authority shall appoint an advisory committee that includes, but is not limited to, insurers and representatives of communities of COFA citizens. The committee shall advise the authority in the development, implementation, and operation of the COFA premium assistance program established in this chapter and the COFA islander dental care program established in section 4 of this act. The advisory committee must exist until at least December 31, ((2019)) 2021. ~~((Subject to the availability of amounts appropriated for this specific purpose,))~~ Advisory committee members may be reimbursed for transportation and travel expenses related to serving on the committee, as needed.

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

Correct the title.

Representatives Riccelli and Caldier spoke in favor of the adoption of the striking amendment.

The striking amendment (653) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Riccelli, Harris, Stonier and Riccelli (again) spoke in favor of the passage of the bill.

Representative Caldier and Schmick spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5274, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5274, as amended by the House, and the bill passed the House by the following vote: Yeas, 59; Nays, 36; Absent, 0; Excused, 3.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Graham, Gregerson, Harris, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Wylie and Young.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Hoff, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Santos, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Walsh, Wilcox and Ybarra.

Excused: Representatives Appleton, Hansen and Morris.

ENGROSSED SENATE BILL NO. 5274, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5074, by Senators Kuderer, Pedersen, Hunt, Conway, Nguyen, Saldaña, Palumbo, Wellman and Darneille**

**Enacting the uniform faithful presidential electors act.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

Representatives Walsh and Shea spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5074.

### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5074, and the bill passed the House by the following vote: Yeas, 52; Nays, 43; Absent, 0; Excused, 3.

Voting yea: Representatives Bergquist, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Santos, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Hansen and Morris.

SENATE BILL NO. 5074, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SENATE BILL NO. 5453, by Senators Takko and Short**

**Concerning the administration of irrigation districts.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Local Government was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 80, April 3, 2019).

Representative Kraft moved the adoption of amendment (512) to the committee striking amendment:

On page 2, line 12 of the striking amendment, after "or" insert "if no bid is received on the first call the board may readvertise and make a second call or shall solicit electronic or written quotations from a minimum of three qualified contractors and shall award the contract to the lowest responsible bidder. After an award is made, the quotations shall be open to public inspection and available by electronic request. The district shall attempt to distribute opportunities for projects equitably among contractors willing to perform in the geographic area of the work. The district shall maintain a list of contractors contacted and the contracts awarded during the previous twenty-four months. The district also"

Representatives Kraft and Pollet spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (512) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Pollet and Kraft spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5453, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5453, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Jenkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Hansen and Morris.

ENGROSSED SENATE BILL NO. 5453, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5356, by Senate Committee on Ways & Means (originally sponsored by Wilson, C., Randall, Das, Saldaña, Darneille, Pedersen, Liias, Nguyen, Cleveland, Dhingra and Hunt)**

**Establishing the Washington state LGBTQ commission.**

The bill was read the second time.

With the consent of the house, amendments (553) and (564) were withdrawn.

Representative Rude moved the adoption of amendment (640):

On page 2, line 24, after "(4)" strike "Members" and insert "Two members of the senate, one from each of the two major political parties, appointed by the president of the senate, and two members of the house of representatives, one from each of the two major political parties, appointed by the speaker of the house of representatives, who support the legislative intent of the commission shall serve as advisory members. The legislative advisory members are non-voting members and are not eligible to serve as a chair of the commission. All legislative advisory

members shall serve for a two-year term and the position of any legislative advisory member shall be deemed vacated whenever such member ceases to be a member of the house from which the member was appointed.

(5)(a) Nonlegislative members"

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

On page 2, after line 26, insert the following:

"(b) Legislative members shall be reimbursed for expenses incurred in the performance of their duties in accordance with RCW 44.04.120."

On page 2, line 28, after "business." insert "Legislative advisory members are not included in determining a quorum."

Representatives Rude and Macri spoke in favor of the adoption of the amendment.

Amendment (640) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Macri, Walsh and Rude spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5356, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5356, as amended by the House, and the bill passed the House by the following vote: Yeas, 67; Nays, 28; Absent, 0; Excused, 3.

Voting yea: Representatives Bergquist, Blake, Caldier, Callan, Chapman, Chopp, Cody, Corry, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Graham, Gregerson, Harris, Hudgins, Irwin, Jenkins, Kilduff, Kirby, Kloba, Kretz, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Wilcox and Wylie.

Voting nay: Representatives Barkis, Boehnke, Chambers, Chandler, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Hoff, Jenkin, Klippert, Kraft, MacEwen, McCaslin, Orcutt, Schmick, Shea, Smith, Sutherland, Van Werven, Vick, Walsh, Ybarra and Young.

Excused: Representatives Appleton, Hansen and Morris.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5356, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5918, by Senators Lovelett, Warnick, Van De Wege, Conway, Hasegawa, Hobbs,**

**King, Wilson, C., Randall, Nguyen, Dhingra, Frockt, Hawkins, Billig, Das, Hunt, Darneille, Wagoner and Palumbo**

**Providing whale watching guidelines in the boating safety education program.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5918, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5918, as amended by the House, and the bill passed the House by the following vote: Yeas, 90; Nays, 5; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Jenkin, Kraft, McCaslin, Schmick and Shea.

Excused: Representatives Appleton, Hansen and Morris.

SENATE BILL NO. 5918, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5795, by Senators Zeiger and Saldaña**

**Increasing contractor bonding requirements.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5795.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5795, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Jenkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Hansen and Morris.

SENATE BILL NO. 5795, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5909, by Senator King**

**Concerning the license to manufacture, import, sell, and export liquor.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives MacEwen and Stanford spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5909.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5909, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan,

Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Hansen and Morris.

SENATE BILL NO. 5909, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5800, by Senate Committee on Ways & Means (originally sponsored by Randall, Zeiger, Nguyen, Wilson, C., Saldaña, Carlyle, Keiser, Sheldon, Das, Hasegawa and Kuderer)**

**Concerning homeless college students.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

Representative Van Werven moved the adoption of amendment (650) to the committee striking amendment:

On page 1, line 26 of the striking amendment, after "(3)" insert "The college districts participating in the pilot program shall leverage existing community resources by making available to students in the pilot program information that is available for individuals experiencing homelessness, including through not-for-profit organizations, the local housing authority, and the department of commerce's office of homeless youth.

(4)"

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

On page 3, line 6 of the striking amendment, after "(3)" insert "The four-year institutions of higher education participating in the pilot program shall leverage existing community resources by making available to students in the pilot program information that is available for individuals experiencing homelessness, including through not-for-profit organizations, the local housing authority, and the department of commerce's office of homeless youth.

(4)"

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

Representative Van Werven and Leavitt spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (650) was adopted.

Representative Young moved the adoption of amendment (648) to the committee striking amendment:

On page 2, line 8 of the striking amendment, after "students;" strike "and"

On page 2, line 9 of the striking amendment, after "(d)" insert "Whether or not immunity from liability is necessary to protect community and technical colleges from lawsuits that may arise as a result of providing accommodations for students experiencing homelessness and former foster care students; and

(e)"

On page 3, line 20 of the striking amendment, after "students;" strike "and"

On page 3, line 21 of the striking amendment, after "(d)" insert "Whether or not immunity from liability is necessary to protect four-year institutions of higher education from lawsuits that may arise as a result of providing accommodations for students experiencing homelessness and former foster care students; and

(e)"

Representative Young spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Leavitt spoke against the adoption of the amendment to the committee striking amendment.

Amendment (648) was not adopted.

Representative Van Werven moved the adoption of amendment (651) to the committee striking amendment:

On page 2, line 12 of the striking amendment, after "(4)" insert "A college district participating in the pilot program shall provide student-level data on students experiencing homelessness who are assisted by the pilot program to the department of commerce's homeless management system in accordance with RCW 43.185C.180.

(5)"

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

On page 3, line 24 of the striking amendment, after "(4)" insert "An institution of higher education participating in the pilot program shall provide student-level data on students experiencing homelessness who are assisted by the pilot program to the department of commerce's homeless management system in accordance with RCW 43.185C.180.

(5)"

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

Representative Van Werven spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Leavitt spoke against the adoption of the amendment to the committee striking amendment.

Amendment (651) to the committee striking amendment was not adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Fey, Ortiz-Self and Mead spoke in favor of the passage of the bill.

Representatives Van Werven, Eslick, Boehnke and Harris spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5800, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5800, and the bill passed the House by the following vote: Yeas, 57; Nays, 38; Absent, 0; Excused, 3.

Voting yea: Representatives Bergquist, Blake, Caldier, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hudgins, Jenkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Wylie and Young.

Voting nay: Representatives Barkis, Boehnke, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox and Ybarra.

Excused: Representatives Appleton, Hansen and Morris.

SECOND SUBSTITUTE SENATE BILL NO. 5800, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5432, by Senate Committee on Ways & Means (originally sponsored by Dhingra, Rivers, Cleveland, Darneille, O'Ban, Keiser, Conway, Das and Kuderer)**

**Concerning fully implementing behavioral health integration for January 1, 2020, by removing behavioral health organizations from law; clarifying the roles and responsibilities among the health care authority, department of social and health services, and department of health, and the roles and responsibilities of behavioral health administrative services**

**organizations and medicaid managed care organizations; and making technical corrections related to the behavioral health system.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Health Care & Wellness was adopted. (For Committee amendment, see Journal, Day 78, April 1, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5432, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5432, as amended by the House, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Jenkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Hansen and Morris.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5432, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5063, by Senate Committee on Ways & Means (originally sponsored by Nguyen, Hasegawa, Billig, Carlyle, Cleveland, Conway, Darneille, Frockt, Palumbo, Hunt, Wilson, C., Pedersen, Keiser, Kuderer, Saldaña, Mullet and Takko)**

**Providing prepaid postage for all election ballots.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was before

the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

Representative Caldier moved the adoption of amendment (681) to the committee striking amendment:

On page 3, beginning on line 3 of the striking amendment, strike all of section 4

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

Correct the title.

There being no objection, the House deferred action on. SUBSTITUTE SENATE BILL NO. 5063, and the bill held its place on the second reading calendar.

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5223, by Senate Committee on Ways & Means (originally sponsored by Palumbo, Rivers, Rolfes, King, Carlyle, Mullet, McCoy, Wellman, Das, Nguyen, Randall, Frockt, Salomon, Keiser, Wilson, C., Kuderer, Darnelle, Cleveland, Saldaña, Dhingra, Pedersen, Conway and Van De Wege)**

**Concerning net metering.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Environment & Energy was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 78, April 1, 2019).

Representative Fitzgibbon moved the adoption of amendment (599) to the committee striking amendment:

On page 2, line 5, after "generating" strike "nameplate" and insert "AC"

Representatives Fitzgibbon and Shea spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (599) was adopted.

Representative DeBolt moved the adoption of amendment (636):

On page 2, line 27 of the striking amendment, after "(16)" insert ""Avoided cost" means the incremental cost to a utility of electric energy, electric capacity, or both, that the utility would generate itself or purchase from another source, but for purchases to be made under this chapter for excess kilowatt-hour generation by a net metered system. A utility's avoided costs are the lesser of:

(a) The price, terms, and conditions set forth in the least cost project proposal that meets the criteria specified in the utility's most recent request for proposal for delivering electric capacity, energy, or capacity and energy, or conservation; or

(b) Current projected market prices for power with comparable terms and conditions.

(17)"

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

On page 4, line 18 of the striking amendment, after "1996." insert "Such standard rate or tariff schedule may not exceed the utility's avoided costs for electric energy, electric capacity, or both from a net metering system. To the extent of any conflict between this requirement and the federal public utility regulatory policies act, or the related rules promulgated by the federal energy regulatory commission in 18 C.F.R. Part 292, the federal public utility regulatory policies act and those related rules control."

On page 4, line 21 of the striking amendment, after "customer-generators." insert "Such standard tariff schedule may not exceed the utility's avoided costs for electric energy, electric capacity, or both from a net metering system. To the extent of any conflict between this requirement and the federal public utility regulatory policies act, or the related rules promulgated by the federal energy regulatory commission in 18 C.F.R. Part 292, the federal public utility regulatory policies act and those related rules control."

Representatives DeBolt and Maycumber spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Fitzgibbon spoke against the adoption of the amendment to the committee striking amendment.

An electronic roll call was requested.

**ROLL CALL**

The Clerk called the roll on the adoption of amendment (636) and the amendment was not adopted by the following vote: Yeas, 42; Nays, 53; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Reeves, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Voting nay: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Excused: Representatives Appleton, Hansen and Morris.

Amendment (636) to the committee striking amendment was not adopted.

Representative Shewmake moved the adoption of amendment (598):

On page 7, beginning on line 27 of the striking amendment, after "year" strike all material through "year" on line 28

Representatives Shewmake and Shea spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (598) to the committee striking amendment was adopted.

Representative Shea moved the adoption of amendment (584) to the committee striking amendment:

On page 9, at the beginning of line 7, insert "(1)"

On page 9, at the beginning of line 11, strike "(1)" and insert "~~((1))~~ (a)"

On page 9, at the beginning of line 14, strike "(2)" and insert "~~((2))~~ (b)"

On page 9, at the beginning of line 21, strike "(3)" and insert "(c)"

On page 9, line 24, after "period" insert ".

(2) A light or power business or gas distribution business that serves a total of more than twenty thousand customers and operates within the state may include information regarding rates over the most recent twelve-month period on any customer billing"

Representatives Shea and Fitzgibbon spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (584) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

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

Representative Ybarra spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5223, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5223, and the

bill passed the House by the following vote: Yeas, 55; Nays, 40; Absent, 0; Excused, 3.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goehner, Goodman, Gregerson, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmu, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Hansen and Morris.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5223, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5106, by Senate Committee on Financial Institutions, Economic Development & Trade (originally sponsored by Das, Mullet, Frockt, Keiser, Zeiger and Kuderer)**

**Concerning the creation of a work group to study and make recommendations on natural disaster mitigation and resiliency activities.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Reeves, Jenkin, Barkis, Kraft and Klippert spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5106, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5106, as amended by the House, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey,

Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Hansen and Morris.

SUBSTITUTE SENATE BILL NO. 5106, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5332, by Senate Committee on Law & Justice (originally sponsored by Pedersen, Rivers, Wilson, C., Walsh, Randall, Cleveland and Liias)**

**Concerning vital statistics.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Jinkins and Hoff spoke in favor of the passage of the bill.

Representative Harris spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5332.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5332, and the bill passed the House by the following vote: Yeas, 79; Nays, 16; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Caldier, Callan, Chapman, Chopp, Cody, Corry, Davis, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Vick, Volz, Walen, Wilcox and Wylie.

Voting nay: Representatives Boehnke, Chambers, Chandler, DeBolt, Harris, Jenkin, Kraft, MacEwen, McCaslin, Orcutt, Shea, Smith, Van Werven, Walsh, Ybarra and Young.

Excused: Representatives Appleton, Hansen and Morris.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5332, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5000, by Senators Palumbo, Rivers, Cleveland, Conway, Saldaña and Kuderer**

**Concerning online access to health care resources for veterinarians and veterinary technicians.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5000.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5000, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Hansen and Morris.

SENATE BILL NO. 5000, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SENATE BILL NO. 5887, by Senators Short, Keiser and Nguyen**

**Concerning health carrier requirements for prior authorization standards.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Health Care & Wellness was not adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

Representative Cody moved the adoption of the striking amendment (652):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to facilitate patient access to appropriate therapies for newly diagnosed health conditions while recognizing the necessity for health carriers to employ reasonable utilization management techniques.

Sec. 2. RCW 48.43.016 and 2018 c 193 s 1 are each amended to read as follows:

(1) A health carrier or its contracted entity that imposes different prior authorization standards and criteria for a covered service among tiers of contracting providers of the same licensed profession in the same health plan shall inform an enrollee which tier an individual provider or group of providers is in by posting the information on its web site in a manner accessible to both enrollees and providers.

(2)(a) A health carrier or its contracted entity may not require utilization management or review of any kind, including, but not limited to, prior, concurrent, or postservice authorization, for an initial evaluation and management visit and up to six ~~((consecutive))~~ treatment visits with a contracting provider ~~((in a new episode of care of))~~ for each of the following: Chiropractic, physical therapy, occupational therapy, East Asian medicine, massage therapy, or speech and hearing therapies ~~((that meet the standards of medical necessity and))~~. Visits for which prior authorization is prohibited under this section are subject to quantitative treatment limits of the health plan. Notwithstanding RCW 48.43.515(5) this section may not be interpreted to limit the ability of a health plan to require a referral or prescription for the therapies listed in this section.

(b) For visits for which prior authorization is prohibited under this section, a health carrier or its contracted entity may not:

(i) Deny or limit coverage on the basis of medical necessity or appropriateness if the patient's treating or referring provider has determined that the visits are medically necessary; or

(ii) Retroactively deny care or refuse payment for the visits.

(3) A health carrier shall post on its web site and provide upon the request of a covered person or contracting provider any prior authorization standards, criteria, or information the carrier uses for medical necessity decisions.

(4) A health care provider with whom a health carrier consults regarding a decision to deny, limit, or terminate a person's covered health care services must hold a license, certification, or registration, in good standing and must be in the same or related health field as the health care provider being reviewed or of a specialty whose practice entails the same or similar covered health care service.

(5) A health carrier may not require a provider to provide a discount from usual and customary rates for health care services not covered under a health plan, policy, or other agreement, to which the provider is a party.

(6) For purposes of this section:

(a) "New episode of care" means treatment for a new ~~((or recurrent))~~ condition or diagnosis for which the enrollee has not been treated by the provider within the ~~((previous ninety days))~~ plan year and is not currently undergoing any active treatment.

(b) "Contracting provider" does not include providers employed within an integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW."

Correct the title.

Representatives Cody and Schmick spoke in favor of the adoption of the striking amendment.

The striking amendment (652) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Cody, Schmick and Maycumber spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5887, as amended by the House.

## ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5887, as amended by the House, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Jenkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Hansen and Morris.

ENGROSSED SENATE BILL NO. 5887, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SENATE BILL NO. 5429, by Senators Nguyen, Das, Saldaña, Hasegawa, Salomon, Darnelle, Wilson, C., Zeiger, Randall and Kuderer**

**Including referred and diverted youth in establishing community juvenile accountability program guidelines.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Human Services & Early Learning was adopted. (For Committee amendment, see Journal, Day 72, March 26, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Goodman and Eslick spoke in favor of the passage of the bill.

### **MOTION**

On motion of Representative Riccelli, Representative Shewmake was excused.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5429, as amended by the House.

### **ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5429, as amended by the House, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Hansen, Morris and Shewmake.

ENGROSSED SENATE BILL NO. 5429, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5471, by Senate Committee on Labor & Commerce (originally sponsored by King and Keiser)**

**Extending the validity of temporary elevator licenses, expanding membership of the elevator safety advisory committee, allowing homeowners to remove certain conveyances from their residences, and eliminating duplicate paperwork. Revised for 1st Substitute: Extending the validity of temporary elevator licenses, expanding membership of the elevator safety advisory committee, and allowing homeowners to remove certain conveyances from their residences.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Sells and Orcutt spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5471.

### **ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5471, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Hansen, Morris and Shewmake.

SUBSTITUTE SENATE BILL NO. 5471, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5641, by Senators Holy, Pedersen and Padden**

**Adopting the 2018 uniform law commission amendments to the uniform law on notarial acts.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5641.

### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5641, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Hansen, Morris and Shewmake.

SENATE BILL NO. 5641, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5404, by Senators Rolfes, Honeyford, Van De Wege, McCoy, Salomon and Hasegawa**

**Expanding the definition of fish habitat enhancement projects.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Blake and Chandler spoke in favor of the passage of the bill.

### MOTION

On motion of Representative Griffey, Representative Mosbrucker was excused.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5404.

### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5404, and the bill passed the House by the following vote: Yeas, 93; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Hansen, Morris, Mosbrucker and Shewmake.

SENATE BILL NO. 5404, having received the necessary constitutional majority, was declared passed.

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

There being no objection, House Rule 13 (C) was suspended allowing the House to work past 10:00 p.m.

The House resumed consideration of. SUBSTITUTE SENATE BILL NO. 5063 on second reading.

**SUBSTITUTE SENATE BILL NO. 5063, by Senate Committee on Ways & Means (originally sponsored by Nguyen, Hasegawa, Billig, Carlyle, Cleveland, Conway, Darneille, Frockt, Palumbo, Hunt, Wilson, C., Pedersen, Keiser, Kuderer, Saldaña, Mullet and Takko)**

**Providing prepaid postage for all election ballots.**

Representatives Caldier and Gregerson spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (681) to the committee striking amendment, was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Gregerson, Walsh and Kraft spoke in favor of the passage of the bill.

The Speaker stated the question before the House to be the final passage of Substitute Senate Bill No. 5063, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5063, and the bill passed the House by the following vote: Yeas, 83; Nays, 10; Absent, 0; Excused, 5.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wylie, Ybarra and Young.

Voting nay: Representatives Chandler, Dent, Dufault, Dye, Eslick, Jenkin, Kraft, McCaslin, Shea and Wilcox.

Excused: Representatives Appleton, Hansen, Morris, Mosbrucker and Shewmake.

SUBSTITUTE SENATE BILL NO. 5063, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5579, by Senate Committee on Environment, Energy & Technology (originally sponsored by Billig, Carlyle, Pedersen, Palumbo, Hasegawa, Keiser, Rolfes, Saldaña, Van De Wege, Frockt, Conway, Hunt, Liias, Dhingra, Kuderer and Nguyen)**

**Concerning the volatility of crude oil received in the state by rail.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Environment & Energy was not adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

Representative Fitzgibbon moved the adoption of the striking amendment (601):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 90.56 RCW to read as follows:

(1)(a) A facility constructed or permitted after January 1, 2019, may not load or unload crude oil into or from a rail tank car unless the oil has a vapor pressure of less than nine pounds per square inch.

(b) A facility may not load or unload crude oil into or from a rail tank car unless the oil has a vapor pressure of less

than nine pounds per square inch beginning two years after the volume of crude oil transported by rail to the facility for a calendar year as reported under RCW 90.56.565 has increased more than ten percent above the volume reported for calendar year 2018.

(2) The director may impose a penalty of up to twenty-five hundred dollars per day per rail tank car or the equivalent volume of oil for violations of this section. Any penalty recovered pursuant to this section must be credited to the coastal protection fund created in RCW 90.48.390.

(3) This section does not: (a) Prohibit a railroad car carrying crude oil from entering Washington; (b) require a railroad car carrying crude oil to stop before entering Washington; or (c) require a railroad car carrying crude oil to be checked for vapor pressure before entering Washington.

**Sec. 2.** RCW 90.56.565 and 2015 c 274 s 8 are each amended to read as follows:

(1)(a) A facility that receives crude oil from a railroad car must provide advance notice to the department that the facility will receive crude oil from a railroad car, as provided in this section. The advance notice must include the route taken to the facility within the state, if known, and the scheduled time, location, volume, region per bill of lading, type, vapor pressure, and gravity as measured by standards developed by the American petroleum institute, of crude oil received. Each week, a facility that provides advance notice under this section must provide the required information regarding the scheduled arrival of railroad cars carrying crude oil to be received by the facility in the succeeding seven-day period. A facility is not required to provide advance notice when there is no receipt of crude oil from a railroad car scheduled for a seven-day period.

(b) Twice per year, pipelines that transport crude oil must report to the department the following information about the crude oil transported by the pipeline through the state: The volume of crude oil and the state or province of origin of the crude oil. This report must be submitted each year by July 31st for the period January 1st through June 30th and by January 31st for the period July 1st through December 31st.

(2) The department may share information provided by a facility through the advance notice system established in this section with the state emergency management division and any county, city, tribal, port, or local government emergency response agency upon request.

(3) The department must publish information collected under this section on a quarterly basis on the department's internet web site. With respect to the information reported under subsection (1)(a) of this section, the information published by the department must be aggregated on a statewide basis by route through the state, by week, and by type of crude oil. The report may also include other information available to the department including, but not limited to, place of origin, modes of transport, number of railroad cars delivering crude oil, and number and volume of spills during transport and delivery.

(4) To further strengthen rail safety and the transportation of crude oil, the department must provide to the utilities and transportation commission data reported by facilities on the characteristics, volatility, vapor pressure, and volume of crude oil transported by rail, as required under subsection (1)(a) of this section.

(5) A facility providing advance notice under this section is not responsible for meeting advance notice time frame requirements under subsection (1) of this section in the event that the schedule of arrivals of railroad cars carrying crude oil changes during a seven-day period.

~~((5))~~ (6) Consistent with the requirements of chapter 42.56 RCW, the department and any state, local, tribal, or public agency that receives information provided under this section may not disclose any such information to the public or to nongovernmental entities that contains proprietary, commercial, or financial information unless that information is aggregated. The requirement for aggregating information does not apply when information is shared by the department with emergency response agencies as provided in subsection (2) of this section.

~~((6))~~ (7) The department shall adopt rules to implement this section. The advance notice system required in this section must be consistent with the oil transfer reporting system adopted by the department pursuant to RCW 88.46.165.

NEW SECTION. Sec. 3. A new section is added to chapter 81.44 RCW to read as follows:

(1) The commission shall, for the purposes of targeting high-risk inspections, incorporate data received from the department of ecology as required under RCW 90.56.565(4) in the development of its annual work plan and inspection activity.

(2) Nothing in this section is intended to interfere with or prevent the participation of the commission in the federal railroad administration's state rail safety participation program."

Correct the title.

Representative Van Werven moved the adoption of amendment (620) to the striking amendment (601):

On page 1, line 3 of the striking amendment, after "chapter" strike "90.56" and insert "81.44"

On page 1, at the beginning of line 5 of the striking amendment, strike all material through "Washington" on line 24 and insert "The commission, in conjunction with the department of ecology, shall review both the 2015 literature survey of crude oil properties relevant to handling and fire safety in transport prepared by Sandia national laboratories and the 2018 crude oil characterization research study prepared by Sandia national laboratories. Based on its review of the 2015 survey and the 2018 study, the commission, in conjunction with the department of ecology, shall provide the legislature with recommendations to implement safety modifications for the handling of crude oil. The commission, in conjunction with the department of ecology, shall submit its recommendations to the standing committees of the legislature with jurisdiction

over the environment and transportation by November 15, 2019"

On page 1, beginning on line 25 of the striking amendment, after "Sec. 2." strike all material through "88.46.165" on page 3, line 15, and insert "Section 1 of this act expires December 31, 2019"

On page 3, beginning on line 16 of the striking amendment, strike all of section 3

Representative Van Werven spoke in favor of the adoption of the amendment to the striking amendment.

Representative Fitzgibbon spoke against the adoption of the amendment to the striking amendment.

Amendment (620) was not adopted.

Representative Shea moved the adoption of amendment (618) to the striking amendment (601):

On page 1, line 20 of the striking amendment, after "(3)" insert "Before the department of ecology may enforce the prohibition provided in subsection (1) of this section or assess the civil penalty provided in subsection (2) of this section, the department of ecology shall review the environmental impacts of any increased vessel traffic in Washington waters caused by a reduction in the quantity of crude oil delivered by rail in the state. The study must be submitted to the legislature, in accordance with RCW 43.01.036, by September 15, 2020.

(4)"

Representative Shea and Shea (again) spoke in favor of the adoption of the amendment to the striking amendment.

Representative Fitzgibbon spoke against the adoption of the amendment to the striking amendment.

Amendment (618) was not adopted.

Representative Shea moved the adoption of amendment (619):

On page 3, after line 24 of the striking amendment, insert the following:

"NEW SECTION. Sec. 4. If specific funding, in the amount of not less than two million dollars, for the purpose of addressing litigation costs that may result from the implementation and enforcement of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Representative Shea spoke in favor of the adoption of the amendment to the striking amendment.

Representative Fitzgibbon spoke against the adoption of the amendment to the striking amendment.

Amendment (619) to the striking amendment (601) was not adopted.

The striking amendment (601) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Fitzgibbon, Riccelli and Peterson spoke in favor of the passage of the bill.

Representatives Shea, Van Werven, Klippert, Orcutt, Boehnke, Caldier, Dye, Barkis, Vick, Walsh and Smith spoke against the passage of the bill.

The Speaker stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5579, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5579, as amended by the House, and the bill passed the House by the following vote: Yeas, 53; Nays, 40; Absent, 0; Excused, 5.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Orcutt, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Hansen, Morris, Mosbrucker and Shewmake.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5579, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

### MOTION

There being no objection, the Committee on Rules was relieved of the following bills and the bills were placed on the second reading calendar:

HOUSE BILL NO. 2144  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5024  
SENATE BILL NO. 5125  
SUBSTITUTE SENATE BILL NO. 5135  
SENATE BILL NO. 5227  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5272

ENGROSSED SECOND SUBSTITUTE SENATE  
BILL NO. 5276  
SUBSTITUTE SENATE BILL NO. 5278  
ENGROSSED SENATE BILL NO. 5294  
SENATE BILL NO. 5310  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5311  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5323  
SUBSTITUTE SENATE BILL NO. 5370  
ENGROSSED SECOND SUBSTITUTE SENATE  
BILL NO. 5397  
ENGROSSED SECOND SUBSTITUTE SENATE  
BILL NO. 5444  
SUBSTITUTE SENATE BILL NO. 5492  
SENATE BILL NO. 5566  
SECOND SUBSTITUTE SENATE BILL NO. 5577  
SECOND SUBSTITUTE SENATE BILL NO. 5672  
SUBSTITUTE SENATE BILL NO. 5714  
SUBSTITUTE SENATE BILL NO. 5748  
SENATE BILL NO. 5787  
SENATE BILL NO. 5816  
SUBSTITUTE SENATE BILL NO. 5861

There being no objection, the House adjourned until 9:00 a.m., April 15, 2019, the 92nd Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## NINETY SECOND DAY

House Chamber, Olympia, Monday, April 15, 2019

The House was called to order at 9:00 a.m. by the Speaker (Representative Orwall presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Sam Weston and Claire Weinstein. The Speaker (Representative Orwall presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Melody Young, Olympia, Washington.

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

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

## SECOND READING

**SUBSTITUTE SENATE BILL NO. 5861, by Senate Committee on State Government, Tribal Relations & Elections (originally sponsored by Dhingra, Rivers, Hunt, Wellman, Hasegawa, Darneille, Saldaña, Cleveland, Conway, Frockt, Keiser, Kuderer, Liias, Palumbo, Randall, Wilson and C.)**

**Extending respectful workplace code of conduct provisions to all members of the legislative community.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on State Government & Tribal Relations was adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5861, as amended by the House.

## ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5861, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Absent: Representative Appleton.

SUBSTITUTE SENATE BILL NO. 5861, as amended by the House, having received the necessary constitutional majority, was declared passed.

## MOTION

On motion of Representative Stonier, Representative Appleton was excused.

**SENATE BILL NO. 5119, by Senators Palumbo, Keiser, Mullet, Wellman, Hunt, Liias, Conway, Frockt, Saldaña and Van De Wege**

**Including highway workers employed on a transportation project by a contractor in the tuition and fee exemption for children and surviving spouses of highway workers.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

Representative Van Werven spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5119.

## ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5119, and the bill passed the House by the following vote: Yeas, 78; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Caldier, Callan, Chambers, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dye, Entenman, Fey, Fitzgibbon, Frame, Goodman, Graham, Gregerson, Griffey, Hansen, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Wilcox, Wylie and Ybarra.

Voting nay: Representatives Boehnke, Chandler, Dufault, Eslick, Gildon, Goehner, Harris, Hoff, Jenkin, Klippert, Kraft, McCaslin, Rude, Shea, Sutherland, Van Werven, Vick, Walsh and Young.

Excused: Representative Appleton.

SENATE BILL NO. 5119, having received the necessary constitutional majority, was declared passed.

#### **SENATE BILL NO. 5310, by Senator Hunt**

**Correcting agency names and accounts in statutes to reflect the organizational structure, duties, and responsibilities of the office of financial management.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5310.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5310, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith,

Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representative McCaslin.

Excused: Representative Appleton.

SENATE BILL NO. 5310, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5311, by Senate Committee on State Government, Tribal Relations & Elections (originally sponsored by Hunt)**

**Eliminating, revising, or decodifying obsolete or inactive statutory provisions that concern the office of financial management.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Smith and Gregerson spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5311.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5311, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representative Appleton.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5311, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5577, by Senate Committee on Ways & Means (originally**

sponsored by Rolfes, Frockt, Liias, McCoy, Dhingra, Hunt, Keiser, Kuderer, Saldaña, Wilson and C.)

**Concerning the protection of southern resident orca whales from vessels.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Blake and Chandler spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5577, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5577, as amended by the House, and the bill passed the House by the following vote: Yeas, 84; Nays, 13; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie and Ybarra.

Voting nay: Representatives Boehnke, Dent, Dufault, Dye, Eslick, Jenkin, Klippert, Kraft, McCaslin, Schmick, Shea, Sutherland and Young.

Excused: Representative Appleton.

SECOND SUBSTITUTE SENATE BILL NO. 5577, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5638, by Senate Committee on Environment, Energy & Technology (originally sponsored by Brown, Rivers, Becker and Short)**

**Recognizing the validity of distributed ledger technology.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Boehnke and Hudgins spoke in favor of the passage of the bill.

Representative Kraft spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5638.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5638, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representative Kraft.

Excused: Representative Appleton.

SUBSTITUTE SENATE BILL NO. 5638, having received the necessary constitutional majority, was declared passed.

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

The Speaker assumed the chair.

**SIGNED BY THE SPEAKER**

The Speaker signed the following bills:

SENATE BILL NO. 5124  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5131  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5148  
SUBSTITUTE SENATE BILL NO. 5175  
SUBSTITUTE SENATE BILL NO. 5305  
SECOND SUBSTITUTE SENATE BILL NO. 5352

SUBSTITUTE SENATE BILL NO. 5399  
 SUBSTITUTE SENATE BILL NO. 5403  
 ENGROSSED SENATE BILL NO. 5439  
 SUBSTITUTE SENATE BILL NO. 5461  
     SENATE BILL NO. 5490  
 SUBSTITUTE SENATE BILL NO. 5514  
 SUBSTITUTE SENATE BILL NO. 5612  
 SUBSTITUTE SENATE BILL NO. 5621  
     SENATE BILL NO. 5649  
     SENATE BILL NO. 5786  
     SENATE BILL NO. 5831  
 SUBSTITUTE SENATE BILL NO. 5885  
 ENGROSSED SENATE BILL NO. 5958  
 ENGROSSED SUBSTITUTE SENATE BILL NO.  
     5959  
     SUBSTITUTE HOUSE BILL NO. 1012  
         HOUSE BILL NO. 1014  
     SUBSTITUTE HOUSE BILL NO. 1034  
     SUBSTITUTE HOUSE BILL NO. 1049  
 SECOND SUBSTITUTE HOUSE BILL NO. 1059  
     SUBSTITUTE HOUSE BILL NO. 1091  
     SUBSTITUTE HOUSE BILL NO. 1116  
         HOUSE BILL NO. 1137  
     SUBSTITUTE HOUSE BILL NO. 1148  
 SECOND SUBSTITUTE HOUSE BILL NO. 1166  
     HOUSE BILL NO. 1177  
     SUBSTITUTE HOUSE BILL NO. 1198  
     SUBSTITUTE HOUSE BILL NO. 1199  
         HOUSE BILL NO. 1208  
     SUBSTITUTE HOUSE BILL NO. 1210  
     ENGROSSED HOUSE BILL NO. 1219  
     SUBSTITUTE HOUSE BILL NO. 1254  
     SUBSTITUTE HOUSE BILL NO. 1290  
     SUBSTITUTE HOUSE BILL NO. 1298  
     SECOND SUBSTITUTE HOUSE BILL NO. 1303  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1355  
     SUBSTITUTE HOUSE BILL NO. 1356  
     SUBSTITUTE HOUSE BILL NO. 1360  
         HOUSE BILL NO. 1375  
         HOUSE BILL NO. 1382  
     SUBSTITUTE HOUSE BILL NO. 1403  
         HOUSE BILL NO. 1408  
         HOUSE BILL NO. 1426  
         HOUSE BILL NO. 1429  
         HOUSE BILL NO. 1432  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1440  
     SUBSTITUTE HOUSE BILL NO. 1469  
     SUBSTITUTE HOUSE BILL NO. 1485  
         HOUSE BILL NO. 1490  
     SUBSTITUTE HOUSE BILL NO. 1512  
     SUBSTITUTE HOUSE BILL NO. 1532  
         HOUSE BILL NO. 1534  
         HOUSE BILL NO. 1554  
     ENGROSSED HOUSE BILL NO. 1563  
         HOUSE BILL NO. 1568  
     ENGROSSED HOUSE BILL NO. 1584  
     SUBSTITUTE HOUSE BILL NO. 1594  
     SUBSTITUTE HOUSE BILL NO. 1605  
     SUBSTITUTE HOUSE BILL NO. 1621  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1643  
     HOUSE BILL NO. 1647  
     HOUSE BILL NO. 1657

HOUSE BILL NO. 1673  
 HOUSE BILL NO. 1688  
 SECOND SUBSTITUTE HOUSE BILL NO. 1713  
     SUBSTITUTE HOUSE BILL NO. 1742  
     ENGROSSED HOUSE BILL NO. 1801  
     ENGROSSED HOUSE BILL NO. 1846  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1849  
     HOUSE BILL NO. 1866  
     HOUSE BILL NO. 1908  
     HOUSE BILL NO. 1913  
     SUBSTITUTE HOUSE BILL NO. 1930  
     HOUSE BILL NO. 1934  
     HOUSE BILL NO. 1980  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1994  
     SUBSTITUTE HOUSE BILL NO. 2044  
     HOUSE BILL NO. 2058

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

## SECOND READING

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5444, by Senate Committee on Ways & Means (originally sponsored by Dhingra, O'Ban, Darneille, Wagoner, Frockt, Kuderer and Nguyen)**

**Providing timely competency evaluations and restoration services to persons suffering from behavioral health disorders within the framework of the forensic mental health care system consistent with the requirements agreed to in the Trueblood settlement agreement.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

Representative Jinkins moved the adoption of amendment (706) to the committee striking amendment:

On page 6, line 33 of the striking amendment, after "the" strike "remaining time period authorized in the original court order" and insert "time allowed as if the defendant had been initially placed into inpatient competency restoration"

On page 10, line 30 of the striking amendment, after "program" strike "and" and insert ". The department shall"

On page 10, line 32 of the striking amendment, after "days" insert "regardless of any time spent in outpatient competency restoration"

Representatives Jinkins and Irwin spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Klippert spoke against the adoption of the amendment to the committee striking amendment.

Amendment (706) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5444, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5444, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representative Appleton.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5444, as amended by the House, having received the necessary constitutional majority, was declared passed.

### **HOUSE BILL NO. 2144, by Representatives Sullivan, Stokesbary, Bergquist, Irwin, Robinson and Ormsby**

#### **Concerning funding of law enforcement officers' and firefighters' plan 2 benefit improvements.**

The bill was read the second time.

Representative Volz moved the adoption of amendment (702):

On page 2, after line 25, insert the following:

"(2) The board must consider and make a recommendation to the legislature by December 1, 2019, regarding the transfer of funds from the law enforcement

officers' and firefighters' plan 2 retirement fund to the local law enforcement officers' and firefighters' retirement system benefits improvement account. When considering transfer of funds the board must, at a minimum, consider the following:

(a) The 2018 law enforcement officers' and firefighters' retirement board plan 2 actuarial valuation report;

(b) Information from the state actuary on appropriate funding ratio corridors that demonstrates that the board recommendation is actuarially sound; and

(c) Information from the society of actuaries that analyzes appropriate risk measures of law enforcement officer and firefighter pension plans in relation to the industry they represent."

Renumber the remaining subsections consecutively and correct any references accordingly.

On page 2, line 26, after "July 1," strike "2019" and insert "2020"

Representatives Volz and Klippert spoke in favor of the adoption of the amendment.

Representative Sullivan spoke against the adoption of the amendment.

Amendment (702) was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Sullivan, Stokesbary and Maycumber spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 2144.

### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2144, and the bill passed the House by the following vote: Yeas, 92; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Harris, Klippert, Kraft, Kretz and Walsh.

Excused: Representative Appleton.

HOUSE BILL NO. 2144, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5640, by Senators Holy, Pedersen, Wellman, Billig, Padden, Becker, Warnick, Short, Hasegawa, Walsh, Bailey, Wilson, C. and Kuderer**

**Concerning youth courts.**

The bill was read the second time.

Representative Volz moved the adoption of amendment (498):

On page 1, at the beginning of line 21, strike "to" and insert "through"

On page 2, line 7, after "twelve" strike "to" and insert "through"

On page 2, line 18, after "RCW 9.91.025;" insert "and"

On page 2, at the beginning of line 19, strike all material through "(c)" on line 22 and insert "(((c) May not have any convictions for a violation of any provision of Title 46 RCW or for unlawful transit conduct under RCW 9.91.025; and

—————(d)) (b)"

On page 6, line 12, after "twelve" strike "to" and insert "through"

Representatives Volz and Thai spoke in favor of the adoption of the amendment.

Amendment (498) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5640, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5640, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson,

Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representative Appleton.

SENATE BILL NO. 5640, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5883, by Senate Committee on Transportation (originally sponsored by King, Hobbs, Takko, Wellman, Rivers and Keiser)**

**Authorizing vehicles or combinations of vehicles carrying farm products to exceed total gross weight limits by two thousand pounds. Revised for 1st Substitute: Authorizing vehicles or combinations of vehicles carrying farm products to exceed total gross weight limits.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Transportation was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5883, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5883, as amended by the House, and the bill passed the House by the following vote: Yeas, 94; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Fitzgibbon, Kloba and Schmick.

Excused: Representative Appleton.

SUBSTITUTE SENATE BILL NO. 5883, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5714, by Senate Committee on Law & Justice (originally sponsored by Dhingra, Padden, Salomon, Kuderer, Billig, Darneille, Das and Hasegawa)**

**Concerning the reliability of evidence in criminal proceedings.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Public Safety was not adopted. (For Committee amendment, see Journal, Day 78, April 1, 2019).

Representative Pellicciotti moved the adoption of the striking amendment (693):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** INTENT. The legislature recognizes that prosecuting attorneys, law enforcement, and society at large strive for a criminal justice system that minimizes the risk actually innocent people will be convicted. The legislature further recognizes that mistaken identification by witnesses to crime and false testimony by informants who are given benefits in exchange for their testimony have contributed to the conviction of the innocent in Washington state. Through the development of best practices related to the collection of eyewitness evidence and the use of informant witnesses, and the adoption of model guidelines to implement those practices, the legislature aims to improve the quality of such evidence and reduce the risk of wrongful conviction related to these contributing factors.

NEW SECTION. **Sec. 2.** EYEWITNESS EVIDENCE WORK GROUP. (1) The Washington association of sheriffs and police chiefs shall administer a work group for the purpose of maximizing the reliability of eyewitness evidence collected during criminal investigations.

(2) The president of the senate and the speaker of the house of representatives shall jointly appoint the members of the work group to include the following:

(a) One member representing the senate;

(b) One member representing the house of representatives;

(c) The chief of the Washington state patrol or the chief's designee;

(d) One member representing the criminal justice training commission with expertise in developing law enforcement training curricula;

(e) The executive director of the Washington association of sheriffs and police chiefs or the executive director's designee;

(f) Two members representing the Washington association of prosecuting attorneys, each from a diverse geographical location;

(g) One member representing the Washington defender association;

(h) One member representing the Washington association of criminal defense lawyers;

(i) One member representing the Washington innocence project; and

(j) One member from the scientific community with expertise in eyewitness memory.

(3) The duties of the work group include, but are not limited to:

(a) Developing model guidelines for the collection of eyewitness evidence consistent with the model policies adopted in 2015 by the Washington association of sheriffs and police chiefs and the Washington association of prosecuting attorneys. The model guidelines must also: Be based on credible field, academic, or laboratory research on eyewitness memory; be designed to reduce erroneous eyewitness identifications and enhance the reliability and objectivity of eyewitness identifications; and include standards for blind administration of the identification procedure, filler selection, instructions to the witness, and documenting a statement of witness confidence immediately following any positive identification;

(b) Designing law enforcement training for the collection and documentation of eyewitness evidence based on the model guidelines developed pursuant to this subsection; and

(c) In consultation with the University of Washington Tacoma and the criminal justice training commission, designing a pilot project for implementing and evaluating the effectiveness of the training curriculum developed pursuant to this subsection.

(4) The work group shall hold its initial meeting no later than July 31, 2019, and complete the model guidelines, training curriculum, and proposal for the pilot project no later than November 30, 2019.

(5) The work group shall prepare and submit to the appropriate committees of the legislature a report, including a summary of its activities, the model guidelines, training curriculum, proposal for the pilot project, and other related recommendations by November 30, 2019.

(6) The work group shall function within existing resources.

(7) This section expires December 31, 2022.

**NEW SECTION. Sec. 3. INFORMANT RELIABILITY WORK GROUP.** (1) For the purposes of this section, "informant" means any person who: (a) Was previously unconnected with the criminal case as either a witness or a codefendant; (b) claims to have relevant information about the crime; (c) is currently charged with a crime or is facing potential criminal charges or is in custody; and (d) at any time receives consideration in exchange for providing the information or testimony.

(2) The University of Washington school of law, in consultation with the Washington association of prosecuting attorneys and Washington innocence project, shall administer a work group on the reliability of informant testimony. The primary purposes of the work group are to adopt model guidelines and develop a training curriculum based on those guidelines to assist prosecuting attorneys in evaluating the reliability of information or testimony offered by an informant before it is used in connection with any criminal proceeding and in determining adequate preliminary disclosures to the defense.

(3) The president of the senate and the speaker of the house of representatives shall jointly appoint the members of the work group to include the following:

- (a) One member representing the senate;
- (b) One member representing the house of representatives;
- (c) The executive director of the Washington association of sheriffs and police chiefs or the executive director's designee;
- (d) Two members representing the Washington association of prosecuting attorneys, each from a diverse geographical location;
- (e) One member representing the Washington defender association;
- (f) One member representing the Washington association of criminal defense lawyers;
- (g) One member representing the Washington innocence project; and
- (h) One member of the board of the western states information network.

(4) The duties of the work group include, but are not limited to:

- (a) Developing model guidelines for prosecutors to determine whether to use an informant in a criminal proceeding;
- (b) Designing and implementing statewide training for prosecutors and defense counsel based on the model guidelines; and
- (c) Collecting local protocols required under section 4 of this act.

(5) The work group shall hold its initial meeting no later than July 31, 2019, and complete the model guidelines and training curriculum no later than November 30, 2019.

(6) The work group shall coordinate with the Washington association of prosecuting attorneys, Washington defender association, and Washington association of criminal defense lawyers to make specialized training based on the training curriculum developed pursuant to subsection (4) of this section available to prosecuting attorneys and criminal defense attorneys.

(7) The work group shall prepare and submit to the appropriate committees of the legislature a report including the model guidelines, the training curriculum, and a summary of its work by November 30, 2019.

(8) The work group shall function within existing resources.

(9) This section expires December 31, 2022.

**NEW SECTION. Sec. 4. LOCAL PROTOCOLS FOR THE USE OF INFORMANTS.** (1) No later than December 31, 2020, each county prosecuting attorney shall:

(a) Adopt and implement a written local protocol for the use of informants consistent with the model guidelines developed pursuant to section 3 of this act, and submit a copy of the local protocol to the work group established in section 3 of this act; and

(b) Establish and maintain a central record of informants used in the course of criminal proceedings as well as formal offers to give testimony or other information. This record is the confidential work product of the office of the prosecuting attorney.

(2) If a county prosecutor adopts the model guidelines developed by the work group established under section 3 of this act, it has met the requirements of subsection (1)(a) of this section.

(3) If a county prosecutor chooses to adopt its own local protocol, the protocol must articulate adequate preliminary disclosures to the defense and include a list of procedures for prosecuting attorneys to follow when evaluating the reliability of an informant that includes:

(a) The complete criminal history of the informant including pending criminal charges;

(b) Any consideration provided in exchange for the information or testimony;

(c) Whether the informant's information or testimony was modified or recanted;

(d) The number of times the informant has previously provided information or testimony in exchange for consideration; and

(e) The kind and quality of other evidence corroborating the informant's information or testimony.

(4) Nothing in this section diminishes federal constitutional disclosure obligations to criminal defendants

or any related obligations under Washington case law, statutes, or court rules.

(5) For the purposes of this section, "informant" means any person who: (a) Was previously unconnected with the criminal case as either a witness or a codefendant; (b) claims to have relevant information about the crime; (c) is currently charged with a crime or is facing potential criminal charges or is in custody; and (d) at any time receives consideration in exchange for providing the information or testimony.

**NEW SECTION. Sec. 5. JURY INSTRUCTION FOR INFORMANT TESTIMONY.** (1) If the testimony of an informant is admitted in a criminal proceeding, the prosecuting attorney or defendant may request a jury instruction on exercising caution in evaluating the credibility of an informant. Except when otherwise determined by the court, the instruction should be substantially similar to the following form:

"The testimony of an informant, given on behalf of the [State] [City] [County] in exchange for a legal advantage or other benefit, should be subjected to careful examination in the light of other evidence in the case, and should be acted upon with great caution. You, the jury, must weigh the credibility of his or her testimony. You should not find the defendant guilty upon such testimony alone unless, after carefully considering the testimony, you are satisfied beyond a reasonable doubt of its truth."

(2) For the purposes of this section, "informant" has the same meaning as in section 4 of this act.

**NEW SECTION. Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 10 RCW."

Correct the title.

Representatives Pellicciotti and Klippert spoke in favor of the adoption of the striking amendment.

The striking amendment (693) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Pellicciotti, Klippert and Goodman spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5714, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5714, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representative Appleton.

SUBSTITUTE SENATE BILL NO. 5714, as amended by the House, having received the necessary constitutional majority, was declared passed.

The Speaker assumed the chair.

**SUBSTITUTE SENATE BILL NO. 5163, by Senate Committee on Law & Justice (originally sponsored by Hasegawa, Pedersen, Kuderer, Darneille, McCoy, Saldaña, Dhingra, Frockt, Wilson, C., Lias, Palumbo and Nguyen)**

**Concerning actions for wrongful injury or death.**

The bill was read the second time.

Representative Stokesbary moved the adoption of amendment (511):

On page 2, at the beginning of line 1, insert "(1)"

On page 2, after line 9, insert the following:

"(2) In an action under RCW 4.20.010, a defendant's liability for damages recovered on behalf of a deceased person's parent or sibling is several only and not joint under RCW 4.22.070(1)(a) or (b) if the parent or sibling is not dependent upon the deceased person for support.

(3)"

On page 2, line 30, after "(3)" insert "A defendant's liability for damages recovered on behalf of a decedent's parent or sibling is several only and not joint under RCW 4.22.070(1)(a) or (b) if the parent or sibling is not dependent upon the decedent for support.

(4)"

Renumber the remaining subsection consecutively and correct internal references accordingly.

On page 3, after line 36, insert the following:

"(4) A defendant's liability for damages recovered on behalf of a decedent's parent or sibling is several only and not joint under RCW 4.22.070(1)(a) or (b) if the parent or sibling is not dependent upon the decedent for support."

On page 4, line 22, after "(3)" insert "In an action under this section for injury or death of an adult child, a

defendant's liability is several only and not joint under RCW 4.22.070(1)(a) or (b) if the parent or legal guardian is not dependent upon the adult child for support.

(4)"

Renumber the remaining subsections consecutively and correct internal references accordingly.

On page 5, after line 9, insert the following:

"Sec. 6. RCW 4.22.070 and 1993 c 496 s 1 are each amended to read as follows:

(1) In all actions involving fault of more than one entity, the trier of fact shall determine the percentage of the total fault which is attributable to every entity which caused the claimant's damages except entities immune from liability to the claimant under Title 51 RCW. The sum of the percentages of the total fault attributed to at-fault entities shall equal one hundred percent. The entities whose fault shall be determined include the claimant or person suffering personal injury or incurring property damage, defendants, third-party defendants, entities released by the claimant, entities with any other individual defense against the claimant, and entities immune from liability to the claimant, but shall not include those entities immune from liability to the claimant under Title 51 RCW. Judgment shall be entered against each defendant except those who have been released by the claimant or are immune from liability to the claimant or have prevailed on any other individual defense against the claimant in an amount which represents that party's proportionate share of the claimant's total damages. The liability of each defendant shall be several only and shall not be joint except in the following circumstances:

(a) A party shall be responsible for the fault of another person or for payment of the proportionate share of another party where both were acting in concert or when a person was acting as an agent or servant of the party, except as otherwise provided in RCW 4.20.020, 4.20.046, 4.20.060, or 4.24.010.

(b) If the trier of fact determines that the claimant or party suffering bodily injury or incurring property damages was not at fault, the defendants against whom judgment is entered shall be jointly and severally liable for the sum of their proportionate shares of the ~~((claimants))~~ claimant's total damages, except as otherwise provided in RCW 4.20.020, 4.20.046, 4.20.060, or 4.24.010.

(2) If a defendant is jointly and severally liable under one of the exceptions listed in subsections (1)(a) or (1)(b) of this section, such defendant's rights to contribution against another jointly and severally liable defendant, and the effect of settlement by either such defendant, shall be determined under RCW 4.22.040, 4.22.050, and 4.22.060.

(3)(a) Nothing in this section affects any cause of action relating to hazardous wastes or substances or solid waste disposal sites.

(b) Nothing in this section shall affect a cause of action arising from the tortious interference with contracts or business relations.

(c) Nothing in this section shall affect any cause of action arising from the manufacture or marketing of a fungible product in a generic form which contains no clearly identifiable shape, color, or marking."

Renumber the remaining section consecutively and correct the title.

Representatives Stokesbary, Irwin and Smith spoke in favor of the adoption of the amendment.

Representatives Jenkins and Goodman spoke against the adoption of the amendment.

An electronic roll call was requested.

## ROLL CALL

The Clerk called the roll on the adoption of amendment (511) and the amendment was not adopted by the following vote: Yeas: 48 Nays: 50 Absent: 0 Excused: 0

Voting yea: Representatives Barkis, Bergquist, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mead, Morris, Mosbrucker, Orcutt, Reeves, Rude, Schmick, Shea, Smith, Springer, Steele, Stokesbary, Sutherland, Thai, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Ybarra, and Young

Voting nay: Representatives Appleton, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jenkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Stanford, Stonier, Sullivan, Tarleton, Tharinger, Valdez, and Wylie

Amendment (511) was not adopted.

Representative Springer moved the adoption of amendment (683):

On page 2, at the beginning of line 1, insert "(1)"

On page 2, after line 9, insert the following:

"(2) In an action under RCW 4.20.010, a defendant's liability for damages recovered on behalf of a deceased person's parent or sibling, who is not dependent upon the deceased person for support, is several only and not joint under RCW 4.22.070(1)(a) or (b) if: (a) the total percentage of fault attributed to the defendant is less than fifty percent; and (b) the defendant's liability is not based on an intentional act or omission.

(3)"

On page 2, line 30, after "(3)" insert "A defendant's liability for damages recovered on behalf of a decedent's parent or sibling, who is not dependent upon the decedent for support, is several only and not joint under RCW 4.22.070(1)(a) or (b) if: (a) the total percentage of fault attributed to the defendant is less than fifty percent; and (b) the defendant's liability is not based on an intentional act or omission.

(4)"

Renumber the remaining subsection consecutively and correct internal references accordingly.

On page 3, after line 36, insert the following:

"(4) A defendant's liability for damages recovered on behalf of a decedent's parent or sibling, who is not dependent upon the decedent for support, is several only and not joint under RCW 4.22.070(1)(a) or (b) if: (a) the total percentage of fault attributed to the defendant is less than fifty percent; and (b) the defendant's liability is not based on an intentional act or omission."

On page 4, line 22, after "(3)" insert "In an action under this section for injury or death of an adult child, if the parent or legal guardian is not dependent upon the adult child for support, a defendant's liability is several only and not joint under RCW 4.22.070(1)(a) or (b) if: (a) the total percentage of fault attributed to the defendant is less than fifty percent; and (b) the defendant's liability is not based on an intentional act or omission."

(4)"

Renumber the remaining subsections consecutively and correct internal references accordingly.

On page 5, after line 9, insert the following:

"Sec. 6. RCW 4.22.070 and 1993 c 496 s 1 are each amended to read as follows:

(1) In all actions involving fault of more than one entity, the trier of fact shall determine the percentage of the total fault which is attributable to every entity which caused the claimant's damages except entities immune from liability to the claimant under Title 51 RCW. The sum of the percentages of the total fault attributed to at-fault entities shall equal one hundred percent. The entities whose fault shall be determined include the claimant or person suffering personal injury or incurring property damage, defendants, third-party defendants, entities released by the claimant, entities with any other individual defense against the claimant, and entities immune from liability to the claimant, but shall not include those entities immune from liability to the claimant under Title 51 RCW. Judgment shall be entered against each defendant except those who have been released by the claimant or are immune from liability to the claimant or have prevailed on any other individual defense against the claimant in an amount which represents that party's proportionate share of the claimant's total damages. The liability of each defendant shall be several only and shall not be joint except in the following circumstances:

(a) A party shall be responsible for the fault of another person or for payment of the proportionate share of another party where both were acting in concert or when a person was acting as an agent or servant of the party, except as otherwise provided in RCW 4.20.020, 4.20.046, 4.20.060, or 4.24.010.

(b) If the trier of fact determines that the claimant or party suffering bodily injury or incurring property damages was not at fault, the defendants against whom judgment is entered shall be jointly and severally liable for the sum of their proportionate shares of the ~~(claimants)~~ claimant's total damages, except as otherwise provided in RCW 4.20.020, 4.20.046, 4.20.060, or 4.24.010.

(2) If a defendant is jointly and severally liable under one of the exceptions listed in subsections (1)(a) or (1)(b) of this section, such defendant's rights to contribution against another jointly and severally liable defendant, and the effect of settlement by either such defendant, shall be determined under RCW 4.22.040, 4.22.050, and 4.22.060.

(3)(a) Nothing in this section affects any cause of action relating to hazardous wastes or substances or solid waste disposal sites.

(b) Nothing in this section shall affect a cause of action arising from the tortious interference with contracts or business relations.

(c) Nothing in this section shall affect any cause of action arising from the manufacture or marketing of a fungible product in a generic form which contains no clearly identifiable shape, color, or marking."

Renumber the remaining section consecutively and correct the title.

Representatives Springer and Stokesbary spoke in favor of the adoption of the amendment.

Representative Jinkins spoke against the adoption of the amendment.

Division was demanded on the adoption of amendment (683) and the demand was sustained. The Speaker divided the House. The result was 48 - YEAS; 50 - NAYS.

Amendment (683) was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Santos and Fitzgibbon spoke in favor of the passage of the bill.

Representatives Klippert and Walsh spoke against the passage of the bill.

The Speaker stated the question before the House to be the final passage of Substitute Senate Bill No. 5163.

## ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5163, and the bill passed the House by the following vote: Yeas, 61; Nays, 37; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Blake, Caldier, Callan, Chambers, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Gildon, Goodman, Graham, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, McCaslin, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shea, Shewmake, Slatter, Stanford, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Volz and Wylie.

Voting nay: Representatives Barkis, Bergquist, Boehnke, Chandler, Chapman, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Goehner, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, Mosbrucker, Orcutt, Rude, Schmick, Smith, Springer, Steele, Stokesbary, Van Werven, Vick, Walen, Walsh, Wilcox, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5163, having received the necessary constitutional majority, was declared passed.

The Speaker called upon Representative Lovick to preside.

**HOUSE BILL NO. 1793, by Representatives Fitzgibbon, Pettigrew, Macri, Valdez, Fey, Cody, Senn, Springer, Pollet and Tarleton**

**Establishing additional uses for automated traffic safety cameras for traffic congestion reduction and increased safety.**

The bill was read the second time.

There being no objection, Substitute House Bill No. 1793 was substituted for House Bill No. 1793 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 1793 was read the second time.

With the consent of the House, amendments (437), (063), (363), (427), (284), (597) and (296) were withdrawn.

Representative Fitzgibbon moved the adoption of the striking amendment (546):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.63.170 and 2015 3rd sp.s. c 44 s 406 are each amended to read as follows:

(1) The use of automated traffic safety cameras for issuance of notices of infraction is subject to the following requirements:

(a) Except for proposed locations used solely for the pilot program purposes permitted under subsection (6) of this section, the appropriate local legislative authority must prepare an analysis of the locations within the jurisdiction where automated traffic safety cameras are proposed to be located: (i) Before enacting an ordinance allowing for the initial use of automated traffic safety cameras; and (ii) before adding additional cameras or relocating any existing camera to a new location within the jurisdiction. Automated traffic safety cameras may be used to detect one or more of the following: Stoplight, railroad crossing, or school speed zone violations; ~~((e))~~ speed violations subject to (c) of this subsection; or violations included in subsection (6) of this section for the duration of the pilot program authorized under subsection (6) of this section. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to enact an authorizing ordinance. Beginning one year after June 7, 2012, cities and

counties using automated traffic safety cameras must post an annual report of the number of traffic accidents that occurred at each location where an automated traffic safety camera is located as well as the number of notices of infraction issued for each camera and any other relevant information about the automated traffic safety cameras that the city or county deems appropriate on the city's or county's web site.

(b) Except as provided in (c) of this subsection and subsection (6) of this section, use of automated traffic safety cameras is restricted to the following locations only: (i) Intersections of two arterials with traffic control signals that have yellow change interval durations in accordance with RCW 47.36.022, which interval durations may not be reduced after placement of the camera; (ii) railroad crossings; and (iii) school speed zones.

(c) Any city west of the Cascade mountains with a population of more than one hundred ninety-five thousand located in a county with a population of fewer than one million five hundred thousand may operate an automated traffic safety camera to detect speed violations subject to the following limitations:

(i) A city may only operate one such automated traffic safety camera within its respective jurisdiction; and

(ii) The use and location of the automated traffic safety camera must have first been authorized by the Washington state legislature as a pilot project for at least one full year.

(d) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle. The primary purpose of camera placement is to take pictures of the vehicle and vehicle license plate when an infraction is occurring. Cities and counties shall consider installing cameras in a manner that minimizes the impact of camera flash on drivers.

(e) A notice of infraction must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under subsection (3)(a) of this section. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.

(f) The registered owner of a vehicle is responsible for an infraction under RCW 46.63.030(1)(d) unless the registered owner overcomes the presumption in RCW

46.63.075, or, in the case of a rental car business, satisfies the conditions under subsection (3) of this section. If appropriate under the circumstances, a renter identified under subsection (3)(a) of this section is responsible for an infraction.

(g) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images prepared under this section are for the exclusive use of law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this section. No photograph, microphotograph, or electronic image may be used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section.

(h) All locations where an automated traffic safety camera is used must be clearly marked at least thirty days prior to activation of the camera by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera. Signs placed in automated traffic safety camera locations after June 7, 2012, must follow the specifications and guidelines under the manual of uniform traffic control devices for streets and highways as adopted by the department of transportation under chapter 47.36 RCW.

(i) If a county or city has established an authorized automated traffic safety camera program under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the equipment and services provided or rendered in support of the system, and may not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.

(2) Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(2). The amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction. However, the amount of the fine issued for a traffic control signal violation detected through the use of an automated traffic safety camera shall not exceed the monetary penalty for a violation of RCW 46.61.050 as provided under RCW 46.63.110, including all applicable statutory assessments.

(3) If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

(4) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(5)(a) For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit as detected by a speed measuring device.

(b) For the purposes of the pilot program authorized under subsection (6) of this section, "automated traffic safety camera" also includes a device used to detect stopping when traffic obstructed violations; stopping at intersection or crosswalk violations; public transportation only lane violations; stopping or traveling in restricted lane violations; and stopping or parking violations at locations restricted for emergency response vehicle entry or exit or the boarding or disembarking of public transportation vehicles, including public ferries.

~~(6) ((During the 2011-2013 and 2013-2015 fiscal biennia, this section does not apply to automated traffic safety cameras for the purposes of section 216(5), chapter 367, Laws of 2011 and section 216(6), chapter 306, Laws of 2013.))~~ (a)(i) A city with a population greater than five hundred thousand may adopt an ordinance creating a pilot program authorizing automated traffic safety cameras to be used to detect one or more of the following violations: Stopping when traffic obstructed violations; stopping at intersection or crosswalk violations; public transportation only lane violations; stopping or traveling in restricted lane violations; and stopping or parking violations at locations restricted for emergency response vehicle entry or exit or the boarding or disembarking of public transportation vehicles, including public ferries. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage.

(ii) Except where specifically exempted from them, all of the rules and restrictions applicable to the use of automated traffic safety cameras in this section apply to the use of automated traffic safety cameras in the pilot program established in this subsection (6).

(iii) As used in this subsection (6), "public transportation vehicle" means any motor vehicle, streetcar, train, trolley vehicle, ferry boat, or any other device, vessel, or vehicle that is owned or operated by a transit authority or an entity providing service on behalf of a transit authority that is used for the purpose of carrying passengers and that operates on established routes. "Transit authority" has the meaning provided in RCW 9.91.025.

(b) Use of automated traffic safety cameras as authorized in this subsection (6) is restricted to the following locations only: Locations authorized in subsection (1)(b) of this section; and midblock on arterials. Additionally, the use of automated traffic safety cameras as authorized in this subsection (6) is further limited to the following:

(i) The portion of state and local roadways in downtown areas of the city used for office and commercial activities, as well as retail shopping and support services, and that may include mixed residential uses;

(ii) The portion of state and local roadways in areas in the city within one-half mile of the boundaries of the area described in (b)(i) of this subsection;

(iii) Portions of roadway systems in the city that travel into and out of (b)(ii) of this subsection that are designated by the Washington state department of transportation as noninterstate freeways for up to three miles; and

(iv) Portions of roadway systems in the city connected to the portions of the noninterstate freeways identified in (b)(iii) of this subsection that are designated by the Washington state department of transportation as arterial roadways for up to one mile from the intersection of the arterial roadway and the noninterstate freeway.

(c) From the effective date of this section until January 1, 2020, a warning notice with no penalty must be issued to the registered owner of the vehicle for a violation generated through the use of an automated traffic safety camera authorized in this subsection (6). Beginning January 1, 2020, a notice of infraction must be issued in a manner consistent with subsections (1)(e) and (3) of this section for an infraction generated through the use of an automated traffic safety camera authorized in this subsection (6).

(d) For violations issued as authorized in this subsection (6), a city with a pilot program shall remit monthly to the state fifty percent of the noninterest money received under this subsection (6) in excess of the cost to install, operate, and maintain the automated traffic safety cameras for use in the pilot program. Money remitted under this subsection to the state treasurer shall be deposited in the highway safety fund created in RCW 46.68.060.

(e) A city that implements a pilot program under this subsection (6) must provide a report to the transportation committees of the legislature by June 30, 2021, on the pilot

program that includes the locations chosen for the automated traffic safety cameras used in the pilot program, the number of traffic infractions issued under the pilot program, safety and on-time performance statistics related to the impact on driver behavior of the use of automated traffic safety cameras in the pilot program, and any recommendations on the use of automated traffic safety cameras to enforce the violations that these cameras were authorized to detect under the pilot program.

NEW SECTION. Sec. 2. Section 1 of this act expires January 1, 2022."

Correct the title.

Representative Pollet moved the adoption of amendment (602) to the striking amendment (546):

On page 2, line 3, after "two" insert "or more"

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

"**Sec. 2.** RCW 46.63.170 and 2015 3rd sp.s. c 44 s 406 are each amended to read as follows:

(1) The use of automated traffic safety cameras for issuance of notices of infraction is subject to the following requirements:

(a) The appropriate local legislative authority must prepare an analysis of the locations within the jurisdiction where automated traffic safety cameras are proposed to be located: (i) Before enacting an ordinance allowing for the initial use of automated traffic safety cameras; and (ii) before adding additional cameras or relocating any existing camera to a new location within the jurisdiction. Automated traffic safety cameras may be used to detect one or more of the following: Stoplight, railroad crossing, or school speed zone violations; or speed violations subject to (c) of this subsection. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to enact an authorizing ordinance. Beginning one year after June 7, 2012, cities and counties using automated traffic safety cameras must post an annual report of the number of traffic accidents that occurred at each location where an automated traffic safety camera is located as well as the number of notices of infraction issued for each camera and any other relevant information about the automated traffic safety cameras that the city or county deems appropriate on the city's or county's web site.

(b) Except as provided in (c) of this subsection, use of automated traffic safety cameras is restricted to the following locations only: (i) Intersections of two or more arterials with traffic control signals that have yellow change interval durations in accordance with RCW 47.36.022, which interval durations may not be reduced after placement

of the camera; (ii) railroad crossings; and (iii) school speed zones.

(c) Any city west of the Cascade mountains with a population of more than one hundred ninety-five thousand located in a county with a population of fewer than one million five hundred thousand may operate an automated traffic safety camera to detect speed violations subject to the following limitations:

(i) A city may only operate one such automated traffic safety camera within its respective jurisdiction; and

(ii) The use and location of the automated traffic safety camera must have first been authorized by the Washington state legislature as a pilot project for at least one full year.

(d) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle. The primary purpose of camera placement is to take pictures of the vehicle and vehicle license plate when an infraction is occurring. Cities and counties shall consider installing cameras in a manner that minimizes the impact of camera flash on drivers.

(e) A notice of infraction must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under subsection (3)(a) of this section. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.

(f) The registered owner of a vehicle is responsible for an infraction under RCW 46.63.030(1)(d) unless the registered owner overcomes the presumption in RCW 46.63.075, or, in the case of a rental car business, satisfies the conditions under subsection (3) of this section. If appropriate under the circumstances, a renter identified under subsection (3)(a) of this section is responsible for an infraction.

(g) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images prepared under this section are for the exclusive use of law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this section. No photograph, microphotograph, or electronic image may be

used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section.

(h) All locations where an automated traffic safety camera is used must be clearly marked at least thirty days prior to activation of the camera by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera. Signs placed in automated traffic safety camera locations after June 7, 2012, must follow the specifications and guidelines under the manual of uniform traffic control devices for streets and highways as adopted by the department of transportation under chapter 47.36 RCW.

(i) If a county or city has established an authorized automated traffic safety camera program under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the equipment and services provided or rendered in support of the system, and may not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.

(2) Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(2). The amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction. However, the amount of the fine issued for a traffic control signal violation detected through the use of an automated traffic safety camera shall not exceed the monetary penalty for a violation of RCW 46.61.050 as provided under RCW 46.63.110, including all applicable statutory assessments.

(3) If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

(4) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(5) For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit as detected by a speed measuring device.

(6) During the 2011-2013 and 2013-2015 fiscal biennia, this section does not apply to automated traffic safety cameras for the purposes of section 216(5), chapter 367, Laws of 2011 and section 216(6), chapter 306, Laws of 2013."

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

On page 7, after line 9, insert the following:

"NEW SECTION. Sec. 3. Section 2 of this act takes effect January 1, 2022."

Correct the title.

Representative Pollet spoke in favor of the adoption of the amendment to the striking amendment.

Amendment (602) to the striking amendment (546) was adopted.

Representative Barkis moved the adoption of amendment (614) to the striking amendment (546):

On page 2, line 26 of the striking amendment, after "(e)" strike "A" and insert "~~((A))~~ Except as provided in subsection (6)(c) of this section, a"

On page 6, line 30 of the striking amendment, after "(6)" insert ", with respect to a second or subsequent violation at a specific location. With respect to the first violation at a specific location, a warning notice with no penalty must be issued to the registered owner of the vehicle"

Representative Barkis spoke in favor of the adoption of the amendment to the striking amendment.

Representative Fitzgibbon spoke against the adoption of the amendment to the striking amendment.

Amendment (614) to the striking amendment (546) was not adopted.

Representative Caldier moved the adoption of amendment (596) to the striking amendment (546):

On page 3, line 10 of the striking amendment, after "law" strike ", all" and insert "~~((, all))~~:"

(i) No"

On page 3, beginning on line 12 of the striking amendment, beginning with "are" strike all material through "public" on line 13 and insert "~~((are for the exclusive use of law enforcement in the discharge of duties under this section and are not open to the public))~~ are open to the public."

(ii) All photographs, microphotographs, or electronic images prepared under this section that are taken by automated traffic safety cameras used to detect stoplight violations, railroad crossing violations, school speed zone violations, or speed violations subject to (c) of this subsection, are for the exclusive use of law enforcement in the discharge of duties under this section"

On page 3, line 16 of the striking amendment, after "image" insert "taken by an automated traffic safety camera used to detect the violations specified in this subsection"

On page 3, after line 18 of the striking amendment, insert the following:

"(iii)(A) All photographs, microphotographs, and electronic images prepared under this section that are taken by automated traffic safety cameras used to detect the violations listed in (g)(iii)(B) of this subsection may be used for the following purposes only: (I) The enforcement of civil infractions by law enforcement as authorized under this section, including court proceedings relating to the enforcement of those civil infractions; and (II) the investigation and prosecution of gross misdemeanor and felony crimes pursuant to a lawfully issued search warrant. A photograph, microphotograph, or electronic image taken by an automated traffic safety camera used to detect the violations specified in (g)(iii)(B) of this subsection may not be used for any other purpose and may not be used in court for any other pending action or proceeding. Except when otherwise directed by a court order, no photograph, microphotograph, or electronic image may be retained longer than necessary to enforce this section.

(B) Photographs, microphotographs, and electronic images may be used and retained as specified in (g)(iii)(A) of this subsection when they are taken by automated traffic safety cameras that are used to detect the following violations: stopping when traffic obstructed violations; stopping at intersection or crosswalk violations; public transportation only lane violations; and stopping, standing, or parking violations at locations restricted for emergency response vehicle entry or exit or the boarding or disembarking of public transportation vehicles, including public ferries."

#### POINT OF ORDER

Representative Stonier requested a scope and object ruling on amendment (596) to ESHB 1793.

#### SPEAKER'S RULING

Mr. Speaker (Representative Lovick presiding): The title of the bill is an act relating to *"establishing additional uses for automated traffic safety cameras for traffic congestion reduction and increased safety."* The bill concerns the use of automated traffic safety cameras for issuance of civil traffic infractions. The amendment expands the use of material from the cameras to include criminal investigation and prosecution.

The Speaker therefore finds and rules that the amendment exceeds the scope and object of the bill.

The point of order is well taken.

Representative Young moved the adoption of amendment (613) to the striking amendment (546):

On page 5, line 28 of the striking amendment, after "(ii)" insert "(A)"

On page 5, after line 32 of the striking amendment, insert the following:

"(B) Regarding any violation detected under this pilot program with respect to trucks parked for the purposes of delivering commercial products between the hours of midnight to 5 a.m. in public transportation only lanes or in lanes restricted for high-occupancy vehicles, a warning notice with no penalty must be issued to the registered owner of the vehicle."

Representatives Young and Fey spoke in favor of the adoption of the amendment to the striking amendment.

Amendment (613) to the striking amendment (546) was adopted.

Representative Walsh moved the adoption of amendment (617) to the striking amendment (546):

On page 5, line 28 of the striking amendment, after "(ii)" strike all material through "~~them,~~" on line 28 and insert "(A) Except where specifically exempted from them, and in subsection (B) of this subsection."

On page 5, after line 32 of the striking amendment, insert the following:

"(B) The pilot program does not apply to rental car businesses or vehicles owned by a rental car business."

Representative Walsh spoke in favor of the adoption of the amendment to the striking amendment.

Representative Fey spoke against the adoption of the amendment to the striking amendment.

Amendment (617) to the striking amendment (546) was not adopted.

Representative Fitzgibbon moved the adoption of amendment (612) to the striking amendment (546):

On page 6, line 27 of the striking amendment, after "2020," insert "a warning notice with no penalty must be issued to the registered owner of the vehicle for the first violation

generated through the use of an automated traffic safety camera authorized in this subsection (6) after January 1, 2020, and"

On page 6, line 28 of the striking amendment, after "issued" insert ", but only for a second or subsequent violation."

Representative Fitzgibbon spoke in favor of the adoption of the amendment to the striking amendment.

Representative Barkis spoke against the adoption of the amendment to the striking amendment.

Amendment (612) to the striking amendment (546) was adopted.

Representative Walsh moved the adoption of amendment (616) to the striking amendment (546):

On page 6, line 36 of the striking amendment, after "deposited" insert ", until July 1, 2021, in the county road administration board emergency loan account created in chapter . . . (Senate Bill No. 5923), Laws of 2019 and, beginning July 1, 2021,"

Representative Walsh spoke in favor of the adoption of the amendment to the striking amendment.

Representative Fey spoke against the adoption of the amendment to the striking amendment.

Amendment (616) to the striking amendment (546) was not adopted.

Representative Barkis moved the adoption of amendment (615) to the striking amendment (546):

On page 7, line 3 of the striking amendment, after "program," insert "the number of traffic infractions issued with respect to vehicles registered outside of the county in which the city is located,"

Representatives Barkis and Fey spoke in favor of the adoption of the amendment to the striking amendment.

Amendment (615) to the striking amendment (546) was adopted.

The striking amendment (546), as amended, was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Fitzgibbon, Irwin, Tarleton, Macri and Fey spoke in favor of the passage of the bill.

Representatives Barkis, McCaslin, MacEwen, Orcutt, Gildon and Walsh spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1793.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1793, and the bill passed the House by the following vote: Yeas, 57; Nays, 41; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Bergquist, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Irwin, Jinkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Jenkin, Kirby, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Morris, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Stanford, Steele, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1793, having received the necessary constitutional majority, was declared passed.

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Engrossed Substitute House Bill No. 1793.

Representative Morgan, 29th District

**SUBSTITUTE SENATE BILL NO. 5003, by Senate Committee on Law & Justice (originally sponsored by Pedersen and Padden)**

#### Concerning Washington's business corporation act.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5003.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5003, and the bill passed the

House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5003, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5552, by Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Liias, Warnick, Van De Wege, Short, Rolfes, Schoesler, Wagoner, Honeyford, Hawkins and Hunt)**

**Concerning the protection of native pollinators, including bees. Revised for 1st Substitute: Concerning the protection of all pollinators, including honey bees.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Shewmake, Chandler and DeBolt spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5552, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5552, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham,

Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5552, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5748, by Senate Committee on Ways & Means (originally sponsored by Conway, O'Ban, Frockt, Rolfes, Randall and Zeiger)**

**Creating an account to support necessary infrastructure nearby military installations.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Capital Budget was adopted. (For Committee amendment, see Journal, Day 85, April 8, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Reeves, Smith, Leavitt and Riccelli spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5748, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5748, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton,

Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representative Chapman.

SUBSTITUTE SENATE BILL NO. 5748, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5881, by Senators King, Hobbs, Takko, Wellman, Saldaña, Rivers, Holy and Keiser**

**Addressing the installation of safety glazing or film sunscreening materials.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Transportation was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 85, April 8, 2019).

With the consent of the House, amendment (698) was withdrawn.

Representative Shea moved the adoption of amendment (709) to the committee striking amendment:

On page 1, line 8 of the striking amendment, after "øf)" insert ". Installation includes both the original application of safety glazing or film sunscreening material and the installation of vehicle windows which have already had safety glazing or film sunscreening material applied"

On page 1, line 15 of the striking amendment, after "46.37.430" insert ". Installation includes both the original application of safety glazing or film sunscreening material and the installation of vehicle windows which have already had safety glazing or film sunscreening material applied"

Representatives Shea and Pellicciotti spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (709) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Wylie and Shea spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5881, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5881, and the bill passed the House by the following vote: Yeas, 97; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representative Klippert.

SENATE BILL NO. 5881, as amended by the House, having received the necessary constitutional majority, was declared passed.

There being no objection, House Rule 13 (C) was suspended allowing the House to work past 10:00 p.m.

**SUBSTITUTE SENATE BILL NO. 5135, by Senate Committee on Environment, Energy & Technology (originally sponsored by Rolfes, Frockt, Salomon, Palumbo, Cleveland, Carlyle, Kuderer, Saldaña, Billig, Dhingra, Pedersen, Wellman, Hunt, Das, McCoy, Liias, Darneille, Hasegawa, Keiser and Van De Wege)**

**Preventing toxic pollution that affects public health or the environment.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Environment & Energy was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

Representative Doglio moved the adoption of amendment (722) to the committee striking amendment:

On page 2, after line 27, insert the following:

"(14) "Electronic product" includes personal computers, audio and video equipment, calculators, wireless phones, game consoles, and handheld devices incorporating a video screen that are used to access interactive software, and the peripherals associated with such products.

(15) "Inaccessible electronic component" means a part or component of an electronic product that is located inside and entirely enclosed within another material and is not capable of coming out of the product or being accessed during any reasonably foreseeable use or abuse of the product."

On page 5, after line 19, insert the following:

"(6) For an electronic product identified by the department as a priority consumer product under this section, the department may not make a regulatory determination under section 4 of this act to restrict or require the disclosure of a priority chemical in an inaccessible electronic component of the electronic product."

On page 6, beginning on line 8, after "(b)(i)" strike all material through "(iii)" on line 13

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

On page 6, line 17, after "(4)" insert "When determining regulatory actions under this section, the department may consider, in addition to the criteria pertaining to the selection of priority chemicals and priority consumer products that are specified in sections 2 and 3 of this act, whether:

(a) The priority chemical or members of a class of priority chemicals are functionally necessary in the priority consumer product; and

(b) A restriction would be consistent with regulatory actions taken by another state or nation on a priority chemical or members of a class of priority chemicals in a product.

(5)"

Representatives Doglio and Shea spoke in favor of the adoption of the amendment to the committee striking amendment.

## MOTION

On motion of Representative Riccelli, Representative Entenman was excused.

Amendment (722) to the committee striking amendment was adopted.

Representative Boehnke moved the adoption of amendment (561) to the committee striking amendment:

On page 2, line 30, after "health" insert "and after peer review and affirmative recommendation from the Washington academy of sciences established in chapter 70.220 RCW"

On page 3, line 37, after "health" insert "and after peer review and affirmative recommendation from the Washington academy of sciences established in chapter 70.220 RCW"

Representative Boehnke spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Fitzgibbon spoke against the adoption of the amendment to the committee striking amendment.

Amendment (561) to the committee striking amendment was not adopted.

Representative Shea moved the adoption of amendment (729) to the committee striking amendment:

On page 5, line 4, after "(i)" insert "Plastic shipping pallets manufactured prior to 2012;

(ii)"

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

Representatives Shea and Fitzgibbon spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (729) to the committee striking amendment was adopted.

Representative Boehnke moved the adoption of amendment (563) to the committee striking amendment:

On page 5, line 30, after "70.240.040;" strike "or"

On page 5, line 34, after "product" insert "that is not manufactured in Washington; or

(d) Submit agency request legislation to the legislature to restrict or prohibit the manufacture, wholesale, distribution, sale, retail sale, or use, or any combination thereof, of a priority chemical or class of priority chemicals in a consumer product that is manufactured in Washington"

Representative Boehnke spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Fitzgibbon spoke against the adoption of the amendment to the committee striking amendment.

Amendment (563) to the committee striking amendment was not adopted.

Representative Dye moved the adoption of amendment (589) to the committee striking amendment:

On page 5, line 31, after "(c)" strike "Restrict" and insert "Recommend that the Legislature restrict"

On page 9, beginning on line 17, after "4(1)(b)" strike "or (c)"

On page 9, line 32, after "4(1)(b)" strike "or (c)"

Representative Dye spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Doglio spoke against the adoption of the amendment to the committee striking amendment.

Amendment (589) to the committee striking amendment was not adopted.

With the consent of the House, amendment (581) was withdrawn.

Representative Shea moved the adoption of amendment (582) to the committee striking amendment:

On page 9, beginning on line 9, after "to" strike "the pollution control hearings board" and insert "superior court"

Beginning on page 10, line 21, strike all of section 10

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

Representative Shea spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Fitzgibbon spoke against the adoption of the amendment to the committee striking amendment.

Division was demanded on the adoption of amendment (582) to the committee striking amendment and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The result was 41 - YEAS; 56 - NAYS.

Amendment (582) to the committee striking amendment was not adopted.

Representative Boehnke moved the adoption of amendment (562) to the committee striking amendment:

On page 9, line 12, after "in the" strike all material through "70.105D.070" and insert "state wildlife account created in RCW 77.12.170"

Representative Boehnke spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Fitzgibbon spoke against the adoption of the amendment to the committee striking amendment.

Amendment (562) to the committee striking amendment was not adopted.

Representative Dye moved the adoption of amendment (728) to the committee striking amendment:

On page 9, line 29 of the striking amendment, after "(c)" insert "Each rule adopted to implement a determination of regulatory action specified in section 4(1)(b) or (c) of this act is a significant legislative rule for purposes of RCW 34.05.328."

Representatives Dye and Fitzgibbon spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (728) to the committee striking amendment was adopted.

Representative Shea moved the adoption of amendment (583) to the committee striking amendment:

On page 12, line 22, after "action," insert "which includes each department of ecology rule to implement a determination of a regulatory action specified in section 4(1) (b) or (c) of this act,"

Representatives Shea and Fitzgibbon spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (583) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

Representative Shea spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5135, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5135, and the bill passed the House by the following vote: Yeas, 60; Nays, 37; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Bergquist, Callan, Chapman, Chopp, Cody, Davis, DeBolt, Doglio, Dolan, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Walen and Wylie.

Voting nay: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Schmick, Shea,

Stokesbary, Sutherland, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representative Entenman.

SUBSTITUTE SENATE BILL NO. 5135, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

### MOTION

There being no objection, the Committee on Rules was relieved of the following bills and the bills were placed on the second reading calendar:

SECOND SUBSTITUTE SENATE BILL NO. 5287  
ENGROSSED SECOND SUBSTITUTE SENATE  
BILL NO. 5291  
SENATE BILL NO. 5360  
SECOND SUBSTITUTE SENATE BILL NO. 5376  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5418  
SENATE BILL NO. 5505  
SENATE BILL NO. 5506  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5741  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5946

There being no objection, the House adjourned until 9:00 a.m., April 16, 2019, the 93rd Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## NINETY THIRD DAY

House Chamber, Olympia, Tuesday, April 16, 2019

The House was called to order at 9:00 a.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Naomi Cummings and Kyuss Ropka. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Elizabeth Sorenson, Christian Life Missions & Washington Prayer Caucus, Washington.

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

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

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

**MESSAGES FROM THE SENATE**

April 15, 2019

MR. SPEAKER:

The Senate has passed:

HOUSE BILL NO. 1066,  
HOUSE BILL NO. 1070,  
ENGROSSED HOUSE BILL NO. 1126,  
SUBSTITUTE HOUSE BILL NO. 1531,  
ENGROSSED SUBSTITUTE HOUSE BILL NO.  
1557,  
SUBSTITUTE HOUSE BILL NO. 1607,  
HOUSE BILL NO. 1901,  
SUBSTITUTE HOUSE BILL NO. 1931,  
HOUSE BILL NO. 2119,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

April 15, 2019

MR. SPEAKER:

The Senate has passed:

ENGROSSED HOUSE BILL NO. 1175,  
SECOND SUBSTITUTE HOUSE BILL NO. 1448,  
HOUSE BILL NO. 1449,  
HOUSE BILL NO. 1533,

HOUSE BILL NO. 1537,  
ENGROSSED SUBSTITUTE HOUSE BILL NO.  
1569,  
HOUSE BILL NO. 1753,  
SUBSTITUTE HOUSE BILL NO. 1865,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

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

**INTRODUCTION & FIRST READING**

HB 2169 by Representative Tarleton

AN ACT Relating to creating the revenue act of 2019.

Referred to Committee on Finance.

HJM 4013 by Representatives Lekanoff, Morris,  
Peterson, Doglio, Shewmake, Tharinger,  
Gregerson, Santos and Stanford

Concerning logging and mining in the upper Skagit watershed.

Referred to Committee on Rural Development, Agriculture, & Natural Resources.

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

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

**SECOND READING**

**SENATE BILL NO. 5360, by Senators Conway, Hobbs, Saldaña, Dhingra, Keiser, Pedersen and Hunt**

**Addressing plan membership default provisions in the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system.**

The bill was read the second time.

Representative Robinson moved the adoption of amendment (738):

On page 1, line 16, after "1" strike "2019" and insert "2020"

On page 1, line 18, after "1" strike "2019" and insert "2020"

On page 2, line 34, after "1" strike "2019" and insert "2020"

On page 2, line 36, after "1" strike "2019" and insert "2020"

On page 3, line 35, after "1" strike "2019" and insert "2020"

On page 3, line 36, after "July 1," strike "2019" and insert "2020"

On page 3, line 39, after "1" strike "2019" and insert "2020"

Representatives Robinson and Stokesbary spoke in favor of the adoption of the amendment.

Amendment (738) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Stanford and Volz spoke in favor of the passage of the bill.

Representative Stokesbary spoke against the passage of the bill.

### MOTIONS

On motion of Representative Rude, Representative Young was excused.

On motion of Representative Mead, Representatives Appleton and Entenman were excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5360, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5360, as amended by the House, and the bill passed the House by the following vote: Yeas, 73; Nays, 22; Absent, 0; Excused, 3.

Voting yea: Representatives Bergquist, Blake, Boehnke, Caldier, Callan, Chapman, Chopp, Cody, Davis, DeBolt, Doglio, Dolan, Dye, Eslick, Fey, Fitzgibbon, Frame, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Irwin, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Wylie and Ybarra.

Voting nay: Representatives Barkis, Chambers, Chandler, Corry, Dent, Dufault, Gildon, Hoff, Hudgins,

Jenkin, Klippert, Kraft, Kretz, Maycumber, Mosbrucker, Steele, Stokesbary, Sutherland, Van Werven, Vick, Walsh and Wilcox.

Excused: Representatives Appleton, Entenman and Young.

SENATE BILL NO. 5360, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5741, by Senate Committee on Health & Long Term Care (originally sponsored by Keiser, Rivers, Frockt and Mullet)**

**Making changes to support future operations of the state all payer claims database by transferring the responsibility to the health care authority, partnering with a lead organization with broad data experience, including with self-insured employers, and other changes to improve and ensure successful and sustainable database operations for access to and use of the data to improve health care, providing consumers useful and consistent quality and cost measures, and assess total cost of care in Washington state.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5741, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5741, as amended by the House, and the bill passed the House by the following vote: Yeas, 91; Nays, 5; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele,

Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Corry, Kraft, McCaslin, Shea and Walsh.

Excused: Representatives Appleton and Entenman.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5741, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5227, by Senators Kuderer, Hunt, Takko, Nguyen and Billig**

**Concerning deadlines for receipt of voter registrations by election officials.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on State Government & Tribal Relations was adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5227, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5227, as amended by the House, and the bill passed the House by the following vote: Yeas, 94; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives McCaslin and Shea.

Excused: Representatives Appleton and Entenman.

SENATE BILL NO. 5227, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5278, by Senate Committee on Financial Institutions, Economic Development & Trade (originally sponsored by Mullet, Wilson and L.)**

**Concerning reporting suspected fraud and theft of payment cards.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Kirby and Vick spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5278.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5278, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton and Entenman.

SUBSTITUTE SENATE BILL NO. 5278, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5284, by Senate Committee on Ways & Means (originally sponsored by Liias, Wagoner, Van De Wege and Hasegawa)**

**Concerning smoke detection devices.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Consumer Protection & Business was not adopted. (For Committee amendment, see Journal, Day 74, March 28, 2019).

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

Representative Stanford moved the adoption of amendment (679) to the committee striking amendment:

On page 16, line 6 of the striking amendment, after "alarms" insert "and smoke detection devices"

On page 16, line 7 of the striking amendment, after "separate" strike "fire alarm" and insert "rate"

On page 16, beginning on line 11 of the striking amendment, after "if" strike all material through "supported." on line 13 and insert ":

(a) No changes are made to the credits or discounts already in effect prior to the effective date of this section;

(b) It determines that there is no material anticipated change in losses due to the use of such equipment; or

(c) Any potential credit or discount is not actuarially supported."

On page 16, line 16 of the striking amendment, after "alarms" insert "and smoke detection devices"

On page 16, line 22 of the striking amendment, after "section" strike ", "dwelling" and insert ":

(a) "Dwelling"

On page 16, after line 24 of the striking amendment, insert the following:

"(b) "Smoke detection device" or "smoke detection devices" means an assembly incorporating in one unit a device which detects visible or invisible particles of combustion, the control equipment, and the alarm-sounding device, operated from a power supply either in the unit or obtained at the point of installation.

(c) "Fire alarm" or "fire alarms" means any mechanical, electrical or radio-controlled device that is designed to emit a sound or transmit a signal or message when activated or any such device that emits a sound and transmits a signal or message when activated because of smoke, heat or fire."

Representatives Stanford and Vick spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (679) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Eslick, Kirby and Sutherland spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5284, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5284, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton and Entenman.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5284, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5318, by Senate Committee on Labor & Commerce (originally sponsored by Rivers, Palumbo and Wagoner)**

**Reforming the compliance and enforcement provisions for marijuana licensees.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Commerce & Gaming was not adopted. (For Committee amendment, see Journal, Day 78, April 1, 2019).

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

Representative Stanford moved the adoption of amendment (695) to the committee striking amendment:

On page 2, line 35 of the striking amendment, after "(ii)" strike "Intentional furnishing" and insert "Furnishing"

On page 2, line 38 of the striking amendment, after "requirements;" strike "or"

On page 2, line 39 of the striking amendment, after "crimes" insert ";or

(v) Knowingly making a misrepresentation of fact to the board, an officer of the board,

or an employee of the board related to conduct or an action that is, or is alleged to be, any of the violations identified in (c)(i) through (c)(iv) of this subsection (1)"

On page 6, line 36 of the striking amendment, after "(ii)" strike "Intentional furnishing" and insert "Furnishing"

On page 6, line 39 of the striking amendment, after "requirements;" strike "or"

On page 7, line 1 of the striking amendment, after "crimes;" insert "or"

(v) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or an action that is, or is alleged to be, any of the violations identified in (b)(i) through (b)(iv) of this subsection (2)"

On page 7, beginning on line 10 of the striking amendment, after "(e)" strike all material through "violation" on line 12 and insert "Must give substantial consideration to mitigating any penalty imposed on a licensee when there is employee misconduct that led to the violation and"

On page 7, line 26 of the striking amendment, after "(b)" strike "Intentional furnishing" and insert "Furnishing"

On page 7, line 29 of the striking amendment, after "requirements;" strike "or"

On page 7, line 30 of the striking amendment, after "crimes" insert "; or"

(e) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or an action that is, or is alleged to be, any of the violations identified in (a) through (d) of this subsection (3)"

Representatives Stanford and MacEwen spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (695) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Kirby, MacEwen, Chambers, Vick and Stanford spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5318, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5318, and the bill passed the House by the following vote: Yeas, 88; Nays, 8; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Caldier, Callan, Chambers, Chandler, Chapman, Chopp,

Cody, Corry, Davis, Dent, Doglio, Dolan, Dufault, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kirby, Kloba, Kraft, Kretz, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Boehnke, DeBolt, Dye, Jenkin, Kilduff, Klippert, Leavitt and Smith.

Excused: Representatives Appleton and Entenman.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5318, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

**SUBSTITUTE SENATE BILL NO. 5370, by Senate Committee on Transportation (originally sponsored by Keiser, Warnick, Saldaña, Hasegawa, Wilson, C. and Honeyford)**

**Creating a state commercial aviation coordinating commission.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Transportation was not adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

With the consent of the House, amendment (723) was withdrawn.

Representative Orwall moved the adoption of the striking amendment (690):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that with the increase in air traffic operations, combined with the projections for the rapid expansion of these operations in both the short and the long term, concerns regarding the environmental, health, social, and economic impacts of air traffic are increasing as well. The legislature also finds that advancing Washington's position as a national and international trading leader is dependent upon the development of a highly competitive, statewide passenger and cargo air transportation system. Therefore, the legislature seeks to identify a location for a new primary commercial aviation facility in Washington, taking into consideration the data and conclusions of appropriate air traffic studies, community representatives, and industry experts. Options for a new primary commercial aviation

facility in Washington may include expansion of an existing airport facility. It is the intent of the legislature to establish a state commercial aviation coordinating commission to provide a location recommendation by January 1, 2022.

**NEW SECTION. Sec. 2.** (1) The state commercial aviation coordinating commission is created to carry out the functions of this chapter. The commission shall consist of sixteen voting members.

(2) The governor shall appoint eleven voting members to represent the following interests:

(a) Four as representatives of commercial service airports and ports, one of whom shall represent a port located in a county with a population of two million or more, one of whom shall represent a port in eastern Washington with an airport runway of at least thirteen thousand five hundred feet in length, one of whom shall represent a commercial service airport in eastern Washington located in a county with a population of four hundred thousand or more, and one representing an association of ports;

(b) Three as representatives from the airline industry and the private sector;

(c) A representative from an eastern Washington metropolitan planning organization;

(d) A representative from a western Washington metropolitan planning organization; and

(e) Two citizen representatives with one appointed from eastern Washington and one appointed from western Washington. The citizen appointees must:

(i) Represent the public interests in the communities that are included in the commission's site research; and

(ii) Understand the impacts of a large commercial aviation facility on a community.

(3) The remaining five members shall consist of:

(a) A representative from the department of commerce;

(b) A representative from the division of aeronautics of the department of transportation;

(c) A representative from the freight forwarding industry;

(d) A representative from the trucking industry; and

(e) A representative from the federal aviation administration's flight standards district office in Washington.

(4) The commission shall invite the following nonvoting members:

(a) A representative from the federal aviation administration;

(b) A representative from the Washington state aviation alliance;

(c) A representative from the department of defense;

(d) Two members from the senate, with one member from each of the two largest caucuses in the senate, appointed by the president of the senate;

(e) Two members from the house of representatives, with one member from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house of representatives;

(f) A representative from a statewide environmental organization;

(g) A representative from an organization concerned with land and/or water use in the state;

(h) Congressional staff from the fourth and ninth congressional districts with expertise in aviation; and

(i) A representative from the division of aeronautics of the department of transportation.

(5) The governor may appoint additional nonvoting members as deemed appropriate. The commission shall allow additional nonvoting members at the request of the federal aviation administration.

(6) The commission shall select a chair from among its membership and shall adopt rules related to its powers and duties under this chapter.

(7) Legislative members of the commission are 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. The commission has all powers necessary to carry out its duties as prescribed by this chapter.

(8) The department of transportation shall provide staff support for coordinating and administering the commission and technical assistance as requested by commission members.

(9) At the direction of the commission, the department of transportation is authorized to hire a consultant to assist with the review and research efforts of the commission. The contract is exempt from the competitive procurement requirements in chapter 39.26 RCW.

(10) The governor or the governor's designee shall convene the initial meeting of the commission as soon as practicable.

(11) This section expires July 1, 2022.

**NEW SECTION. Sec. 3.** (1) The state commercial aviation coordinating commission will review existing data and conduct research to determine Washington's long-range commercial aviation facility needs and the site of a new primary commercial aviation facility. Research for each potential site must include the feasibility of constructing a commercial aviation facility in that location and its potential environmental, community, and economic impacts. Options

for a new primary commercial aviation facility in Washington may include expansion of an existing airport facility. The work of the commission shall include the following:

(a) Recommendations to the legislature on future Washington state long-range commercial aviation facility needs including possible additional aviation facilities or expansion of current aviation facilities, excluding those located in a county with a population of two million or more, to meet anticipated commercial aviation, general aviation, and air cargo demands; and

(b) Identifying a preferred location for a new primary commercial aviation facility. The commission shall make recommendations and shall select a single preferred location by a sixty percent majority vote using the following process:

(i) Initiating a broad review of potential sites;

(ii) Recommending a final short list of no more than six locations by January 1, 2021;

(iii) Identifying the top two locations from the final six locations by September 1, 2021; and

(iv) Identifying a single preferred location for a new primary commercial aviation facility by January 1, 2022.

(2) The commission shall submit a report of its findings and recommendations to the transportation committees of the legislature by January 1, 2022. The commission must allow a minority report to be included with the commission report if requested by a voting member of the commission.

(3) This section expires July 1, 2022.

**NEW SECTION. Sec. 4.** (1) The state commercial aviation coordinating commission shall project a timeline for the development of an additional commercial aviation facility that is completed and functional by 2040.

(2) This section expires July 1, 2022.

**NEW SECTION. Sec. 5.** (1) Nothing in this act shall be construed to endorse, limit, or otherwise alter existing or future plans for capital development and capacity enhancement at existing commercial airports in Washington.

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

Correct the title.

Representative Kilduff moved the adoption of amendment (734) to the striking amendment (690):

On page 3, line 35 of the striking amendment, after "facility" insert "but may not include siting a facility on or in the vicinity of a military installation that would be incompatible with the installation's ability to carry out its mission requirements"

Representative Kilduff spoke in favor of the adoption of the amendment to the striking amendment.

Amendment (734) to the striking amendment (690) was adopted.

The striking amendment (690), as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5370, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5370, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton and Entenman.

SUBSTITUTE SENATE BILL NO. 5370, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5474, by Senate Committee on Labor & Commerce (originally sponsored by Keiser)**

**Concerning industrial insurance and self-insurers. Revised for 1st Substitute: Permitting self-insurers to send duplicates of certain orders made by the department of labor and industries.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5474.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5474, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton and Entenman.

SUBSTITUTE SENATE BILL NO. 5474, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5502, by Senate Committee on State Government, Tribal Relations & Elections (originally sponsored by Zeiger and Hunt)**

**Aligning statutory redistricting deadlines to the Constitution.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5502.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5502, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman,

Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton and Entenman.

SUBSTITUTE SENATE BILL NO. 5502, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5287, by Senate Committee on Ways & Means (originally sponsored by Darneille and Hunt)**

**Ensuring accurate redistricting.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on State Government & Tribal Relations was adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5287, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5287, as amended by the House, and the bill passed the House by the following vote: Yeas, 57; Nays, 39; Absent, 0; Excused, 2.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye,

Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Reeves, Schmick, Shea, Steele, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton and Entenman.

SECOND SUBSTITUTE SENATE BILL NO. 5287, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5597, by Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Rolfes, Saldaña, McCoy, Conway and Hasegawa)**

**Creating a work group on aerial pesticide applications in forestlands. Revised for 1st Substitute: Creating a work group on aerial herbicide applications in forestlands.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Rural Development, Agriculture, & Natural Resources was not adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

Representative Blake moved the adoption of the striking amendment (659):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1)(a) The legislature finds that forest managers, state agencies, and the broader community share an interest in minimizing human and environmental exposure to herbicides. Forestland owners have made significant gains in the protection of riparian and wetland areas along the state's waterways, as well as protecting the health and safety of the public and forest workers, through a combination of scientific advancements, ongoing education and training, improved technologies, and proper monitoring and regulation under the forests and fish statute and the associated forest practices rules.

(b) The legislature further finds that while the use of herbicides is an important tool to the timber industry, the use of chemicals should be integrated within a broader pest management approach. The legislature finds that the research, development, and feasibility of nontraditional control methods, along with methods already in use, could result in a more integrated pest management approach for forest management.

(2) This section expires December 31, 2020.

**NEW SECTION. Sec. 2.** (1) A work group on the aerial application of herbicides on state and private forestlands is established to review all existing best management practices and, if necessary, develop

recommendations for improving the best management practices for aerial application of herbicides on state and private forestlands, including the criteria to be used in evaluating best management practices.

(2) The work group shall:

(a) Review the roles of all management and regulatory agencies in approving herbicides for use and application on forestlands in Washington and review existing state and federal programs, policies, and regulations concerning aerial application of herbicides on forestlands;

(b) Review current herbicide application technology in the state and throughout the nation to increase herbicide application accuracy and other best management practices to minimize drift and exposure of humans, fish, and wildlife as well impact on drinking water, surface waters, and wetland areas;

(c) Review research, reports, and data from government agencies, research institutions, nongovernmental organizations, and landowners regarding the most frequently used herbicides in forest practices, to inform the development and update of strategies related to herbicides management on forestlands; and

(d) Develop recommendations, if appropriate, for managing working forestlands through an integrated pest management approach that combines traditional chemical and other vegetative control methods as well as other silvicultural practices to protect resource values from pests, while minimizing the effect on nontarget species as well as ensuring the protection of public safety and human health, while still offering effective control that is economically feasible on a commercial forestry scale. Recommendations must consider the toxicity, mobility, and bioaccumulation of any proposed alternatives as compared to traditional operations.

(3)(a) The work group is composed of:

(i) One member and one alternate from each of the two largest caucuses in the senate, who must be appointed by the majority leader and minority leader of the senate;

(ii) One member and one alternate from each of the two largest caucuses in the house of representatives, who must be appointed by the speaker and minority leader of the house of representatives;

(iii) One senior level management representative from each of the following agencies:

(A) The department of agriculture;

(B) The department of health;

(C) The department of natural resources;

(D) The department of fish and wildlife; and

(E) The department of ecology;

(iv) One representative of Washington State University pesticide safety education program;

(v) One representative from the Pacific Northwest agricultural safety and health center at the University of Washington; and

(vi) Representatives from the following groups, appointed by the consensus of the cochairs:

(A) Two industrial forestland owners with one from the west of the crest of the Cascade mountains and one from east of the crest of the Cascade mountains;

(B) One representative of small forestland owners;

(C) One representative of large-scale organic farming;

(D) One representative of aerial applicators;

(E) Three representatives of environmental or community interests;

(F) One representative with expertise in noxious weed control; and

(G) One representative with pesticide registrant expertise in forest herbicides.

(b) Representatives of Washington tribes that are involved in timber production must be invited to participate on the work group.

(c) If a member has not been designated for a position set forth in this section, that position may not be counted for purposes of determining a quorum.

(4) The work group must be cochaired by one representative each from the department of agriculture and the department of natural resources.

(5) Staff support for the members of the work group must be provided by the departments of natural resources and agriculture.

(6) Legislative members of the work group are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members of the work group 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 nonlegislative members is subject to chapter 43.03 RCW.

(7) The work group shall provide a report that includes any findings, recommendations, and draft legislation, to the governor and the legislature consistent with RCW 43.01.036, by December 31, 2019.

(8) This section expires December 31, 2020."

Correct the title.

Representatives Blake and Dent spoke in favor of the adoption of the striking amendment.

The striking amendment (659) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5597, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5597, and the bill passed the House by the following vote: Yeas, 95; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, Dent, Doglio, Dolan, Dufault, Dye, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representative DeBolt.

Excused: Representatives Appleton and Entenman.

SUBSTITUTE SENATE BILL NO. 5597, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

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

### MOTION

There being no objection, the Committee on Rules was relieved of the following bills and the bills were placed on the second reading calendar:

SUBSTITUTE SENATE BILL NO. 5025  
ENGROSSED SENATE BILL NO. 5616

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

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

### MESSAGE FROM THE SENATE

April 15, 2019

MR. SPEAKER:

The Senate has passed:

HOUSE BILL NO. 1318,  
HOUSE BILL NO. 1516,  
HOUSE BILL NO. 1726,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

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

## SECOND READING

**SENATE BILL NO. 5605, by Senators Nguyen, Keiser, Hunt, Salomon, Hasegawa, Saldaña, Das, Randall, Darneille, Kuderer, Pedersen, Wilson and C.**

**Concerning misdemeanor marijuana offense convictions.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Public Safety was not adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

Representative Klippert moved the adoption of amendment (625) to the committee striking amendment:

On page 4, line 29 of the striking amendment, after "court" strike "shall" and insert "may"

Representative Klippert spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Goodman spoke against the adoption of the amendment to the committee striking amendment.

Amendment (625) to the committee striking amendment was not adopted.

The committee striking amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Fitzgibbon and Goodman spoke in favor of the passage of the bill.

Representatives Klippert and Orcutt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5605, as amended by the House.

## ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5605, and the bill passed the House by the following vote: Yeas, 69; Nays, 29; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Bergquist, Blake, Caldier, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hudgins, Jinkins, Kirby, Kloba, Lekanoff, Lovick, MacEwen, Macri, McCaslin, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shea, Shewmake, Slatter, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Wylie, Ybarra and Young.

Voting nay: Representatives Barkis, Boehnke, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Hoff, Irwin, Jenkin, Kilduff, Klippert, Kraft, Kretz, Leavitt, Maycumber, Mosbrucker, Orcutt, Schmick, Smith, Van Werven, Vick, Walsh and Wilcox.

SENATE BILL NO. 5605, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5492, by Senate Committee on Law & Justice (originally sponsored by Billig, Padden, Pedersen, Holy and Dhingra)**

### **Sentencing of motor vehicle-related felonies.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Public Safety was not adopted. (For Committee amendment, see Journal, Day 78, April 1, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Goodman, Klippert and Riccelli spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5492.

## ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5492, and the bill passed the House by the following vote: Yeas, 96; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives DeBolt and Orcutt.

SUBSTITUTE SENATE BILL NO. 5492, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5763, by Senate Committee on Transportation (originally sponsored by Wagoner, Takko and Honeyford)**

**Concerning collector truck operators.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Eslick, Fey and Sutherland spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5763.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5763, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton,

Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5763, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5179, by Senators Liias, King, Takko and Rolfes**

**Concerning county electrical traffic control signals, illumination equipment, and other electrical equipment conveying an electrical current.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Transportation was adopted. (For Committee amendment, see Journal, Day 82, April 5, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5179, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5179, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SENATE BILL NO. 5179, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5380, by Senate Committee on Health & Long Term Care (originally sponsored by Cleveland, Rivers, Frockt, Walsh, Keiser,**

**King, Randall, O'Ban, Conway, Darneille, Saldaña, Das, Dhingra, Hunt, Wilson, C. and Zeiger)**

**Concerning opioid use disorder treatment, prevention, and related services.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Health Care & Wellness was not adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

With the consent of the House, amendments (672) and (657) were withdrawn.

Representative Irwin moved the adoption of amendment (647) to the committee striking amendment:

On page 21, line 12 of the striking amendment, after "(c)" strike "Establish" and insert "Comply with federal prescription drug monitoring program qualification requirements under Section 1944 of the federal substance use-disorder prevention that promotes opioid recovery and treatment for patients and communities act of 2018 to facilitate eligibility for federal grants and establish"

Representatives Irwin and Cody spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (647) to the committee striking amendment was adopted.

Representative Cody moved the adoption of amendment (686) to the committee striking amendment:

Beginning on page 32, line 7, strike all of section 28 and insert the following:

"**Sec. 28.** RCW 71.24.585 and 2017 c 297 s 12 are each amended to read as follows:

~~((The state of Washington declares that there is no fundamental right to medication-assisted treatment for opioid use disorder.)) (1)(a) The state of Washington ((further)) declares that ((while medications used in the treatment of opioid use disorder are addictive substances, that they nevertheless have several legal, important, and justified uses and that one of their appropriate and legal uses is, in conjunction with other required therapeutic procedures, in the treatment of persons with opioid use disorder. The state of Washington recognizes as evidence-based for the management of opioid use disorder the medications approved by the federal food and drug administration for the treatment of opioid use disorder. Medication-assisted~~

~~treatment should only be used for participants who are deemed appropriate to need this level of intervention. Providers must inform patients of all treatment options available. The provider and the patient shall consider alternative treatment options, like abstinence, when developing the treatment plan. If medications are prescribed, follow up must be included in the treatment plan in order to work towards the goal of abstinence.)) substance use disorders are medical conditions. Substance use disorders should be treated in a manner similar to other medical conditions by using interventions that are supported by evidence, including medications approved by the federal food and drug administration for the treatment of opioid use disorder. It is also recognized that many individuals have multiple substance use disorders, as well as histories of trauma, developmental disabilities, or mental health conditions. As such, all individuals experiencing opioid use disorder should be offered evidence-supported treatments to include federal food and drug administration approved medications for the treatment of opioid use disorders and behavioral counseling and social supports to address them. For behavioral health agencies, an effective plan of treatment for most persons with opioid use disorder integrates access to medications and psychosocial counseling and should be consistent with the American society of addiction medicine patient placement criteria. Providers must inform patients with opioid use disorder or substance use disorder of options to access federal food and drug administration approved medications for the treatment of opioid use disorder or substance use disorder. Because some such medications are controlled substances in chapter 69.50 RCW, the state of Washington maintains the legal obligation and right to regulate the ((clinical)) uses of these medications in the treatment of opioid use disorder.~~

~~((Further.))~~ (b) The authority must work with other state agencies and stakeholders to develop value-based payment strategies to better support the ongoing care of persons with opioid and other substance use disorders.

(c) The department of corrections shall develop policies to prioritize services based on available grant funding and funds appropriated specifically for opioid use disorder treatment.

(2) The authority must promote the use of medication therapies and other evidence-based strategies to address the opioid epidemic in Washington state. Additionally, by January 1, 2020, the authority must prioritize state resources for the provision of treatment and recovery support services to inpatient and outpatient treatment settings that allow patients to start or maintain their use of medications for opioid use disorder while engaging in services.

(3) The state declares that the main goals of ((opiate substitution treatment is total abstinence from substance use for the individuals who participate in the treatment program, but recognizes the additional goals of reduced morbidity, and restoration of the ability to lead a productive and fulfilling life. The state recognizes that a small percentage of persons who participate in opioid treatment programs require treatment for an extended period of time. Opioid treatment programs shall provide a comprehensive transition

program to eliminate substance use, including opioid use of program participants)) treatment for persons with opioid use disorder are the cessation of unprescribed opioid use, reduced morbidity, and restoration of the ability to lead a productive and fulfilling life.

(4) To achieve the goals in subsection (3) of this section, to promote public health and safety, and to promote the efficient and economic use of funding for the medicaid program under Title XIX of the social security act, the authority may seek, receive, and expend alternative sources of funding to support all aspects of the state's response to the opioid crisis.

(5) The authority must partner with the department of social and health services, the department of corrections, the department of health, the department of children, youth, and families, and any other agencies or entities the authority deems appropriate to develop a statewide approach to leveraging medicaid funding to treat opioid use disorder and provide emergency overdose treatment. Such alternative sources of funding may include:

(a) Seeking a section 1115 demonstration waiver from the federal centers for medicare and medicaid services to fund opioid treatment medications for persons eligible for medicaid at or during the time of incarceration and juvenile detention facilities; and

(b) Soliciting and receiving private funds, grants, and donations from any willing person or entity.

(6)(a) The authority shall work with the department of health to promote coordination between medication-assisted treatment prescribers, federally accredited opioid treatment programs, substance use disorder treatment facilities, and state-certified substance use disorder treatment agencies to:

(i) Increase patient choice in receiving medication and counseling;

(ii) Strengthen relationships between opioid use disorder providers;

(iii) Acknowledge and address the challenges presented for individuals needing treatment for multiple substance use disorders simultaneously; and

(iv) Study and review effective methods to identify and reach out to individuals with opioid use disorder who are at high risk of overdose and not involved in traditional systems of care, such as homeless individuals using syringe service programs, and connect such individuals to appropriate treatment.

(b) The authority must work with stakeholders to develop a set of recommendations to the governor and the legislature that:

(i) Propose, in addition to those required by federal law, a standard set of services needed to support the complex treatment needs of persons with opioid use disorder treated in opioid treatment programs;

(ii) Outline the components of and strategies needed to develop opioid treatment program centers of excellence

that provide fully integrated care for persons with opioid use disorder;

(iii) Estimate the costs needed to support these models and recommendations for funding strategies that must be included in the report;

(iv) Outline strategies to increase the number of waived health care providers approved for prescribing buprenorphine by the substance abuse and mental health services administration; and

(v) Outline strategies to lower the cost of federal food and drug administration approved products for the treatment of opioid use disorder.

(7) State agencies shall review and promote positive outcomes associated with the accountable communities of health funded opioid projects and local law enforcement and human services opioid collaborations as set forth in the Washington state interagency opioid working plan.

(8) The authority must partner with the department and other state agencies to replicate effective approaches for linking individuals who have had a nonfatal overdose with treatment opportunities, with a goal to connect certified peer counselors with individuals who have had a nonfatal overdose.

(9) State agencies must work together to increase outreach and education about opioid overdoses to non-English-speaking communities by developing a plan to conduct outreach and education to non-English-speaking communities. The department must submit a report on the outreach and education plan with recommendations for implementation to the appropriate legislative committees by July 1, 2020."

Representatives Cody and Schmick spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (686) to the committee striking amendment was adopted.

Representative Chambers moved the adoption of amendment (676) to the committee striking amendment:

On page 38, after line 25 of the striking amendment, insert the following:

"(7) An opioid treatment program may not be sited within twenty miles of a supervised injection site."

Renumber the remaining subsections consecutively and correct and internal references accordingly

#### **POINT OF ORDER**

Representative Stonier requested a scope and object ruling on amendment (676) to the committee amendment to SSB 5380.

#### **SPEAKER'S RULING**

Mr. Speaker(Representative Lovick presiding): Substitute Senate Bill 5380 is titled "*an act relating to opioid use disorder treatment, prevention and related services.*"

The provisions in the bill relating to opioid use disorder treatment programs are limited to the services and medications they provide. The amendment relates to the locations where such programs may be sited, a topic not addressed in the underlying bill.

The Speaker therefore finds and rules that the amendment is beyond the scope and object of the bill.

The point of order is well taken.

Representative Gildon moved the adoption of amendment (707) to the committee striking amendment:

On page 39, after line 29 of the striking amendment, insert the following:

"(5) The authority may not promote the use of supervised injection sites as a form of treatment for opioid use disorder."

Representative Gildon spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Cody spoke against the adoption of the amendment to the committee striking amendment.

An electronic roll call was requested.

#### ROLL CALL

The Clerk called the roll on the adoption of amendment (707) to the committee striking amendment and the amendment was adopted by the following vote: Yeas: 61 Nays: 37 Absent: 0 Excused: 0

Voting yea: Representatives Barkis, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Graham, Gregerson, Griffey, Harris, Hoff, Irwin, Jenkin, Kilduff, Klippert, Kraft, Kretz, Leavitt, MacEwen, Maycumber, McCaslin, Mead, Mosbrucker, Orcutt, Ormsby, Paul, Pellicciotti, Ramos, Reeves, Riccelli, Rude, Schmick, Sells, Senn, Shea, Shewmake, Smith, Stanford, Steele, Stokesbary, Stonier, Sutherland, Thai, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Ybarra, and Young

Voting nay: Representatives Appleton, Bergquist, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Hansen, Hudgins, Jinkins, Kirby, Kloba, Lekanoff, Lovick, Macri, Morgan, Morris, Ortiz-Self, Orwall, Peterson, Pettigrew, Pollet, Robinson, Ryu, Santos, Slatter, Springer, Sullivan, Tarleton, Tharinger, Valdez, and Wylie

Amendment (707) to the committee striking amendment was adopted.

Representative Stokesbary moved the adoption of amendment (708) to the committee striking amendment:

On page 39, after line 29 of the striking amendment, insert the following:

"(5) The authority may not partner with any agency that supervises the injection of illicit drugs."

Representatives Stokesbary and Klippert spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Cody spoke against the adoption of the amendment to the committee striking amendment.

An electronic roll call was requested.

#### ROLL CALL

The Clerk called the roll on the adoption of amendment (708) to the committee striking amendment and the amendment was adopted by the following vote: Yeas: 60 Nays: 38 Absent: 0 Excused: 0

Voting yea: Representatives Barkis, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Corry, DeBolt, Dent, Dufault, Dye, Entenman, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Kilduff, Klippert, Kraft, Kretz, Leavitt, Lovick, MacEwen, Maycumber, McCaslin, Mead, Mosbrucker, Orcutt, Ormsby, Paul, Pellicciotti, Ramos, Riccelli, Rude, Schmick, Sells, Senn, Shea, Shewmake, Smith, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tharinger, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra, and Young

Voting nay: Representatives Appleton, Bergquist, Chopp, Cody, Davis, Doglio, Dolan, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kirby, Kloba, Lekanoff, Macri, Morgan, Morris, Ortiz-Self, Orwall, Peterson, Pettigrew, Pollet, Reeves, Robinson, Ryu, Santos, Slatter, Springer, Stanford, Tarleton, Thai, Valdez, Walen, and Wylie

Amendment (708) to the committee striking amendment was adopted.

#### RECONSIDERATION

There being no objection, the House immediately reconsidered the vote by which amendment (707) to the committee striking amendment passed the House: Yeas: 60 Nays: 38 Absent: 0 Excused: 0

Voting yea: Representatives Barkis, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Corry, DeBolt, Dent, Dufault, Dye, Entenman, Eslick, Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Kilduff, Klippert, Kraft, Kretz, Leavitt, Lovick, MacEwen, Maycumber, McCaslin, Mead, Mosbrucker, Orcutt, Ormsby, Paul, Pellicciotti, Ramos, Reeves, Riccelli, Rude, Schmick, Sells, Senn, Shea, Shewmake, Smith, Steele, Stokesbary, Sullivan, Sutherland, Tharinger, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra, and Young

Voting nay: Representatives Appleton, Bergquist, Chopp, Cody, Davis, Doglio, Dolan, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kirby, Kloba, Lekanoff, Macri, Morgan, Morris, Ortiz-Self, Orwall, Peterson, Pettigrew, Pollet, Robinson, Ryu, Santos, Slatter, Springer, Stanford, Stonier, Tarleton, Thai, Valdez, Walen, and Wylie

Amendment (707), on reconsideration, to the committee striking amendment, was adopted.

With the consent of the House, amendment (660) was withdrawn.

Representative Cody moved the adoption of amendment (687) to the committee striking amendment:

On page 41, after line 27, insert the following:

**"NEW SECTION. Sec. 36.** A new section is added to chapter 41.05 RCW to read as follows:

A health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2020, shall provide coverage without prior authorization of at least one federal food and drug administration approved product for the treatment of opioid use disorder in the drug classes opioid agonists, opioid antagonists, and opioid partial agonists.

**NEW SECTION. Sec. 37.** 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, 2020, a health carrier shall provide coverage without prior authorization of at least one federal food and drug administration approved product for the treatment of opioid use disorder in the drug classes opioid agonists, opioid antagonists, and opioid partial agonists.

**NEW SECTION. Sec. 38.** A new section is added to chapter 74.09 RCW to read as follows:

Upon initiation or renewal of a contract with the authority to administer a medicaid managed care plan, a managed health care system shall provide coverage without prior authorization of at least one federal food and drug administration approved product for the treatment of opioid use disorder in the drug classes opioid agonists, opioid antagonists, and opioid partial agonists."

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

Representatives Cody and Schmick spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (687) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Cody, Schmick, Harris, Barkis, Dent and Wilcox spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5380, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5380, and the bill passed the House by the following vote: Yeas, 96; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Frame and Macri.

SUBSTITUTE SENATE BILL NO. 5380, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5410, by Senate Committee on Higher Education & Workforce Development (originally sponsored by Mullet, Rivers, Palumbo, Liias, Wilson and C.)**

**Establishing a systemwide credit policy regarding advanced placement, international baccalaureate, and Cambridge international exams. Revised for 1st Substitute: Concerning a systemwide credit policy regarding advanced placement, international baccalaureate, and Cambridge international exams.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on College & Workforce Development was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 78, April 1, 2019).

Representative Pollet moved the adoption of amendment (503) to the committee striking amendment:

On page 1, line 11 of the striking amendment, after "E" insert "(e)"

On page 2, line 1 of the striking amendment, after "E" insert "(e)"

Representatives Pollet and Van Werven spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (503) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Dolan, Van Werven and Pollet spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5410, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5410, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5410, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5298, by Senate Committee on Labor & Commerce (originally sponsored by Rivers, Palumbo and Wellman)**

#### Regarding labeling of marijuana products.

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Commerce & Gaming was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 80, April 3, 2019).

Representative Davis moved the adoption of amendment (744) to the committee striking amendment:

On page 5, beginning on line 36 of the striking amendment, strike all of subsection (b)

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

On page 6, line 3 of the striking amendment, after "under (a)" strike "and (b)"

On page 6, line 15 of the striking amendment, after "use:" insert "or"

On page 6, line 16 of the striking amendment, after "(b) A" strike "claim" and insert "warning"

On page 6, line 17 of the striking amendment, after "that the" strike "claim" and insert "warning"

On page 6, beginning on line 17 of the striking amendment, after "misleading" strike all material through "ingredients" on line 19.

Representatives Davis and MacEwen spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (744) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives MacEwen and Stanford spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5298, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5298, and the bill passed the House by the following vote: Yeas, 88; Nays, 10; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kirby, Kloba, Kretz, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson,

Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Boehnke, Dent, Dufault, Dye, Jenkin, Kilduff, Klippert, Kraft, Leavitt and Van Werven.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5298, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5337, by Senators Takko and Holy**

**Expanding a sales and use tax exemption for personal property sold between political subdivisions to include sales or uses of personal property as a result of a merger or sales or uses of personal property made under contractual consolidations in which the taxpayer that originally paid the sales or use tax continues to benefit from the personal property.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Orcutt and Tarleton spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5337.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5337, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SENATE BILL NO. 5337, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5288, by Senate Committee on Law & Justice (originally sponsored by Darneille)**

**Sentencing for persistent offenders. Revised for 1st Substitute: Sentencing for persistent offenders. (REVISED FOR ENGROSSED: Removing robbery in the second degree from the list of offenses that qualify an individual as a persistent offender.)**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Goodman, Irwin, Jinkins, Graham, Davis and Pettigrew spoke in favor of the passage of the bill.

Representatives Klippert, Orcutt, Maycumber, Walsh and DeBolt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5288.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5288, and the bill passed the House by the following vote: Yeas, 53; Nays, 45; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Bergquist, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Graham, Gregerson, Hansen, Hudgins, Jinkins, Kirby, Kloba, Lekanoff, Lovick, Macri, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Blake, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Harris, Hoff, Irwin, Jenkin, Kilduff, Klippert, Kraft, Kretz, Leavitt, MacEwen, Maycumber, McCaslin, Mead, Mosbrucker, Orcutt, Paul, Rude, Schmick, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5288, having received the necessary constitutional majority, was declared passed.

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

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

**MOTIONS**

There being no objection, the Committee on Appropriations was relieved of the following bill and the bill was placed on the second reading calendar:

ENGROSSED SUBSTITUTE SENATE BILL NO.  
5874

There being no objection, the Committee on Rules was relieved of the following bill and the bill was placed on the second reading calendar:

SECOND SUBSTITUTE SENATE BILL NO. 5511

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

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

#### MESSAGES FROM THE SENATE

April 16, 2019

MR. SPEAKER:

The Senate has passed:

SECOND SUBSTITUTE HOUSE BILL NO. 1048,  
HOUSE BILL NO. 1092,  
HOUSE BILL NO. 1146,  
HOUSE BILL NO. 1149,  
SUBSTITUTE HOUSE BILL NO. 1295,  
SUBSTITUTE HOUSE BILL NO. 1350,  
ENGROSSED HOUSE BILL NO. 1354,  
HOUSE BILL NO. 1380,  
SUBSTITUTE HOUSE BILL NO. 1415,  
SUBSTITUTE HOUSE BILL NO. 1480,  
SUBSTITUTE HOUSE BILL NO. 1545,  
SUBSTITUTE HOUSE BILL NO. 1856,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

April 16, 2019

MR. SPEAKER:

The Senate has passed:

SUBSTITUTE HOUSE JOINT MEMORIAL NO.  
4007,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

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

#### SECOND READING

**SENATE BILL NO. 5551, by Senators Dhingra, Palumbo, Das, Kuderer, Wellman and Van De Wege**

**Concerning courthouse facility dog assistance for testifying witnesses.**

The bill was read the second time.

Representative Klippert moved the adoption of amendment (499):

On page 1, line 8, after "dog" strike "must" and insert "should"

Representative Klippert spoke in favor of the adoption of the amendment.

Representative Thai spoke against the adoption of the amendment.

Amendment (499) was not adopted.

Representative Thai moved the adoption of amendment (688):

On page 2, line 39, after "by" strike "assistance dogs international or a comparable and internationally" and insert "a"

Representative Thai spoke in favor of the adoption of the amendment.

Division was demanded on the adoption of amendment (688) and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The result was 59 - YEAS; 39 - NAYS.

Amendment (688) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5551, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5551, as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham,

Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Chandler and Jenkin.

SENATE BILL NO. 5551, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5418, by Senate Committee on Local Government (originally sponsored by Takko, Zeiger and Liias)**

**Concerning local government procurement modernization and efficiency.**

The bill was read the second time.

With the consent of the House, amendments (506), (587), (697) and (586) were withdrawn.

There being no objection, the committee striking amendment by the Committee on Local Government was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 80, April 3, 2019).

Representative Corry moved the adoption of amendment (745) to the committee striking amendment:

On page 1, beginning on line 9 of the striking amendment, after "~~thousand~~")" strike "one hundred sixteen thousand one hundred fifty-five" and insert "ninety thousand"

On page 1, at the beginning of line 12 of the striking amendment, strike "seventy-five thousand five hundred" and insert "sixty thousand"

On page 26, line 10 of the striking amendment, after "hundred" strike "fifty" and insert "ten"

On page 26, beginning on line 12 of the striking amendment, after "~~thousand~~")" strike "seventy-five thousand five hundred" and insert "sixty thousand"

Representative Corry and Corry (again) spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Pollet spoke against the adoption of the amendment to the committee striking amendment.

Amendment (745) to the committee striking amendment was not adopted.

Representative Pollet moved the adoption of amendment (737) to the committee striking amendment:

Beginning on page 2, line 24, after "section" strike all material through "specifications" on page 3, line 3, and insert ", "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has the lowest bid; provided, that if the city issues a written finding that the lowest bidder has delivered a project to the city within the last three years which was late, over budget, or did not meet specifications, and the city does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the city may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder"

On page 8, at the beginning of line 36, strike "~~(may)~~ must" and insert "may"

On page 9, line 33, strike "retainage" and insert "contract"

On page 11, line 11, after "Equitably" strike "distributes" and insert "distribute opportunities"

Beginning on page 31, line 15, strike all of section 16 and insert the following:

**"NEW SECTION. Sec. 16.** (1) The legislature finds that there are hundreds of local governments and special purpose districts and due to their existing authority and structure, partial legislative measures are introduced each year to amend the procurement thresholds for each individual entity. Therefore the legislature intends to require a comprehensive review of all local government bid limits for public works projects and purchases, including the small works roster and limited public works processes, rather than amend procurement rules and contract thresholds on a case-by-case basis.

(2) Subject to funds appropriated for this purpose, the capital projects advisory review board must review the public works contracting processes for local governments, including the small works roster and limited public works processes provided in RCW 39.04.155, and report to the governor and appropriate committees of the legislature by November 1, 2020. The report must include the following:

(a) Identification of the most common contracting procedures used by local governments;

(b) Identification of the dollar amounts set for local government public works contracting processes;

(c) Analysis of whether the dollar amounts identified in (b) of this subsection comport with estimated project costs within the relevant industries;

(d) An analysis of the potential application of an inflation-based increaser, taking regional factors into consideration, to the dollar amounts identified in (b) of this subsection, for example:

(i) Applying the implicit price deflator for state and local government purchases of goods and services for the United States as published by the bureau of economic analysis of the federal department of commerce; and

(ii) Adjusting the bid limit dollar thresholds for inflation, on a regional basis, by the building cost index during that time period;

(e) Recommendations to increase uniformity and efficiency for local government public works contracting and procurement processes;

(f) Rates of participation of all contractor types, including qualified minority and women-owned and controlled businesses, in the small works roster and limited public works contracting processes; and

(g) Barriers to improving the participation rate in the small works roster and limited public works contracting processes.

(3) For purposes of this section:

(a) "Local governments" refers to all counties, cities, towns, other political subdivisions, and special purpose districts.

(b) "Building cost index" means the building cost index for Seattle, Washington, compiled by engineering news record, a nationally recognized professional construction trade periodical. The building cost index uses average skilled construction labor rates, structural steel, concrete, and lumber as the basis of measurement."

Correct the title.

Representative Pollet and Pollet (again) spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Kraft spoke against the adoption of the amendment to the committee striking amendment.

Division was demanded on the adoption of amendment (737) to the committee striking amendand the demand was sustained. The Speaker (Representative Orwall presiding) divided the House. The result was 57 - YEAS; 40 - NAYS.

Amendment (737) to the committee striking amendment was adopted.

Representative Kraft moved the adoption of amendment (537) to the committee striking amendment:

On page 9, line 21 of the striking amendment, after ~~"(telephone inquiry))~~ insert "at least one of the following: telephone or"

Representatives Kraft and Pollet spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (537) to the committee striking amendment was adopted.

Representative Kraft moved the adoption of amendment (753) to the committee striking amendment:

On page 29, beginning on line 33 of the striking amendment, strike all of section 15

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

Representative Kraft spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Pollet spoke against the adoption of the amendment to the committee striking amendment.

Amendment (753) to the committee striking amendment was not adopted.

Representative Kraft moved the adoption of amendment (735) to the committee striking amendment:

On page 32, after line 5 of the striking amendment, insert the following:

"NEW SECTION. Sec. 17. (1) When a local government performs a public works project with local government employees, rather than following the public works contracting process, no less than fifteen percent of the labor hours must be performed by apprentices.

(2) Local governments performing a public works project with local government employees must pay local government employees a prevailing wage, in the same manner the prevailing wage requirements apply to private sector contractors that would perform similar work under the public works contracting process in RCW 39.12.015.

(3) The public works written reports required under subsection (1) of this section must include the local government entities subject to the following statutes: RCW 28A.335.190, 28B.10.029, 28B.10.350, 28B.50.330, 35.21.225, 35.21.730, 35.22.620, 35.23.352, 35.57.020, 35.61.135, 35A.40.210, 36.100.030, 36.32.235, 36.32.240, 36.32.245, 36.32.250, 52.14.110, 53.08.120, 53.08.135, 54.04.070, 54.04.082, 57.08.050, 70.44.140, 71.24.300, 74.38.050, 87.03.435, 87.03.436, 87.03.437, and 89.30.154 and chapters 17.28, 27.12, 28A.310, 35.82, 36.57, 36.57A, 36.69, 36.73, 39.04, 39.34, 48.62, 70.46, 85.38, and 89.08 RCW.

(4) For purposes of this section, "local government" refers to all counties, cities, towns, other political subdivisions, and special purpose districts."

Correct the title.

Representative Kraft spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Pollet spoke against the adoption of the amendment to the committee striking amendment.

Amendment (735) to the committee striking amendment was not adopted.

Representative Kraft moved the adoption of amendment (739) to the committee striking amendment:

On page 32, after line 5 of the striking amendment, insert the following:

"NEW SECTION. Sec. 17. (1) A local government must prepare a written record of the basis of the decision to perform the public works with local government employees rather than following the public works contracting process. The written record must include, at a minimum:

(a) A small business impact statement, as described in RCW 19.85.040; and

(b) A comprehensive impact assessment that includes, at a minimum:

(i) An estimate of the cost to complete the public works project, including the fully allocated costs of the public works project, the cost of the employees' salaries and benefits, space, equipment, materials, and overhead and other costs necessary to complete the public works project;

(ii) An estimate of the cost to contract out the public works project;

(iii) Reasons for proposing the public works project be completed with local government employees; and

(iv) Potential adverse impacts on the public from completing the work with local government employees and any cumulative impact the decision may have on future projects.

(2) The written report must be sent to the department of enterprise services, and the department of enterprise services must compile all submitted written reports received pursuant to this section and must annually make a report to the appropriate committees of the legislature.

(3) The public works written reports required under subsection (1) of this section must include the local government entities subject to the following statutes: RCW 28A.335.190, 28B.10.029, 28B.10.350, 28B.50.330, 35.21.225, 35.21.730, 35.22.620, 35.23.352, 35.57.020, 35.61.135, 35A.40.210, 36.100.030, 36.32.235, 36.32.240, 36.32.245, 36.32.250, 52.14.110, 53.08.120, 53.08.135, 54.04.070, 54.04.082, 57.08.050, 70.44.140, 71.24.300, 74.38.050, 87.03.435, 87.03.436, 87.03.437, and 89.30.154 and chapters 17.28, 27.12, 28A.310, 35.82, 36.57, 36.57A, 36.69, 36.73, 39.04, 39.34, 48.62, 70.46, 85.38, and 89.08 RCW.

(4) For purposes of this section, "local government" refers to all counties, cities, towns, other political subdivisions, and special purpose districts."

Correct the title.

Representative Kraft spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Pollet spoke against the adoption of the amendment to the committee striking amendment.

Amendment (739) to the committee striking amendment was not adopted.

Representative Vick moved the adoption of amendment (750) to the committee striking amendment:

On page 32, after line 5 of the striking amendment, insert the following:

"NEW SECTION. Sec. 17. (1) When a local government performs a public works project using its own local government employees, rather than following the public

works contracting process, the local government must create a public record which includes the names of all local government employees that performed work associated with the public works project and must document that each local government employee used on the project has obtained any required certification or license to complete the type of work performed. This document must be made available upon request.

(2) The record required under subsection (1) of this section applies to the local government entities subject to the following statutes: RCW 35.22.620, 35.23.352, 36.32.235, 52.14.110, 54.04.070, 54.04.082, and 57.08.050, and chapter 39.04 RCW."

Representative Vick spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Pollet spoke against the adoption of the amendment to the committee striking amendment.

Amendment (750) to the committee striking amendment was not adopted.

Representative Young moved the adoption of amendment (751) to the committee striking amendment:

On page 32, after line 5 of the striking amendment, insert the following:

"NEW SECTION. Sec. 17. (1) When a local government performs a public works project using its own local government employees, rather than following the public works contracting process, the local government is required to disclose all bidder communications, except confidential business communication and information, related to any offered bid or project prior to the determination that the work will be done with the local government's own employees.

(2) The record required under subsection (1) of this section applies to the local government entities subject to the following statutes: RCW 35.22.620, 35.23.352, 36.32.235, 52.14.110, 54.04.070, 54.04.082, and 57.08.050, and chapter 39.04 RCW."

Representative Young spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Pollet spoke against the adoption of the amendment to the committee striking amendment.

Amendment (751) to the committee striking amendment was not adopted.

Representative Young moved the adoption of amendment (752) to the committee striking amendment:

On page 32, after line 5 of the striking amendment, insert the following:

"NEW SECTION. Sec. 17. Sections 1 through 16 of this act expire on March 31, 2021."

Representative Young spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Pollet spoke against the adoption of the amendment to the committee striking amendment.

Amendment (752) to the committee striking amendment was not adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Pollet, Goehner and Eslick spoke in favor of the passage of the bill.

Representative Kraft spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5418, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5418, and the bill passed the House by the following vote: Yeas, 76; Nays, 22; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Bergquist, Blake, Boehnke, Caldier, Callan, Chapman, Chopp, Cody, Davis, DeBolt, Doglio, Dolan, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hudgins, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Wilcox and Wylie.

Voting nay: Representatives Barkis, Chambers, Chandler, Corry, Dent, Dufault, Gildon, Griffey, Hoff, Irwin, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Orcutt, Shea, Van Werven, Vick, Walsh, Ybarra and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5418, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5511, by Senate Committee on Ways & Means (originally sponsored by Wellman, Sheldon, Carlyle, Short, McCoy, Nguyen, Takko, Cleveland, Darneille, Dhingra, Liias, Mullet, Saldaña and Frockt)**

**Expanding affordable, resilient broadband service to enable economic development, public safety, health care, and education in Washington's communities.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Innovation, Technology & Economic Development was not adopted. (For Committee amendment, see Journal, Day 79, April 2, 2019).

There being no objection, the committee striking amendment by the Committee on Capital Budget was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Tharinger, DeBolt and Dye spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5511, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5511, as amended by the House, and the bill passed the House by the following vote: Yeas, 97; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representative Kraft.

SECOND SUBSTITUTE SENATE BILL NO. 5511, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5602, by Senate Committee on Ways & Means (originally sponsored by Randall, Wilson, C., Nguyen, Das, Saldaña, Cleveland, Takko, Kuderer, Hasegawa, Rolfes, Van De Wege, Keiser, Hunt, Wellman, Billig, Dhingra, Conway, Pedersen, Frockt, Salomon, Palumbo, Darneille, McCoy, Liias, Mullet and Carlyle)**

**Eliminating barriers to reproductive health care for all.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Health Care & Wellness was not adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the committee striking amendment by the Committee on Appropriations was not adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

Representative Macri moved the adoption of striking amendment (658):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds and declares:

(1) It is the public policy of this state to provide the maximum access to reproductive health care and reproductive health care coverage for all people in Washington state.

(2) In 2018, the legislature passed Substitute Senate Bill No. 6219. Along with reproductive health care coverage requirements, the bill mandated a literature review of barriers to reproductive health care. As documented by the report submitted to the legislature on January 1, 2019, young people, immigrants, people living in rural communities, transgender and gender nonconforming people, and people of color still face significant barriers to getting the reproductive health care they need.

(3) Washingtonians who are transgender and gender nonconforming have important reproductive health care needs as well. These needs go unmet when, in the process of seeking care, transgender and gender nonconforming people are stigmatized or are denied critical health services because of their gender identity or expression.

(4) The literature review mandated by Substitute Senate Bill No. 6219 found that, "[a]ccording to 2015 U.S. Transgender Survey data, thirty-two percent of transgender respondents in Washington State reported that in the previous year they did not see a doctor when needed because they could not afford it."

(5) Existing state law should be enhanced to ensure greater coverage of and timely access to reproductive health care for the benefit of all Washingtonians, regardless of gender identity or expression.

(6) Because stigma is also a key barrier to access to reproductive health care, all Washingtonians, regardless of gender identity, should be free from discrimination in the provision of health care services, health care plan coverage, and in access to publicly funded health coverage.

(7) All people should have access to robust reproductive health services to maintain and improve their reproductive health.

NEW SECTION. Sec. 2. A new section is added to chapter 74.09 RCW to read as follows:

(1) In the provision of reproductive health 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) The authority and any managed care plans delivering or administering services purchased or contracted for by the authority, may not issue automatic initial denials of coverage for reproductive health care services that are ordinarily or exclusively available to individuals of one gender, based on the fact that the individual's gender assigned at birth, gender identity, or gender otherwise recorded in one or more government-issued documents, is different from the one to which such health services are ordinarily or exclusively available.

(3) Denials as described in subsection (2) of this section are prohibited discrimination under chapter 49.60 RCW.

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

(a) "Gender expression" means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's gender assigned at birth.

(b) "Gender identity" means a person's internal sense of the person's own gender, regardless of the person's gender assigned at birth.

(c) "Reproductive health care services" means any medical services or treatments, including pharmaceutical and preventive care service or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction, in all stages of life. Reproductive health care services does not include infertility treatment.

(d) "Reproductive system" includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

(5) This section must not be construed to authorize discrimination on the basis of a covered person's gender identity or expression in the administration of any other medical assistance programs administered by the authority.

Sec. 3. RCW 48.43.072 and 2018 c 119 s 2 are each amended to read as follows:

(1) A health plan ((issued or renewed on or after January 1, 2019,)) or student health plan, including student health plans deemed by the insurance commissioner to have a short-term limited purpose or duration or to be guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, shall provide coverage for:

(a) All contraceptive drugs, devices, and other products, approved by the federal food and drug administration, including over the counter contraceptive drugs, devices, and products, approved by the federal food and drug administration. This includes condoms, regardless of the gender or sexual orientation of the covered person, and regardless of whether they are to be used for contraception or exclusively for the prevention of sexually transmitted infections;

(b) Voluntary sterilization procedures;

(c) The consultations, examinations, procedures, and medical services that are necessary to prescribe, dispense, insert, deliver, distribute, administer, or remove the drugs, devices, and other products or services in (a) and (b) of this subsection((,));

(d) The following preventive services:

(i) Screening for physical, mental, sexual, and reproductive health care needs that arise from a sexual assault; and

(ii) Well-person preventive visits;

(e) Medically necessary services and prescription medications for the treatment of physical, mental, sexual, and reproductive health care needs that arise from a sexual assault; and

(f) The following reproductive health-related over-the-counter drugs and products approved by the federal food and drug administration: Prenatal vitamins for pregnant persons; and breast pumps for covered persons expecting the birth or adoption of a child.

(2) The coverage required by subsection (1) of this section:

(a) May not require copayments, deductibles, or other forms of cost sharing(,):

(i) Except for:

(A) The medically necessary services and prescription medications required by subsection (1)(e) of this section; and

(B) The drugs and products in subsection (1)(f) of this section; or

(ii) Unless the health plan is offered as a qualifying health plan for a health savings account. For such a qualifying health plan, the carrier must establish the plan's cost sharing for the coverage required by subsection (1) of this section at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from ((his or her)) the enrollee's health savings account under internal revenue service laws and regulations; and

(b) May not require a prescription to trigger coverage of over the counter contraceptive drugs, devices, and products, approved by the federal food and drug administration, except those reproductive health related drugs and products as set forth in subsection (1)(f) of this section.

(3) A health carrier may not deny the coverage required in subsection (1) of this section because an enrollee changed ((his or her)) the enrollee's contraceptive method within a twelve-month period.

(4) Except as otherwise authorized under this section, a health benefit plan may not impose any restrictions or delays on the coverage required under this section, such as medical management techniques that limit enrollee choice in accessing the full range of contraceptive drugs, devices, or other products, approved by the federal food and drug administration.

(5) Benefits provided under this section must be extended to all enrollees, enrolled spouses, and enrolled dependents.

(6) This section may not be construed to allow for denial of care on the basis of race, color, national origin, sex, sexual orientation, gender expression or identity, marital status, age, citizenship, immigration status, or disability.

(7) A health plan or student health plan, including student health plans deemed by the insurance commissioner to have a short-term limited purpose or duration or to be guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, issued or renewed on or after January 1, 2021, may not issue automatic initial denials of coverage for reproductive health care services that

are ordinarily or exclusively available to individuals of one gender, based on the fact that the individual's gender assigned at birth, gender identity, or gender otherwise recorded in one or more government-issued documents, is different from the one to which such health services are ordinarily or exclusively available.

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

(a) "Gender expression" means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's gender assigned at birth.

(b) "Gender identity" means a person's internal sense of the person's own gender, regardless of the person's gender assigned at birth.

(c) "Reproductive health care services" means any medical services or treatments, including pharmaceutical and preventive care service or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction, in all stages of life. Reproductive health care services does not include infertility treatment.

(d) "Reproductive system" includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

(e) "Well-person preventive visits" means the preventive annual visits recommended by the federal health resources and services administration women's preventive services guidelines, with the understanding that those visits must be covered for women, and when medically appropriate, for transgender, nonbinary, and intersex individuals.

(9) This section may not be construed to authorize discrimination on the basis of gender identity or expression, or perceived gender identity or expression, in the provision of nonreproductive health care services.

(10) The commissioner, under RCW 48.30.300, and the human rights commission, under chapter 49.60 RCW shall share enforcement authority over complaints of discrimination under this section as set forth in RCW 49.60.178.

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

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

(1) The legislature intends to codify the state's current practice of requiring health carriers to bill enrollees with a single invoice and to segregate into a separate account the premium attributable to abortion services for which federal funding is prohibited. Washington has achieved full compliance with section 1303 of the federal patient protection and affordable care act by requiring health carriers to submit a single invoice to enrollees and to segregate into a separate account the premium amounts attributable to coverage of abortion services for which federal funding is prohibited. Further, section 1303 states that the act does not preempt or otherwise have any effect on state laws regarding the prohibition of, or requirement of, coverage, funding, or procedural requirements on abortions.

(2) In accordance with RCW 48.43.073 related to requirements for coverage and funding of abortion services, an issuer offering a qualified health plan must:

(a) Bill enrollees and collect payment through a single invoice that includes all benefits and services covered by the qualified health plan; and

(b) Include in the segregation plan required under applicable federal and state law a certification that the issuer's billing and payment processes meet the requirements of this section.

NEW SECTION. Sec. 5. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 6. This act may be known and cited as the reproductive health care access for all act.

NEW SECTION. Sec. 7. (1) Section 2 of this act takes effect January 1, 2020.

(2) Section 3 of this act takes effect January 1, 2021.

NEW SECTION. Sec. 8. Section 4 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."

Correct the title.

Representatives Macri and Schmick spoke in favor of the adoption of the striking amendment.

The striking amendment (658) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

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

Representative Schmick spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5602, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5602, and the bill passed the House by the following vote: Yeas, 59; Nays, 39; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Bergquist, Blake, Callan, Chambers, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick,

Gildon, Goehner, Graham, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Shea, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

SECOND SUBSTITUTE SENATE BILL NO. 5602, as amended by the House, having received the necessary constitutional majority, was declared passed.

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Second Substitute Senate Bill No. 5602.

Representative Schmick, 9th District

### STATEMENT FOR THE JOURNAL

I intended to vote YEA on Second Substitute Senate Bill No. 5602.

Representative Chambers, 25th District

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5397, by Senate Committee on Ways & Means (originally sponsored by Rolfes, Carlyle, Darneille, Saldaña, Hasegawa, Hunt and Kuderer)**

**Concerning the responsible management of plastic packaging.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Environment & Energy was not adopted. (For Committee amendment, see Journal, Day 74, March 28, 2019).

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

Representative Dye moved the adoption of amendment (755) to the committee striking amendment:

On page 1, at the beginning of line 18 of the striking amendment, strike "one hundred percent" and insert "sustainable and realistic amounts"

On page 3, line 30 of the striking amendment, after "Achieve" strike "one hundred percent" and insert "sustainable and realistic policies for"

On page 3, line 31 of the striking amendment, after "packaging in" strike "all"

Representative Dye spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Fitzgibbon spoke against the adoption of the amendment to the committee striking amendment.

Amendment (755) to the committee striking amendment was not adopted.

The committee striking amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

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

Representative Shea spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5397, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5397, and the bill passed the House by the following vote: Yeas, 75; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Bergquist, Blake, Caldier, Callan, Chambers, Chapman, Chopp, Cody, Davis, Dent, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Hansen, Harris, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Volz, Walen, Wylie, Ybarra and Young.

Voting nay: Representatives Barkis, Boehnke, Chandler, Corry, DeBolt, Dufault, Dye, Eslick, Griffey, Hoff, Jenkin, Klippert, Kraft, Kretz, MacEwen, McCaslin, Schmick, Shea, Stokesbary, Sutherland, Vick, Walsh and Wilcox.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5397, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

**MESSAGES FROM THE SENATE**

April 16, 2019

MR. SPEAKER:

The President has signed:

SECOND SUBSTITUTE HOUSE BILL NO. 1166,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1440,  
 SUBSTITUTE HOUSE BILL NO. 1469,  
 SUBSTITUTE HOUSE BILL NO. 1485,  
 HOUSE BILL NO. 1490,

SUBSTITUTE HOUSE BILL NO. 1512,  
 SUBSTITUTE HOUSE BILL NO. 1532,  
 HOUSE BILL NO. 1534,  
 HOUSE BILL NO. 1554,  
 ENGROSSED HOUSE BILL NO. 1563,  
 HOUSE BILL NO. 1568,  
 ENGROSSED HOUSE BILL NO. 1584,  
 SUBSTITUTE HOUSE BILL NO. 1594,  
 SUBSTITUTE HOUSE BILL NO. 1605,  
 SUBSTITUTE HOUSE BILL NO. 1621,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1643,  
 HOUSE BILL NO. 1647,  
 HOUSE BILL NO. 1657,  
 HOUSE BILL NO. 1673,  
 HOUSE BILL NO. 1688,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1713,  
 SUBSTITUTE HOUSE BILL NO. 1742,  
 ENGROSSED HOUSE BILL NO. 1801,  
 ENGROSSED HOUSE BILL NO. 1846,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1849,  
 HOUSE BILL NO. 1866,  
 HOUSE BILL NO. 1908,  
 HOUSE BILL NO. 1913,  
 SUBSTITUTE HOUSE BILL NO. 1930,  
 HOUSE BILL NO. 1934,  
 HOUSE BILL NO. 1980,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1994,  
 SUBSTITUTE HOUSE BILL NO. 2044,  
 HOUSE BILL NO. 2058,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

April 16, 2019

MR. SPEAKER:

The President has signed:

SUBSTITUTE SENATE BILL NO. 5003,  
 SENATE BILL NO. 5119,  
 SUBSTITUTE SENATE BILL NO. 5163,  
 SENATE BILL NO. 5310,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5311,  
 SUBSTITUTE SENATE BILL NO. 5638,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

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

**SECOND READING**

**SUBSTITUTE SENATE BILL NO. 5851, by Senate Committee on Ways & Means (originally sponsored by Frockt, Saldaña, Wellman, Wilson and C.)**

**Enhancing educational opportunities for vulnerable children and youth using funding distributed from the Puget Sound taxpayer accountability account.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was not adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

Amendments (595), (573) and (590) were ruled out of order.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Reeves and Stokesbary spoke in favor of the passage of the bill.

**MOTION**

On motion of Representative Griffey, Representative MacEwen was excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5851.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5851 and the bill passed the House by the following vote: Yeas, 94; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives McCaslin, Orcutt and Shea.

Excused: Representative MacEwen.

SUBSTITUTE SENATE BILL NO. 5851, having received the necessary constitutional majority, was declared passed.

There being no objection, the House adjourned until 9:00 a.m., April 17, 2019, the 94th Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## NINETY FOURTH DAY

House Chamber, Olympia, Wednesday, April 17, 2019

The House was called to order at 9:00 a.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Chloe Decker and Nevaeh Canley. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Phillip Miller, Westwood Baptist Church, Olympia, Washington.

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

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

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

**INTRODUCTION & FIRST READING**

HB 2170 by Representatives Jinkins, Caldier, Cody and Macri

Concerning notice of material changes to the operations or governance structure of participants in the health care marketplace.

Referred to Committee on Healthcare & Wellness.

HB 2171 by Representatives Santos and Sells

Concerning vested vacation or paid time off upon an employee's termination.

Referred to Committee on Labor and Workplace Standards.

HB 2172 by Representatives Caldier and Jinkins

Protecting whistleblowers who provide information to the attorney general regarding anticompetitive transactions involving hospitals, hospital systems, or provider organizations.

Referred to Committee on Civil Rights & Judiciary.

There being no objection, the bills listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated, with the exception of HOUSE BILL NO. 2170 which was referred to the Committee on Civil Rights & Judiciary.

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

**SECOND READING**

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5874, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Warnick, Billig, Becker, Short, Fortunato, Rivers, Walsh, O'Ban, Bailey, Wilson, L., Holy, Wagoner and Wellman)**

**Funding rural satellite skill centers.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Santos and Steele spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5874.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5874, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5874, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5566, by Senators Braun and Takko**

**Concerning setting fees for administration of the prevailing wage program.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5566.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5566, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SENATE BILL NO. 5566, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5151, by Senate Committee on Local Government (originally sponsored by Wilson, L., Becker, Honeyford, Zeiger and Short)**

**Requiring the growth management hearings board to topically index the rulings, decisions, and orders it publishes.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Kraft and Fitzgibbon spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5151, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5151, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5151, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5025, by Senate Committee on Ways & Means (originally sponsored by Das, Warnick, Wilson, C., Zeiger, Fortunato, Palumbo, Saldaña, Kuderer and O'Ban)**

**Creating sales and use and excise tax exemptions for self-help housing development. Revised for 1st Substitute: Concerning tax relief to encourage self-help housing development.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Finance was adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Leavitt and Orcutt spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5025, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5025, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5025, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5330, by Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Braun, Van De Wege, Takko, Short, Becker, Rivers, Wagoner and Warnick)**

**Analyzing state regulatory impact on small forest landowners. Revised for 1st Substitute: Analyzing state regulatory impact on small forestland owners.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Blake and Chandler spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5330, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5330, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5330, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5350, by Senators Conway, Bailey and Schoesler**

**Concerning the purchase of an optional life annuity benefit for certain public retirement system members.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

Representative Stokesbary spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5350.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5350, and the bill passed the House by the following vote: Yeas, 89; Nays, 9; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hudgins, Irwin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos,

Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Volz, Walen, Walsh, Wilcox, Wylie and Young.

Voting nay: Representatives Chandler, Dent, Dufault, Hoff, Jenkin, Kraft, Stokesbary, Vick and Ybarra.

SENATE BILL NO. 5350, having received the necessary constitutional majority, was declared passed.

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

**SENATE BILL NO. 5506, by Senators Hobbs, King and Sheldon**

**Concerning parking at rest areas.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Transportation was adopted. (For Committee amendment, see Journal, Day 85, April 8, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5506, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5506, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SENATE BILL NO. 5506, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5652, by Senate Committee on Transportation (originally sponsored by Fortunato, Rivers, Becker, Hawkins, Brown, Hobbs, Warnick, Honeyford, Wilson, L., Short and Palumbo)**

**Clarifying personal belonging disposal for impounded vehicles. Revised for 1st Substitute: Clarifying personal belongings disposal for impounded vehicles.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Transportation was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5652, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5652, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5652, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5560, by Senate Committee on Law & Justice (originally sponsored by Padden and Pedersen)**

**Concerning mediation of disputes between elected officials.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Civil Rights & Judiciary was adopted. (For Committee amendment, see Journal, Day 72, March 26, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5560, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5560, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5560, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE JOINT MEMORIAL NO. 8005, by Senators Short, Van De Wege, Warnick, Palumbo, Brown, McCoy, Braun, Liias, Schoesler, Hunt, Wilson, C., Wilson, L., Rolfes, Das and Rivers**

**Supporting the continued research, development, production, and application of biochar from our forests and agricultural lands.**

The memorial was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the memorial was placed on final passage.

Representatives Blake and Shea spoke in favor of the passage of the memorial.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Joint Memorial No. 8005.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Joint Memorial No. 8005, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SENATE JOINT MEMORIAL NO. 8005, having received the necessary constitutional majority, was declared passed.

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

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

**MOTION**

There being no objection, the Committee on Rules was relieved SENATE BILL NO. 5260 and the bill was placed on the second reading calendar.

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

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

**THIRD READING**

The House resumed consideration of SENATE JOINT RESOLUTION NO. 8200 on third reading.

**SENATE JOINT RESOLUTION NO. 8200, by Senators Takko, Zeiger, Rolfes, Hobbs, O'Ban, Keiser, Warnick, Hunt, Pedersen, Bailey, Conway, McCoy, Carlyle, Frockt, Palumbo and Van De Wege**

**Amending the state Constitution to provide governmental continuity during emergency periods resulting from a catastrophic incident.**

Representatives Goodman and Jenkin spoke in favor of the passage of the resolution.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Joint Resolution No. 8200.

### ROLL CALL

The Clerk called the roll on the final passage of Senate Joint Resolution No. 8200, and the bill passed the House by the following vote: Yeas, 91; Nays, 7; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Wilcox, Wylie and Ybarra.

Voting nay: Representatives Corry, Goehner, McCaslin, Orcutt, Shea, Walsh and Young.

SENATE JOINT RESOLUTION NO. 8200, having received the necessary constitutional majority, was declared passed.

There being no objection, the House reverted to the sixth order of business.

### SECOND READING

**SENATE BILL NO. 5260, by Senators Zeiger, Hunt, Hobbs, Takko, Bailey and Conway**

**Concerning powers to waive statutory obligations or limitations during a state of emergency in order to cope with the emergency.**

The bill was read the second time.

With the consent of the House, amendments (536), (740) and (741) were withdrawn.

There being no objection, the committee striking amendment by the Committee on Housing, Community Development & Veterans was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 72, March 26, 2019).

Representative Young moved the adoption of amendment (742) to the committee striking amendment:

On page 2, beginning on line 34, after "in" strike all material through "2008" on line 35 and insert "~~((any or all of))~~ the following areas ~~((as further specified and limited by chapter 181, Laws of 2008))~~"

Representatives Young and Ryu spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (742) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Jenkin and Kilduff spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5260, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5260, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SENATE BILL NO. 5260, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5012, by Senate Committee on Ways & Means (originally sponsored by Takko, Zeiger, Rolfes, Hobbs, O'Ban, Keiser, Warnick, Hunt, Pedersen, Bailey, Conway, McCoy, Wellman, Palumbo, Kuderer and Carlyle)**

**Concerning governmental continuity during emergency periods.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was adopted. (For Committee amendment, see Journal, Day 86, April 9, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Goodman and Jenkin spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5012, as amended by the House.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5012, as amended by the House, and the bill passed the House by the following vote: Yeas, 90; Nays, 8; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Davis, DeBolt, Doglio, Dolan, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Wilcox, Wylie and Ybarra.

Voting nay: Representatives Corry, Dent, Dufault, McCaslin, Orcutt, Shea, Walsh and Young.

SUBSTITUTE SENATE BILL NO. 5012, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5145, by Senators Salomon, Nguyen, Dhingra, Rolfes, Frockt, Hunt, Billig, Darneille, Palumbo, Kuderer, Saldaña and Van De Wege**

**Concerning the use of hydraulic fracturing in the exploration for and production of oil and natural gas.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Rural Development, Agriculture, & Natural Resources was adopted. (For Committee amendment, see Journal, Day 80, April 3, 2019).

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 5145, as amended by the House.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5145, as amended by the House, and the bill passed the House by the following vote: Yeas, 61; Nays, 37; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Bergquist, Blake, Boehnke, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Graham, Gregerson, Griffey, Hansen, Hudgins, Jinkins, Kilduff, Kirby, Kloba, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Volz, Walen and Wylie.

Voting nay: Representatives Barkis, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Shewmake, Smith, Steele, Stokesbary, Sutherland, Van Werven, Vick, Walsh, Wilcox, Ybarra and Young.

SENATE BILL NO. 5145, as amended by the House, having received the necessary constitutional majority, was declared passed.

#### **STATEMENT FOR THE JOURNAL**

I intended to vote YEA on Senate Bill No. 5145.

Representative Smith, 10th District

#### **STATEMENT FOR THE JOURNAL**

I intended to vote YEA on Senate Bill No. 5145.

Representative Van Werven, 42nd District

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

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5272, by Senate Committee on Local Government (originally sponsored by Hunt)**

**Increasing the maximum tax rate for the voter-approved local sales and use tax for emergency communication systems and facilities.**

The bill was read the second time.

Representative Doglio moved the adoption of amendment (717):

On page 2, after line 29, insert the following:

"(9) The Washington state patrol must enter into an intergovernmental agreement, with a county, city, or regional communications agency that operates emergency communications systems, for purposes of interoperable communications, if the following conditions are met:

(a) The intergovernmental agreement is requested by the county, city, or regional communications agency for this purpose; and

(b) The terms and conditions are mutually agreeable."

Representatives Doglio and Griffey spoke in favor of the adoption of the amendment.

Amendment (717) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Doglio, Volz and Goehner spoke in favor of the passage of the bill.

Representative Orcutt spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5272, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5272, as amended by the House, and the bill passed the House by the following vote: Yeas, 74; Nays, 24; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Chapman, Chopp, Cody, Davis, Dent, Doglio, Dolan, Entenman, Eslick, Fey, Fitzgibbon, Frame, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hudgins, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele,

Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Volz, Walen, Walsh, Wylie and Ybarra.

Voting nay: Representatives Caldier, Callan, Chambers, Chandler, Corry, DeBolt, Dufault, Dye, Gildon, Hoff, Irwin, Jenkin, Kraft, McCaslin, Mosbrucker, Orcutt, Ramos, Schmick, Shea, Stokesbary, Sutherland, Vick, Wilcox and Young.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5272, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

**MOTIONS**

There being no objection, the Committee on Rules was relieved of SUBSTITUTE SENATE BILL NO. 5028 and the bill was placed on the second reading calendar.

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

There being no objection, the Committee on Appropriations was relieved of ENGROSSED HOUSE BILL NO. 2009 and the bill was placed on the second reading calendar.

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

There being no objection, the House reverted to the sixth order of business.

**SECOND READING**

**SECOND SUBSTITUTE SENATE BILL NO. 5672, by Senate Committee on Ways & Means (originally sponsored by Cleveland, O'Ban, Walsh, Wellman, Darnelle, Dhingra, Hunt, Keiser, Frockt, Kuderer, Nguyen and Saldaña)**

**Concerning adult family home specialty services.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Health Care & Wellness was not adopted. (For Committee amendment, see Journal, Day 78, April 1, 2019).

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. (For Committee amendment, see Journal, Day 86, April 9, 2019).

Representative Chambers moved the adoption of amendment (705) to the committee striking amendment:

On page 3, at the beginning of line 13 of the striking amendment, insert "(1)"

On page 3, at the beginning of line 16 of the striking amendment, strike "(1)" and insert "(a)"

On page 3, at the beginning of line 19 of the striking amendment, strike "(2)" and insert "(b)"

On page 3, at the beginning of line 21 of the striking amendment, strike "(3)" and insert "(c)"

On page 3, at the beginning of line 29 of the striking amendment, strike "(4)" and insert "(d)"

On page 3, at the beginning of line 32 of the striking amendment, strike "(5)" and insert "(e)"

On page 3, after line 34, insert the following:

"(2) Nothing in subsection (1) of this section:

(a) Limits the ability of a department-approved training entity or instructor to provide training to an adult family home provider, resident manager, or caregiver;

(b) Requires that a department-approved training entity or instructor contract with an adult family home training network; or

(c) Prevents an adult family home provider, resident manager, or caregiver from receiving training from a department-approved training entity or instructor."

Representatives Chambers and Tharinger spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (705) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representatives Tharinger, Schmick and Leavitt spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5672, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5672, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris,

Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SECOND SUBSTITUTE SENATE BILL NO. 5672, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5028, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Hunt, Wilson, C. and O'Ban)**

**Declaring September the month of the kindergartner.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Pellicciotti and Griffey spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5028.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5028, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SUBSTITUTE SENATE BILL NO. 5028, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5865, by Senators Hasegawa, Nguyen, Conway, Dhingra, Schoesler, Billig, Honeyford, King, Randall, Saldaña, Wilson and C.**

**Declaring October as Filipino American history month.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Chandler, Santos and Dufault spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5865.

**ROLL CALL**

The Clerk called the roll on the final passage of Senate Bill No. 5865, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kirby, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

SENATE BILL NO. 5865, having received the necessary constitutional majority, was declared passed.

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

**HOUSE BILL NO. 2009, by Representatives Reeves, Lekanoff, Thai, Gregerson, Jinkins, Ortiz-Self, Ryu, Doglio, Valdez, Stanford, Chapman, Shewmake, Santos, Fitzgibbon, Fey, Appleton, Slatter, Senn, Pettigrew, Pollet, Stonier, Pellicciotti, Tarleton, Frame, Leavitt and Macri**

**Establishing a healthy environment for all by addressing environmental health disparities.**

The bill was read the second time.

Representative Reeves moved the adoption of striking amendment (765):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cumulative impact analysis" means the analysis tool used by the department of health's Washington tracking network to identify highly impacted communities and vulnerable populations and environmental health disparities in identified areas and populations.

(2) "Environmental burdens" means the cumulative risks to communities caused by historic and current:

(a) Exposure to conventional and toxic hazards in the air, water, and land;

(b) Adverse environmental effects, which include environmental conditions caused or made worse by contamination or pollution or that create vulnerabilities to climate impacts; and

(c) Exposure to hazards made worse by changes in the climate, such as water stress and drought, flooding, wildfire, air quality, ocean acidification, and infectious disease.

(3) "Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

(4) "Equity analysis" means an analysis used to determine or evaluate environmental justice considerations.

(5) "Fair treatment" means that no group of people, including racial, ethnic, or socioeconomic groups, should bear disproportionately high exposure to pollution or adverse human health or environmental impacts.

(6) "Highly impacted communities" means communities designated by state agencies based on their findings from implementing the cumulative impact analysis defined in this section and census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

(7) "Meaningful involvement" means all groups of people have appropriate access to meaningful public participation in decisions that affect their environment.

(8) "State agency" means a state agency that is represented on the task force created under section 3 of this act.

(9) "Vulnerable populations" means communities that experience disproportionate cumulative risk from environmental burdens due to:

(a) Adverse socioeconomic factors, including unemployment, high housing and transportation costs relative to income, access to food and health care, and linguistic isolation; and

(b) Sensitivity factors, such as low birth weight and higher rates of hospitalization.

NEW SECTION. **Sec. 2.** To ensure implementation and adherence to state policies of fostering and promoting the general welfare by ensuring that all people of Washington have a safe and healthful environment, state agencies shall use all practicable means and measures to promote environmental justice and fair treatment.

NEW SECTION. **Sec. 3.** (1) Subject to the availability of amounts appropriated for this specific purpose, a task force is established to recommend strategies for incorporating environmental justice principles into how state agencies discharge their responsibilities.

(2) The membership of the task force established under this section is as follows:

(a) The director of the department of commerce, or the director's designee;

(b) The director of the department of ecology, or the director's designee;

(c) The executive director of the Puget Sound partnership, or the executive director's designee;

(d) The secretary of the department of transportation, or the secretary's designee;

(e) The secretary of the department of health, or the secretary's designee;

(f) The chair of the energy facility site evaluation council, or the chair's designee;

(g) The chair of the governor's interagency council on health disparities, or the chair's designee;

(h) The commissioner of public lands, or the commissioner's designee;

(i) Two members of the senate, one from each major caucus, appointed by the president of the senate, and two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives;

(j) A member who is well-informed on the principles of environmental justice and with expertise in statewide environmental justice issues, appointed by the governor;

(k) Three members from community-based organizations, appointed by the cochair specified under subsection (3) of this section, the nominations of which are based upon maintaining a balanced and diverse distribution, where practicable, of: (i) Representation from census tracts that are ranked at an eight or higher on the cumulative impact analysis; and (ii) ethnic, geographic, gender, sexual orientation, age, socioeconomic status, and occupational representation;

(l) A tribal leader, invited by the governor;

(m) One member from an association representing business interests, appointed by the governor;

(n) One member from a union or other organized labor association in the building trade representing worker interests, appointed by the governor;

(o) One member from a minority-owned small business located in, and serving, one or more census tracts that are ranked at an eight or higher on the cumulative impact analysis, appointed by the governor;

(p) One member from a midsize economic development organization or a midsize organization representing business interests, appointed by governor who must solicit and consider nominations from economic development organizations and organizations representing business interests; and

(q) One member from an organization representing statewide agricultural interests, selected by the commissioner of public lands.

(3) The representative of statewide environmental justice interests, and the chair of the governor's interagency council on health disparities, or the chair's designee, must cochair the task force.

(4) The governor's interagency council on health disparities shall provide staff support to the task force. The interagency council may work with other agencies, departments, or offices as necessary to provide staff support to the task force.

(5) The task force must submit a final report of its findings and recommendations to the appropriate committees of the legislature and the governor by October 31, 2020, and in compliance with RCW 43.01.036. State agencies may not adopt rules, policies, or guidelines under section 4 of this act until after the legislature approves the recommendations of the task force through the amendment of this chapter or through specific reference in an appropriations act. The goal of the final report is to provide guidance to agencies, the legislature, and the governor, and at a minimum must include the following:

(a) Guidance for state agencies when adopting rules, policies, or guidelines regarding how to use the cumulative impact analysis, defined under section 1 of this act. Guidance must cover how agencies identify highly impacted communities and must be based on best practices and current demographic data. The guidance provided relating to the designation of a highly impacted community must utilize as a basis for this determination the cumulative impact analysis, and may use exposure scenarios developed by tribes for use in remediation decisions at, or to mitigate and address natural resource damage from, national priority list sites pursuant to the federal comprehensive environment response, compensation, and liability act, 42 U.S.C. 9601 et seq., or sites regulated under chapter 70.105D RCW, and additional factors as the task force deems appropriate;

(b) Best practices for increasing public participation and engagement by providing meaningful opportunities for involvement for all people, taking into account barriers to participation that may arise due to race, color, ethnicity, religion, income, or education level. In addition, a specific recommendation on how to best meaningfully consult

vulnerable populations, including how to consider exposure scenarios developed by tribes as described in (a) of this subsection, when periodically evaluating and updating the cumulative impact analysis;

(c) Recommendations for establishing measurable goals for reducing environmental health disparities for each community in Washington state and ways in which state agencies may focus their work towards meeting those goals;

(d) Guidelines for prioritizing highly impacted communities and vulnerable populations by identifying and implementing, where practicable, procedures, processes, applications, and reporting requirements so that inspections, enforcement actions, investment of resources, planning and permitting, and public participation are maximized for the purpose of reducing environmental health disparities and advancing a healthy environment for all residents;

(e) Best practices for how local governments that plan under RCW 36.70A.040 may incorporate environmental justice principles into the development of comprehensive plans to evaluate the ways in which the plans they propose or adopt disproportionately contribute to or threaten displacement of low-income communities and people of color particularly in urban areas, or exacerbate environmental burdens to vulnerable populations; and

(f) Recommendations for how to address the equity implications of historical applications of environmental and land use laws with respect to rural communities, including any disproportionate economic burdens placed on rural communities attributable to or correlated with the implementation of federal and state environmental or land use laws.

(6) If time and resources permit, the task force may also include in its final report:

(a) Recommendations for creating and implementing equity analysis into all significant planning, programmatic and policy decision making, and investments. The equity analysis methods may include a process for describing potential risks to, benefits to, and opportunities for highly impacted communities and vulnerable populations;

(b) Best practices and needed resources for cataloging and cross-referencing current research and data collection for programs within all state agencies relating to the health and environment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state; and

(c) Recommendations for criteria for identifying and addressing gaps in current research and data collection to inform agency actions, to refine the common cumulative impact methodology, and to identify factors that may impede the achievement of environmental justice.

(7) By December 1, 2019, and in compliance with RCW 43.01.036, the task force must submit a preliminary report to the appropriate committees of the legislature and the governor if the task force is not able to complete the tasks required under this section because of insufficient funds

appropriated to implement this section. The preliminary report must include the following information:

(a) Tasks that could not be completed as a result of insufficient funds appropriated;

(b) The status of the task force's activities; and

(c) Additional resources the task force needs to complete all of the requirements under this section.

(8)(a) For attendance at meetings of the task force or in attending to such other business of the task force as may be authorized, legislative members of the task force shall be reimbursed and receive allowances in accordance with RCW 44.04.120.

(b) Nonlegislative members of the task force who are not state employees must be compensated in accordance with RCW 43.03.240 and are entitled to reimbursement individually for travel expenses incurred in the performance of their duties as members of the task force in accordance with RCW 43.03.050 and 43.03.060. Such expenses of the task force must be paid by the governor's interagency council on health disparities.

(9) The task force may form work groups or consult with stakeholders as necessary to assist the task force in carrying out its duties.

(10) The task force must hold four regional meetings to seek input from, present their work plan and proposals to, and receive feedback from communities throughout the state. The following locations must be considered for these meetings: Northwest Washington, central Puget Sound region, south Puget Sound region, southwest Washington, central Washington, and eastern Washington.

(11)(a) Upon adoption of rules, policies, or guidelines related to the cumulative impact analysis, as required under section 4 of this act, each state agency must notify the governor's interagency council on health disparities and submit a report to the appropriate committees of the legislature.

(b) One year after the effective date of rules, policies, or guidelines, and two years thereafter, each state agency must submit a report to the governor, governor's interagency council on health disparities, and appropriate committees of the legislature regarding progress made towards reducing disproportionate environmental burdens and attaining environmental health targets. The report must be submitted in compliance with RCW 43.01.036.

(12) Reports submitted under this section must be available for public inspection and copying through the governor's interagency council on health disparities and must be posted on its web site.

**NEW SECTION. Sec. 4.** (1) Upon the legislature's approval of the task force's recommendations pursuant to section 3 of this act:

(a) State agencies, through rules, policies, or guidelines, shall adopt the use of the cumulative impact analysis to identify highly impacted communities and vulnerable populations and reduce environmental health disparities in identified areas and populations. If the task force

created under section 3 of this act issues guidance on how to use the cumulative impact analysis, the rules, policies, or guidelines adopted pursuant to this subsection must be consistent with the task force's guidance, unless a state agency provides a compelling reason to deviate from the task force's guidance. A state agency that deviates from the task force's guidance when adopting a rule, policy, or guideline pursuant to this subsection must report such deviation in writing to the governor's interagency council on health disparities and the appropriate committees of the legislature;

(b) State agencies may issue policies, guidance, or adopt practices, guidelines, or rules as necessary to identify highly impacted communities, establish measurable goals for reducing environmental health disparities, and prioritize highly impacted communities and their vulnerable populations in the development, adoption, implementation, and enforcement of environmental laws, regulations, policies, and funding decisions; and

(c) If the task force created under section 3 of this act issues guidance on how to use the cumulative impact analysis, the department of health shall initiate a process, within sixty days after the issuance of the task force's guidance, to develop model policies for the purpose of providing uniform rules, policies, or guidelines to all state agencies implementing the task force guidance related to the cumulative impact analysis.

(2) To the extent that the recommendations, guidelines, or best practices of the task force conflict with standards or requirements established under other state statutes or federal law, those standards and requirements supersede, preempt, and take precedence over the recommendations of the task force.

**NEW SECTION. Sec. 5.** Sections 1 through 4 and 6 of this act constitute a new chapter in Title 43 RCW.

**NEW SECTION. Sec. 6.** This chapter may be known and cited as the HEAL act.

**NEW SECTION. Sec. 7.** Nothing in this act creates an entitlement to services or a private right of action or claim on the part of any individual, entity, or agency against the state or any state agency, officer, employee, or agent.

**NEW SECTION. Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

Representatives Reeves and Kretz spoke in favor of the adoption of the striking amendment.

The striking amendment (765) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Reeves, Steele and Lekanoff spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 2009.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 2009, and the bill passed the House by the following vote: Yeas, 88; Nays, 10; Absent, 0; Excused, 0.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Graham, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkins, Kilduff, Kirby, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Appleton, Dufault, Dye, Jenkin, Kraft, McCaslin, Schmick, Shea, Sutherland and Walsh.

ENGROSSED HOUSE BILL NO. 2009, having received the necessary constitutional majority, was declared passed.

There being no objection, the House adjourned until 10:00 a.m., April 18, 2019, the 95th Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

## SIXTY SIXTH LEGISLATURE - REGULAR SESSION

## NINETY FIFTH DAY

House Chamber, Olympia, Thursday, April 18, 2019

The House was called to order at 10:00 a.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Christian Aguilar and Emma Scrivens. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Marlando Jordan, Sozo Church, Kennewick, Washington.

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

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

**THIRD READING****MESSAGE FROM THE SENATE**

April 15, 2019

MR. SPEAKER:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1112, with the following amendment(s):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 10.** (1) The legislature finds that hydrofluorocarbons are air pollutants that pose significant threats to our environment and that safer alternatives for the most damaging hydrofluorocarbons are readily available and cost-effective.

(2) Hydrofluorocarbons came into widespread commercial use as United States environmental protection agency-approved replacements for ozone-depleting substances that were being phased out under an international agreement. However, under a 2017 federal appeals court ruling, while the environmental protection agency had been given the power to originally designate hydrofluorocarbons as suitable replacements for the ozone-depleting substances, the environmental protection agency did not have clear authority to require the replacement of hydrofluorocarbons once the replacement of the original ozone-depleting substances had already occurred.

(3) Because the impacts of climate change will not wait until congress acts to clarify the scope of the environmental protection agency's authority, it falls to the states to provide leadership on addressing hydrofluorocarbons. Doing so will not only help the climate, but will help American businesses retain their positions as global leaders in air conditioning and refrigerant technologies. Although hydrofluorocarbons currently represent a small proportion of the state's greenhouse gas emissions, emissions of hydrofluorocarbons have been rapidly increasing in the United States and worldwide, and they are thousands of times more potent than carbon dioxide. However, hydrofluorocarbons are also a segment of the state's emissions that will be comparatively easy to reduce and eliminate without widespread implications for the way that power is produced, heavy industries operate, or people transport themselves. Substituting or reducing the use of hydrofluorocarbons with the highest global warming potential will provide a significant boost to the state's efforts to reduce its greenhouse gas emissions to the limits established in RCW 70.235.020.

(4) Therefore, it is the intent of the legislature to transition to the use of less damaging hydrofluorocarbons or suitable substitutes in various applications in Washington, in a manner similar to the regulations that were adopted by the environmental protection agency, and that have been subsequently adopted or will be adopted in several other states around the country.

**Sec. 11.** RCW 70.235.010 and 2010 c 146 s 1 are each amended to read as follows:

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

(1) "Carbon dioxide equivalents" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

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

(3) "Climate impacts group" means the University of Washington's climate impacts group.

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

(5) "Director" means the director of the department.

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

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

(8) "Program" means the department's climate change program.

(9) "Western climate initiative" means the collaboration of states, Canadian provinces, Mexican states, and tribes to design a multisector market-based mechanism as directed under the western regional climate action initiative signed by the governor on February 22, 2007.

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

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

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

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

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

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

**NEW SECTION. Sec. 12.** A new section is added to chapter 70.235 RCW to read as follows:

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

sold, imported, exported, distributed, installed, and used after the specified effective date.

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

(a) January 1, 2021, for:

(i) Propellants;

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

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

(b) January 1, 2022, for:

(i) Refrigerated food processing and dispensing equipment;

(ii) Compact residential consumer refrigeration products;

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

(c) January 1, 2023, for residential consumer refrigeration products other than compact and built-in residential consumer refrigeration products;

(d) January 1, 2024, for cold storage warehouses;

(e) January 1, 2024, for built-in residential consumer refrigeration products;

(f) January 1, 2025, for centrifugal chillers and positive displacement chillers; and

(g) On either January 1, 2021, or the effective date of the restrictions identified in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, whichever comes later, for all other applications and end uses for substitutes not covered by the categories listed in (a) through (f) of this subsection.

(3) The department may by rule:

(a) Modify the effective date of a prohibition established in subsection (2) of this section if the department determines that the rule reduces the overall risk to human health or the environment and reflects the earliest date that a substitute is currently or potentially available or, in the case of certain specific applications of vending machines addressed by subsection (2)(a)(iii) of this section, modify the effective date of the prohibition to a date no later than January 1, 2022, if the department determines that relevant safety standards including, but not limited to, those published by underwriters laboratories (UL) or the American society of heating, refrigerating and air-conditioning engineers (ASHRAE), do not permit the use of commercially available substitutes for hydrofluorocarbons in those specific applications;

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

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

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

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

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

(b) If the United States environmental protection agency approves a previously prohibited hydrofluorocarbon blend with a global warming potential of seven hundred fifty or less for foam blowing of polystyrene extruded boardstock and billet and rigid polyurethane low-pressure two-component spray foam pursuant to the significant new alternatives policy program under section 7671(k) of the federal clean air act (42 U.S.C. Sec. 7401 et seq.), the department must expeditiously propose a rule consistent with RCW 34.05.320 to conform the requirements established under this section with that federal action.

(5) A manufacturer must disclose the substitutes used in its products or equipment. That disclosure must take the form of:

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

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

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

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

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

used by products or equipment in each product or equipment class in a manner determined by rule by the department.

(ii) Within one hundred twenty days after the date of a restriction put in place under this section, any manufacturer affected by the restriction must provide an updated status notification. This notification must indicate whether the manufacturer has ceased the use of hydrofluorocarbons or substitutes restricted under this section within each product class and, if not, what hydrofluorocarbons or other restricted substitutes remain in use.

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

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

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

(8) The authority granted by this section to the department for restricting the use of substitutes is supplementary to the department's authority to control air pollution pursuant to chapter 70.94 RCW. Nothing in this section limits the authority of the department under chapter 70.94 RCW.

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

**Sec. 13.** RCW 70.94.430 and 2011 c 96 s 49 are each amended to read as follows:

(1) Any person who knowingly violates any of the provisions of chapter 70.94 or 70.120 RCW, section 3 of this act, or any ordinance, resolution, or regulation in force

pursuant thereto is guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for up to three hundred sixty-four days, or by both for each separate violation.

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

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

(4) Any person who knowingly fails to disclose a potential conflict of interest under RCW 70.94.100 is guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars.

**Sec. 14.** RCW 70.94.431 and 2013 c 51 s 6 are each amended to read as follows:

(1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, and in addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of this chapter, chapter 70.120 (~~RCW, chapter~~) or 70.310 RCW, section 3 of this act, or any of the rules in force under such chapters or section may incur a civil penalty in an amount not to exceed ten thousand dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

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

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

(b) The maximum penalty amounts established in this section may be increased annually to account for

inflation as determined by the state office of the economic and revenue forecast council.

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

(4) All penalties recovered under this section by the department shall be paid into the state treasury and credited to the air pollution control account established in RCW 70.94.015 or, if recovered by the authority, shall be paid into the treasury of the authority and credited to its funds. If a prior penalty for the same violation has been paid to a local authority, the penalty imposed by the department under subsection (1) of this section shall be reduced by the amount of the payment.

(5) To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW 60.36.050.

(6) Public or private entities that are recipients or potential recipients of department grants, whether for air quality related activities or not, may have such grants rescinded or withheld by the department for failure to comply with provisions of this chapter.

(7) In addition to other penalties provided by this chapter, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.

(8) (~~By January 1, 1992,~~) The department shall develop rules for excusing excess emissions from enforcement action if such excess emissions are unavoidable. The rules shall specify the criteria and procedures for the department and local air authorities to determine whether a period of excess emissions is excusable in accordance with the state implementation plan.

**Sec. 15.** RCW 70.94.015 and 1998 c 321 s 33 are each amended to read as follows:

(1) The air pollution control account is established in the state treasury. All receipts collected by or on behalf of the department from RCW 70.94.151(2), and receipts from nonpermit program sources under RCW 70.94.152(1) and 70.94.154(7), and all receipts from RCW (~~70.94.650, 70.94.660, 82.44.020(2), and 82.50.405~~) 70.94.6528 and 70.94.6534 shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to develop and implement the provisions of chapters 70.94 and 70.120 RCW and section 3 of this act.

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

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

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

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

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

(3) The air operating permit account is created in the custody of the state treasurer. All receipts collected by or on behalf of the department from permit program sources under RCW 70.94.152(1), 70.94.161, 70.94.162, and 70.94.154(7) shall be deposited into the account. Expenditures from the account may be used only for the activities described in RCW 70.94.152(1), 70.94.161, 70.94.162, and 70.94.154(7). Moneys in the account may be spent only after appropriation.

**NEW SECTION. Sec. 16.** A new section is added to chapter 19.27 RCW to read as follows:

The building code council shall adopt rules that permit the use of substitutes approved under section 3 of this act and that do not require the use of substitutes that are restricted under section 3 of this act.

**NEW SECTION. Sec. 17.** The department of ecology, in consultation with the department of commerce and the utilities and transportation commission, must complete a report addressing how to increase the use of refrigerants with a low global warming potential in mobile sources, utility equipment, and consumer appliances, and how to reduce other uses of hydrofluorocarbons in Washington. The report must be submitted to the legislature consistent with RCW 43.01.036 by December 1, 2020, and must include recommendations for how to fund, structure, and prioritize a state program that incentivizes or provides grants to support the elimination of legacy uses of hydrofluorocarbons regulated under section 3 of this act or uses of hydrofluorocarbons not covered by section 3 of this act.

**NEW SECTION. Sec. 18.** A new section is added to chapter 39.26 RCW to read as follows:

(1) The department shall establish purchasing and procurement policies that provide a preference for products that:

(a) Are not restricted under section 3 of this act;

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

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

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

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

(3) Nothing in this section requires the department or any other state agency to breach an existing contract or dispose of stock that has been ordered or is in the possession of the department or other state agency as of the effective date of this section.

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

**NEW SECTION. Sec. 19.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 2 of the title, after "hydrofluorocarbons;" strike the remainder of the title and insert "amending RCW 70.235.010, 70.94.430, 70.94.431, and 70.94.015; adding a new section to chapter 70.235 RCW; adding a new section to chapter 19.27 RCW; adding a new section to chapter 39.26 RCW; creating new sections; and prescribing penalties."

Sarah Bannister, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1112 and asked the Senate to recede therefrom.

#### MESSAGE FROM THE SENATE

April 12, 2019

MR. SPEAKER:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1696, with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 20. RCW 49.58.005 and 2018 c 116 s 1 are each amended to read as follows:

(1) The legislature finds that despite existing equal pay laws, there continues to be a gap in wages and advancement opportunities among workers in Washington, especially women. Income disparities limit the ability of women to provide for their families, leading to higher rates of poverty among women and children. The legislature finds that in order to promote fairness among workers, employees must be compensated equitably. Further, policies that encourage retaliation or discipline towards workers who discuss or inquire about compensation prevent workers from moving forward.

(2) The legislature intends to update the existing Washington state equal pay act, not modified since 1943, to address income disparities, employer discrimination, and retaliation practices, and to reflect the equal status of all workers in Washington state.

(3) The legislature finds that:

(a) The long-held business practice of inquiring about salary history has contributed to persistent earning inequalities;

(b) Historically, women have been offered lower initial pay than men for the same jobs even where their levels of education and experience are the same or comparable; and

(c) Lower starting salaries translate into lower pay, less family income, and more children and families in poverty.

(4) The legislature therefore intends to follow multiple other states and take the additional step towards gender equality by prohibiting an employer from seeking the wage or salary history of an applicant for employment in certain circumstances. Further, the legislature intends to require an employer to provide wage and salary information to applicants and employees.

NEW SECTION. Sec. 21. A new section is added to chapter 49.58 RCW to read as follows:

(1) An employer may not:

(a) Seek the wage or salary history of an applicant for employment from the applicant or a current or former employer; or

(b) Require that an applicant's prior wage or salary history meet certain criteria, except as provided in subsection (2) of this section.

(2) An employer may confirm an applicant's wage or salary history:

(a) If the applicant has voluntarily disclosed the applicant's wage or salary history; or

(b) After the employer has negotiated and made an offer of employment with compensation to the applicant.

(3) An individual is entitled to the remedies in RCW 49.58.060 and 49.58.070 for violations of this section.

Recovery of any wages and interest must be calculated from the first date wages were owed to the employee.

NEW SECTION. Sec. 22. A new section is added to chapter 49.58 RCW to read as follows:

(1) Upon the request of an applicant for employment, and after the employer has initially offered the applicant the position, the employer must provide the minimum wage or salary for the position for which the applicant is applying.

(2) Upon request of an employee offered an internal transfer to a new position or promotion, the employer must provide the wage scale or salary range for the employee's new position.

(3) If no wage scale or salary range exists, the employer must disclose the minimum wage or salary expectation set by the employer prior to posting the position, making a position transfer, or making the promotion.

(4) This section only applies to employers with fifteen or more employees.

(5) An individual is entitled to the remedies in RCW 49.58.060 and 49.58.070 for violations of this section. Recovery of any wages and interest must be calculated from the first date wages were owed to the employee.

NEW SECTION. Sec. 23. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 24. A new section is added to chapter 49.58 RCW to read as follows:

This chapter may be known and cited as the Washington equal pay and opportunities act."

On page 1, line 1 of the title, after "information;" strike the remainder of the title and insert "amending RCW 49.58.005; and adding new sections to chapter 49.58 RCW."

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1696 and asked the Senate to recede therefrom.

#### MESSAGE FROM THE SENATE

April 13, 2019

MR. SPEAKER:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1923, with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 25.** A new section is added to chapter 36.70A RCW to read as follows:

(1) A city planning pursuant to RCW 36.70A.040 is encouraged to take the following actions in order to increase its residential building capacity:

(a) Authorize development in one or more areas of not fewer than five hundred acres that include at least one train station served by commuter rail or light rail with an average of at least fifty residential units per acre that require no more than an average of one on-site parking space per two bedrooms in the portions of multifamily zones that are located within the areas;

(b) Authorize development in one or more areas of not fewer than five hundred acres in cities with a population greater than forty thousand or not fewer than two hundred fifty acres in cities with a population less than forty thousand that include at least one bus stop served by scheduled bus service of at least four times per hour for twelve or more hours per day with an average of at least twenty-five residential units per acre that require no more than an average of one on-site parking space per two bedrooms in portions of the multifamily zones that are located within the areas;

(c) Authorize at least one duplex, triplex, or courtyard apartment on each parcel in one or more zoning districts that permit single-family residences unless a city documents a specific infrastructure of physical constraint that would make this requirement unfeasible for a particular parcel;

(d) Authorize cluster zoning or lot size averaging in all zoning districts that permit single-family residences;

(e) Authorize attached accessory dwelling units on all parcels containing single-family homes where the lot is at least three thousand two hundred square feet in size, and permit both attached and detached accessory dwelling units on all parcels containing single-family homes, provided lots are at least four thousand three hundred fifty-six square feet in size. Qualifying city ordinances or regulations may not provide for on-site parking requirements, owner occupancy requirements, or square footage limitations below one thousand square feet for the accessory dwelling unit, and must not prohibit the separate rental or sale of accessory dwelling units and the primary residence. Cities must set applicable impact fees at no more than the projected impact of the accessory dwelling unit. To allow local flexibility, other than these factors, accessory dwelling units may be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority, and must follow all applicable state and federal laws and local ordinances;

(f) Adopt a subarea plan pursuant to RCW 43.21C.420;

(g) Adopt a planned action pursuant to RCW 43.21C.440(1)(b)(ii), except that an environmental impact statement pursuant to RCW 43.21C.030 is not required for such an action;

(h) Adopt increases in categorical exemptions pursuant to RCW 43.21C.229 for residential or mixed-use development;

(i) Adopt a form-based code in one or more zoning districts that permit residential uses. "Form-based code" means a land development regulation that uses physical form, rather than separation of use, as the organizing principle for the code;

(j) Authorize a duplex on each corner lot within all zoning districts that permit single-family residences;

(k) Allow for the division or redivision of land into the maximum number of lots through the short subdivision process provided in chapter 58.17 RCW; and

(l) Authorize a minimum net density of six dwelling units per acre in all residential zones, where the residential development capacity will increase within the city.

(2) A city planning pursuant to RCW 36.70A.040 may adopt a housing action plan as described in this subsection. The goal of any such housing plan must be to encourage construction of additional affordable and market rate housing in a greater variety of housing types and at prices that are accessible to a greater variety of incomes, including strategies aimed at the for-profit single-family home market. A housing action plan may utilize data compiled pursuant to section 3 of this act. The housing action plan should:

(a) Quantify existing and projected housing needs for all income levels, including extremely low-income households, with documentation of housing and household characteristics, and cost-burdened households;

(b) Develop strategies to increase the supply of housing, and variety of housing types, needed to serve the housing needs identified in (a) of this subsection;

(c) Analyze population and employment trends, with documentation of projections;

(d) Consider strategies to minimize displacement of low-income residents resulting from redevelopment;

(e) Review and evaluate the current housing element adopted pursuant to RCW 36.70A.070, including an evaluation of success in attaining planned housing types and units, achievement of goals and policies, and implementation of the schedule of programs and actions;

(f) Provide for participation and input from community members, community groups, local builders, local realtors, nonprofit housing advocates, and local religious groups; and

(g) Include a schedule of programs and actions to implement the recommendations of the housing action plan.

(3) If adopted by April 1, 2021, ordinances, amendments to development regulations, and other nonproject actions taken by a city to implement the actions specified in subsection (1) of this section, with the exception of the action specified in subsection (1)(f) of this section, are not subject to administrative or judicial appeal under chapter 43.21C RCW.

(4) Any action taken by a city prior to April 1, 2021, to amend their comprehensive plan solely to include actions taken under subsection (1) of this section is not subject to legal challenge under this chapter.

(5) In taking action under subsection (1) of this section, cities are encouraged to utilize strategies that increase residential building capacity in areas with frequent transit service and with the transportation and utility infrastructure that supports the additional residential building capacity.

(6) A city with a population over twenty thousand that is planning to take at least two actions under subsection (1) of this section, and that action will occur between the effective date of this section and April 1, 2021, is eligible to apply to the department for planning grant assistance of up to one hundred thousand dollars, subject to the availability of funds appropriated for that purpose. The department shall develop grant criteria to ensure that grant funds awarded are proportionate to the level of effort proposed by a city, and the potential increase in housing supply or regulatory streamlining that could be achieved. Funding may be provided in advance of, and to support, adoption of policies or ordinances consistent with this section. A city can request, and the department may award, more than one hundred thousand dollars for applications that demonstrate extraordinary potential to increase housing supply or regulatory streamlining.

(7) A city seeking to develop a housing action plan under subsection (2) of this section is eligible to apply to the department for up to one hundred thousand dollars.

(8) The department shall establish grant award amounts under subsections (6) and (7) of this section based on the expected number of cities that will seek grant assistance, to ensure that all cities can receive some level of grant support. If funding capacity allows, the department may consider accepting and funding applications from cities with a population of less than twenty thousand if the actions proposed in the application will create a significant amount of housing capacity or regulatory streamlining and are consistent with the actions in this section.

(9) In implementing this act, cities are encouraged to prioritize the creation of affordable, inclusive neighborhoods and to consider the risk of residential displacement, particularly in neighborhoods with communities at high risk of displacement.

**Sec. 26.** RCW 36.70A.030 and 2017 3rd sp.s. c 18 s 2 are each amended to read as follows:

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

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

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

(7) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(8) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

(9) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

(10) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(11) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(12) "Minerals" include gravel, sand, and valuable metallic substances.

(13) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(14) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(15) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(16) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

(17) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(18) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(19) "Short line railroad" means those railroad lines designated class II or class III by the United States surface transportation board.

(20) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(21) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(22) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(23) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial

wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

(24) "Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is:

(a) For rental housing, sixty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development; or

(b) For owner-occupied housing, eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(25) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(26) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(27) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay, paired with on-site or off-site voluntary services designed to support a person living with a disability to be a successful tenant in a housing arrangement, improve the resident's health status, and connect residents of the housing with community-based health care, treatment, and employment services.

(28) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

**NEW SECTION. Sec. 27.** A new section is added to chapter 36.70A RCW to read as follows:

The Washington center for real estate research at the University of Washington shall produce a report every two

years that compiles housing supply and affordability metrics for each city planning under RCW 36.70A.040 with a population of ten thousand or more. The initial report, completed by October 15, 2020, must be a compilation of objective criteria relating to development regulations, zoning, income, housing and rental prices, housing affordability programs, and other metrics relevant to assessing housing supply and affordability for all income segments, including the percentage of cost-burdened households, of each city subject to the report required by this section. The report completed by October 15, 2022, must also include data relating to actions taken by cities under this act. The report completed by October 15, 2024, must also include relevant data relating to buildable lands reports prepared under RCW 36.70A.215, where applicable, and updates to comprehensive plans under this chapter. The Washington center for real estate research shall collaborate with the Washington housing finance commission and the office of financial management to develop the metrics compiled in the report. The report must be submitted, consistent with RCW 43.01.036, to the standing committees of the legislature with jurisdiction over housing issues and this chapter.

**NEW SECTION. Sec. 28.** A new section is added to chapter 43.21C RCW to read as follows:

If adopted by April 1, 2021, amendments to development regulations and other nonproject actions taken by a city to implement section 1 (1) or (4) of this act, with the exception of the action specified in section 1(1)(f) of this act, are not subject to administrative or judicial appeals under this chapter.

**NEW SECTION. Sec. 29.** A new section is added to chapter 36.70A RCW to read as follows:

In counties and cities planning under RCW 36.70A.040, minimum residential parking requirements mandated by municipal zoning ordinances for housing units constructed after July 1, 2019, are subject to the following requirements:

(1) For housing units that are affordable to very low-income or extremely low-income individuals and that are located within one-quarter mile of a transit stop that receives transit service at least four times per hour for twelve or more hours per day, minimum residential parking requirements may be no greater than one parking space per bedroom or .75 space per unit. A city may require a developer to record a covenant that prohibits the rental of a unit subject to this parking restriction for any purpose other than providing for housing for very low-income or extremely low-income individuals. The covenant must address price restrictions and household income limits and policies if the property is converted to a use other than for low-income housing. A city may establish a requirement for the provision of more than one parking space per bedroom or .75 space per unit if the jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by

evidence that would make on-street parking infeasible for the unit.

(2) For housing units that are specifically for seniors or people with disabilities, that are located within one-quarter mile of a transit stop that receives transit service at least four times per hour for twelve or more hours per day, a city may not impose minimum residential parking requirements for the residents of such housing units, subject to the exceptions provided in this subsection. A city may establish parking requirements for staff and visitors of such housing units. A city may establish a requirement for the provision of one or more parking space per bedroom if the jurisdiction has determined a particular housing unit to be in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the unit. A city may require a developer to record a covenant that prohibits the rental of a unit subject to this parking restriction for any purpose other than providing for housing for seniors or people with disabilities.

**NEW SECTION. Sec. 30.** A new section is added to chapter 43.21C RCW to read as follows:

(1) A project action pertaining to residential, multifamily, or mixed use development evaluated under this chapter by a city or town planning under RCW 36.70A.040 is exempt from appeals under this chapter on the basis of the evaluation of or impacts to transportation elements of the environment, so long as the project does not present significant adverse impacts to the state-owned transportation system as determined by the department of transportation and the project is:

- (a)(i) Consistent with a locally adopted transportation plan; or
- (ii) Consistent with the transportation element of a comprehensive plan; and
- (b)(i) A project for which traffic or parking impact fees are imposed pursuant to RCW 82.02.050 through 82.02.090; or
- (ii) A project for which traffic or parking impacts are expressly mitigated by an ordinance, or ordinances, of general application adopted by the city or town.

(2) For purposes of this section, "impacts to transportation elements of the environment" include impacts to transportation systems; vehicular traffic; waterborne, rail, and air traffic; parking; movement or circulation of people or goods; and traffic hazards.

**Sec. 31.** RCW 43.21C.420 and 2010 c 153 s 2 are each amended to read as follows:

(1) Cities with a population greater than five thousand, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans

and optional development regulations that apply within specified subareas of the cities, that are either:

(a) Areas designated as mixed-use or urban centers in a land use or transportation plan adopted by a regional transportation planning organization; or

(b) Areas within one-half mile of a major transit stop that are zoned to have an average minimum density of fifteen dwelling units or more per gross acre.

(2) Cities located on the east side of the Cascade mountains and located in a county with a population of two hundred thirty thousand or less, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within the mixed-use or urban centers. The optional elements of their comprehensive plans and optional development regulations must enhance pedestrian, bicycle, transit, or other nonvehicular transportation methods.

(3) A major transit stop is defined as:

- (a) A stop on a high capacity transportation service funded or expanded under the provisions of chapter 81.104 RCW;
- (b) Commuter rail stops;
- (c) Stops on rail or fixed guideway systems, including transitways;
- (d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or
- (e) Stops for a bus or other transit mode providing fixed route service at intervals of at least thirty minutes during the peak hours of operation.

(4)(a) A city that elects to adopt such an optional comprehensive plan element and optional development regulations shall prepare a nonproject environmental impact statement, pursuant to RCW 43.21C.030, assessing and disclosing the probable significant adverse environmental impacts of the optional comprehensive plan element and development regulations and of future development that is consistent with the plan and regulations.

(b) At least one community meeting must be held on the proposed subarea plan before the scoping notice for such a nonproject environmental impact statement is issued. Notice of scoping for such a nonproject environmental impact statement and notice of the community meeting required by this section must be mailed to all property owners of record within the subarea to be studied, to all property owners within one hundred fifty feet of the boundaries of such a subarea, to all affected federally recognized tribal governments whose ceded area is within one-half mile of the boundaries of the subarea, and to agencies with jurisdiction over the future development anticipated within the subarea.

(c) ~~(In cities with over five hundred thousand residents, notice of scoping for such a nonproject~~

~~environmental impact statement and notice of the community meeting required by this section must be mailed to all small businesses as defined in RCW 19.85.020, and to all community preservation and development authorities established under chapter 43.167 RCW, located within the subarea to be studied or within one hundred fifty feet of the boundaries of such subarea. The process for community involvement must have the goal of fair treatment and meaningful involvement of all people with respect to the development and implementation of the subarea planning process.~~

~~(d))~~ The notice of the community meeting must include general illustrations and descriptions of buildings generally representative of the maximum building envelope that will be allowed under the proposed plan and indicate that future appeals of proposed developments that are consistent with the plan will be limited. Notice of the community meeting must include signs located on major travel routes in the subarea. If the building envelope increases during the process, another notice complying with the requirements of this section must be issued before the next public involvement opportunity.

~~((e))~~ ~~(d)~~ Any person that has standing to appeal the adoption of this subarea plan or the implementing regulations under RCW 36.70A.280 has standing to bring an appeal of the nonproject environmental impact statement required by this subsection.

~~((f))~~ ~~Cities with over five hundred thousand residents shall prepare a study that accompanies or is appended to the nonproject environmental impact statement, but must not be part of that statement, that analyzes the extent to which the proposed subarea plan may result in the displacement or fragmentation of existing businesses, existing residents, including people living with poverty, families with children, and intergenerational households, or cultural groups within the proposed subarea plan. The city shall also discuss the results of the analysis at the community meeting.~~

~~((g))~~ ~~(e)~~ As an incentive for development authorized under this section, a city shall consider establishing a transfer of development rights program in consultation with the county where the city is located, that conserves county-designated agricultural and forestland of long-term commercial significance. If the city decides not to establish a transfer of development rights program, the city must state in the record the reasons for not adopting the program. The city's decision not to establish a transfer of development rights program is not subject to appeal. Nothing in this subsection (4)~~((g))~~ ~~(e)~~ may be used as a basis to challenge the optional comprehensive plan or subarea plan policies authorized under this section.

(5)(a) Until July 1, ~~((2018))~~ 2029, a proposed development that meets the criteria of (b) of this subsection may not be challenged in administrative or judicial appeals for noncompliance with this chapter as long as a complete application for such a development that vests the application or would later lead to vested status under city or state law is submitted to the city within a time frame established by the city, but not to exceed the following time frames:

(i) Nineteen years from the date of issuance of the final environmental impact statement, for projects that are consistent with an optional element adopted by a city as of the effective date of this section; or

(ii) Ten years from the date of issuance of the final environmental impact statement, for projects that are consistent with an optional element adopted by a city after the effective date of this section.

(b) A proposed development may not be challenged, consistent with the timelines established in (a) of this subsection, so long as the development:

(i) Is consistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) or (2) of this section;

(ii) Sets aside or requires the occupancy of at least ten percent of the dwelling units, or a greater percentage as determined by city development regulations, within the development for low-income households at a sale price or rental amount that is considered affordable by a city's housing programs. This subsection (5)(b)(ii) applies only to projects that are consistent with an optional element adopted by a city pursuant to this section after the effective date of this section; and ~~((that))~~

(iii) Is environmentally reviewed under subsection (4) of this section ~~((may not be challenged in administrative or judicial appeals for noncompliance with this chapter as long as a complete application for such a development that vests the application or would later lead to vested status under city or state law is submitted to the city within a time frame established by the city, but not to exceed ten years from the date of issuance of the final environmental impact statement))~~

~~((b))~~ ~~(c)~~ After July 1, ~~((2018))~~ 2029, the immunity from appeals under this chapter of any application that vests or will vest under this subsection or the ability to vest under this subsection is still valid, provided that the final subarea environmental impact statement is issued by July 1, ~~((2018))~~ 2029. After July 1, ~~((2018))~~ 2029, a city may continue to collect reimbursement fees under subsection (6) of this section for the proportionate share of a subarea environmental impact statement issued prior to July 1, ~~((2018))~~ 2029.

(6) It is recognized that a city that prepares a nonproject environmental impact statement under subsection (4) of this section must endure a substantial financial burden. A city may recover or apply for a grant or loan to prospectively cover its reasonable expenses of preparation of a nonproject environmental impact statement prepared under subsection (4) of this section through access to financial assistance under RCW 36.70A.490 or funding from private sources. In addition, a city is authorized to recover a portion of its reasonable expenses of preparation of such a nonproject environmental impact statement by the assessment of reasonable and proportionate fees upon subsequent development that is consistent with the plan and development regulations adopted under subsection (5) of this section, as long as the development makes use of and benefits ~~((from))~~ from, as described in subsection (5) of

this section, ~~((from))~~ the nonproject environmental impact statement prepared by the city. Any assessment fees collected from subsequent development may be used to reimburse funding received from private sources. In order to collect such fees, the city must enact an ordinance that sets forth objective standards for determining how the fees to be imposed upon each development will be proportionate to the impacts of each development and to the benefits accruing to each development from the nonproject environmental impact statement. Any disagreement about the reasonableness or amount of the fees imposed upon a development may not be the basis for delay in issuance of a project permit for that development. The fee assessed by the city may be paid with the written stipulation "paid under protest" and if the city provides for an administrative appeal of its decision on the project for which the fees are imposed, any dispute about the amount of the fees must be resolved in the same administrative appeal process.

(7) If a proposed development is inconsistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) of this section, the city shall require additional environmental review in accordance with this chapter.

**Sec. 32.** RCW 36.70A.490 and 2012 1st sp.s. c 1 s 309 are each amended to read as follows:

The growth management planning and environmental review fund is hereby established in the state treasury. Moneys may be placed in the fund from the proceeds of bond sales, tax revenues, budget transfers, federal appropriations, gifts, or any other lawful source. Moneys in the fund may be spent only after appropriation. Moneys in the fund shall be used to make grants or loans to local governments for the purposes set forth in RCW 43.21C.240, 43.21C.031, ~~((~~¶~~))~~ 36.70A.500, section 1 of this act, for costs associated with section 3 of this act, and to cover costs associated with the adoption of optional elements of comprehensive plans consistent with RCW 43.21C.420. Any payment of either principal or interest, or both, derived from loans made from this fund must be deposited into the fund.

**NEW SECTION. Sec. 33.** A new section is added to chapter 35.21 RCW to read as follows:

A city may not prohibit permanent supportive housing in areas where multifamily housing is permitted.

**NEW SECTION. Sec. 34.** A new section is added to chapter 35A.21 RCW to read as follows:

A code city may not prohibit permanent supportive housing in areas where multifamily housing is permitted.

**NEW SECTION. Sec. 35.** A new section is added to chapter 36.22 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, a surcharge of two dollars and fifty cents shall be charged by the county auditor for each document recorded, which will be in addition to any other charge or surcharge allowed by law. The auditor shall remit the funds to the state treasurer to be deposited and used as follows:

(a) Through June 30, 2024, funds must be deposited into the growth management planning and environmental review fund created in RCW 36.70A.490 to be used first for grants for costs associated with section 1 of this act and for costs associated with section 3 of this act, and thereafter for any allowable use of the fund.

(b) Beginning July 1, 2024, sufficient funds must be deposited into the growth management planning and environmental review fund created in RCW 36.70A.490 for costs associated with section 3 of this act, and the remainder deposited into the home security fund account created in RCW 43.185C.060 to be used for maintenance and operation costs of: (i) Permanent supportive housing and (ii) affordable housing for very low-income and extremely low-income households. Funds may only be expended in cities that have taken action under section 1 of this act.

(2) The surcharge imposed in this section does not apply to: (a) Assignments or substitutions of previously recorded deeds of trust; (b) documents recording a birth, marriage, divorce, or death; (c) any recorded documents otherwise exempted from a recording fee or additional surcharges under state law; (d) marriage licenses issued by the county auditor; or (e) documents recording a federal, state, county, or city lien or satisfaction of lien.

(3) For purposes of this section, the terms "permanent supportive housing," "affordable housing," "very low-income households," and "extremely low-income households" have the same meaning as provided in RCW 36.70A.030.

**NEW SECTION. Sec. 36.** Section 11 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 July 1, 2019."

On page 1, line 2 of the title, after "capacity;" strike the remainder of the title and insert "amending RCW 36.70A.030, 43.21C.420, and 36.70A.490; adding new sections to chapter 36.70A RCW; adding new sections to chapter 43.21C RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.22 RCW; providing an effective date; and declaring an emergency."

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1923 and asked the Senate to recede therefrom.

**MESSAGE FROM THE SENATE**

April 15, 2019

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1016 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 70.41 RCW to read as follows:

(1) By July 1, 2020, any hospital that does not provide sexual assault evidence kit collection, or does not have appropriate providers available to provide sexual assault evidence kit collection at all times, shall develop a plan, in consultation with the local community sexual assault agency, to assist individuals with obtaining sexual assault evidence kit collection at a facility that provides such collection.

(2) Beginning July 1, 2020:

(a) If a hospital does not perform sexual assault evidence kit collection or does not have appropriate providers available, the hospital shall, within two hours of a request, provide notice to every individual who presents in the emergency department of the hospital and requests a sexual assault evidence kit collection that the hospital does not perform such collection or does not have appropriate providers available; and

(b) Pursuant to the plan required in subsection (1) of this section, if the hospital does not perform sexual assault evidence kit collection or does not have appropriate providers available, hospital staff must coordinate care with the local community sexual assault agency and assist the patient in finding a facility with an appropriate provider available.

(3) A hospital must notify individuals upon arrival who present in the emergency department of the hospital and request a sexual assault evidence kit collection that they may file a complaint with the department if the hospital fails to comply with subsection (2)(a) of this section."

On page 1, line 2 of the title, after "collection;" strike the remainder of the title and insert "and adding a new section to chapter 70.41 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House refused to concur in the Senate Amendment to HOUSE BILL NO. 1016 and asked the Senate for a conference thereon. The Speaker

(Representative Lovick presiding) appointed Representatives Jinkins, Maeri and Caldier as conferees.

**MESSAGE FROM THE SENATE**

April 3, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1041 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. This act may be known and cited as the new hope act.

**Sec. 2.** RCW 9.94A.637 and 2009 c 325 s 3 and 2009 c 288 s 2 are each reenacted and amended to read as follows:

(1)~~((+))~~ When an offender has completed all requirements of the sentence, including any and all legal financial obligations, and while under the custody ~~((and))~~ or supervision of the department, the secretary or the secretary's designee shall notify the sentencing court, which shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address. A certificate of discharge issued under this subsection (1) is effective on the date the offender completed all conditions of his or her sentence.

~~((b)(i))~~ (2)(a) When an offender has reached the end of his or her supervision with the department and has completed all the requirements of the sentence except his or her legal financial obligations, the secretary's designee shall provide the county clerk with a notice that the offender has completed all nonfinancial requirements of the sentence. The notice must list the specific sentence requirements that have been completed, so that it is clear to the sentencing court that the offender is entitled to discharge upon completion of the legal financial obligations of the sentence.

~~((ii))~~ (b) When the department has provided the county clerk with notice under (a) of this subsection showing that an offender has completed all the requirements of the sentence and the offender subsequently satisfies all legal financial obligations under the sentence, the county clerk shall promptly notify the sentencing court ~~((, including the notice from the department, which)).~~ Upon receipt of the notice under this subsection (2)(b), the court shall discharge the offender and provide the offender with a certificate of discharge ((by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address)). A certificate of discharge issued under this subsection (2) is effective on the date the offender completed all conditions of his or her sentence.

~~((c) When an offender who is subject to requirements of the sentence in addition to the payment of~~

legal financial obligations either is not subject to supervision by the department or does not complete the requirements while under supervision of the department, it is the offender's responsibility to provide the court with verification of the completion of the sentence conditions other than the payment of legal financial obligations. When the offender satisfies all legal financial obligations under the sentence, the county clerk shall notify the sentencing court that the legal financial obligations have been satisfied. When the court has received both notification from the clerk and adequate verification from the offender that the sentence requirements have been completed, the court shall discharge the offender and provide the offender with))

(3) In the absence of a certificate of discharge issued under subsection (1) or (2) of this section, the offender may file a motion with the sentencing court for a certificate of discharge. The sentencing court shall issue a certificate of discharge upon verification of completion of all sentencing conditions, including any and all legal financial obligations. A certificate of discharge issued under this subsection (3) is effective on the date the offender completed all conditions of his or her sentence.

(4) In the absence of a certificate of discharge issued under subsection (1), (2), or (3) of this section, the offender may file a motion with the sentencing court for a certificate of discharge and shall provide verification of completion of all nonfinancial conditions of his or her sentence, unless the court finds good cause to waive this requirement. A certificate of discharge issued under this subsection (4) is effective on the later of: (a) Five years after completion of community custody, or if the offender was not required to serve community custody, after the completion of full and partial confinement; or (b) the date any and all legal financial obligations were satisfied.

(5) The court shall issue a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

~~((2))~~ (6)(a) ((For purposes of this subsection (2),)) Δ no-contact order is not a requirement of the offender's sentence. An offender who has completed all requirements of the sentence, including any and all legal financial obligations, is eligible for a certificate of discharge even if the offender has an existing no-contact order that excludes or prohibits the offender from having contact with a specified person or ~~((business))~~ entity or coming within a set distance of any specified location.

~~((b))~~ In the case of an eligible offender who has a no-contact order as part of the judgment and sentence, the offender may petition the sentencing court to issue a certificate of discharge and a separate no-contact order ~~((by filing a petition in the sentencing court and)), which must include paying the appropriate filing fee ((associated with the petition))~~ for the separate no-contact order. This filing fee does not apply to an offender seeking a certificate of discharge when the offender has a no-contact order separate from the judgment and sentence.

~~((i)(A) The court shall issue a certificate of discharge and a separate no contact order under this subsection (2) if the court determines that the offender has~~

~~completed all requirements of the sentence, including all legal financial obligations.))~~ The court shall reissue the no-contact order separately under a new civil cause number for the remaining term and under the same conditions as contained in the judgment and sentence.

~~((B))~~ (b) The clerk of the court shall send a copy of the new no-contact order to the individuals or entities protected by the no-contact order, along with an explanation of the reason for the change, if there is an address available in the court file. If no address is available, the clerk of the court shall forward a copy of the order to the prosecutor, who shall send a copy of the no-contact order with an explanation of the reason for the change to the last known address of the protected individuals or entities.

~~((ii) Whenever an order under this subsection (2) is issued,))~~ (c) The clerk of the court shall forward a copy of the order to the appropriate law enforcement agency specified in the order on or before the next judicial day. The clerk shall also include a cover sheet that indicates the case number of the judgment and sentence that has been discharged. Upon receipt of the copy of the order and cover sheet, the law enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order shall remain in this system until it expires. The new order, and case number of the discharged judgment and sentence, shall be linked in the criminal intelligence information system for purposes of enforcing the no-contact order.

~~((iii))~~ (d) A separately issued no-contact order may be enforced under chapter 26.50 RCW.

~~((iv))~~ (e) A separate no-contact order issued under this subsection ~~((2))~~ (6) is not a modification of the offender's sentence.

~~((3))~~ (7) Every signed certificate and order of discharge shall be filed with the county clerk of the sentencing county. In addition, the court shall send to the department a copy of every signed certificate and order of discharge for offender sentences under the authority of the department. The county clerk shall enter into a database maintained by the administrator for the courts the names of all felons who have been issued certificates of discharge, the date of discharge, and the date of conviction and offense.

~~((4))~~ (8) An offender who is not convicted of a violent offense or a sex offense and is sentenced to a term involving community supervision may be considered for a discharge of sentence by the sentencing court prior to the completion of community supervision, provided that the offender has completed at least one-half of the term of community supervision and has met all other sentence requirements.

~~((5))~~ (9) The discharge shall have the effect of restoring all civil rights not already restored by RCW 29A.08.520, and the certificate of discharge shall so state. Nothing in this section prohibits the use of an offender's prior record for purposes of determining sentences for later offenses as provided in this chapter. Nothing in this section affects or prevents use of the offender's prior conviction in a

later criminal prosecution either as an element of an offense or for impeachment purposes. A certificate of discharge is not based on a finding of rehabilitation.

~~((6))~~ (10) Unless otherwise ordered by the sentencing court, a certificate of discharge shall not terminate the offender's obligation to comply with an order that excludes or prohibits the offender from having contact with a specified person or coming within a set distance of any specified location that was contained in the judgment and sentence. An offender who violates such an order after a certificate of discharge has been issued shall be subject to prosecution according to the chapter under which the order was originally issued.

~~((7))~~ (11) Upon release from custody, the offender may apply to the department for counseling and help in adjusting to the community. This voluntary help may be provided for up to one year following the release from custody.

**Sec. 3.** RCW 9.94A.640 and 2012 c 183 s 3 are each amended to read as follows:

(1) Every offender who has been discharged under RCW 9.94A.637 may apply to the sentencing court for a vacation of the offender's record of conviction. If the court finds the offender meets the tests prescribed in subsection (2) of this section, the court may clear the record of conviction by: (a) Permitting the offender to withdraw the offender's plea of guilty and to enter a plea of not guilty; or (b) if the offender has been convicted after a plea of not guilty, by the court setting aside the verdict of guilty; and (c) by the court dismissing the information or indictment against the offender.

(2) An offender may not have the record of conviction cleared if:

(a) There are any criminal charges against the offender pending in any court of this state or another state, or in any federal court;

(b) The offense was a violent offense as defined in RCW 9.94A.030(~~;~~);

~~(e) the offense was a~~) or crime against persons as defined in RCW 43.43.830, except the following offenses may be vacated if the conviction did not include a firearm, deadly weapon, or sexual motivation enhancement: (i) Assault in the second degree under RCW 9A.36.021; (ii) assault in the third degree under RCW 9A.36.031 when not committed against a law enforcement officer or peace officer; and (iii) robbery in the second degree under RCW 9A.56.210;

~~((d))~~ (c) The offense is a class B felony and the offender has been convicted of a new crime in this state, another state, or federal court in the ten years prior to the application for vacation;

(d) The offense is a class C felony and the offender has been convicted of a new crime in this state, another state, or federal court (~~since the date of the offender's discharge~~

~~under RCW 9.94A.637))~~ in the five years prior to the application for vacation;

(e) The offense is a class B felony and less than ten years have passed since the (~~date the applicant was discharged under RCW 9.94A.637))~~ later of: (i) The applicant's release from community custody; (ii) the applicant's release from full and partial confinement; or (iii) the applicant's sentencing date;

(f) The offense was a class C felony, other than a class C felony described in RCW 46.61.502(6) or 46.61.504(6), and less than five years have passed since the (~~date the applicant was discharged under RCW 9.94A.637))~~ later of: (i) The applicant's release from community custody; (ii) the applicant's release from full and partial confinement; or (iii) the applicant's sentencing date; or

(g) The offense was a (~~class C~~) felony described in RCW 46.61.502(~~((6))~~) or 46.61.504(~~((6))~~).

(3)(a) Except as otherwise provided, once the court vacates a record of conviction under subsection (1) of this section, the fact that the offender has been convicted of the offense shall not be included in the offender's criminal history for purposes of determining a sentence in any subsequent conviction, and the offender shall be released from all penalties and disabilities resulting from the offense. For all purposes, including responding to questions on employment applications, an offender whose conviction has been vacated may state that the offender has never been convicted of that crime. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies. Nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution, and nothing in this section affects the requirements for restoring a right to possess a firearm under RCW 9.41.040.

(b) A conviction vacated on or after the effective date of this section qualifies as a prior conviction for the purpose of charging a present recidivist offense occurring on or after the effective date of this section, and may be used to establish an ongoing pattern of abuse for purposes of RCW 9.94A.535.

**Sec. 4.** RCW 9.96.060 and 2017 c 336 s 2, 2017 c 272 s 9, and 2017 c 128 s 1 are each reenacted and amended to read as follows:

(1) Every person convicted of a misdemeanor or gross misdemeanor offense who has completed all of the terms of the sentence for the misdemeanor or gross misdemeanor offense may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. If the court finds the applicant meets the tests prescribed in subsection (2) of this section, the court may in its discretion vacate the record of conviction by: (a)(i) Permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or (ii) if the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of guilty; and (b) the court dismissing the

information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

(2) An applicant may not have the record of conviction for a misdemeanor or gross misdemeanor offense vacated if any one of the following is present:

(a) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal or tribal court, at the time of application;

(b) The offense was a violent offense as defined in RCW 9.94A.030 or an attempt to commit a violent offense;

(c) The offense was a violation of RCW 46.61.502 (driving while under the influence), 46.61.504 (actual physical control while under the influence), 9.91.020 (operating a railroad, etc. while intoxicated), or the offense is considered a "prior offense" under RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug violation within ten years of the date of arrest for the prior offense or less than ten years has elapsed since the date of the arrest for the prior offense;

(d) The offense was any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44 RCW (sex offenses), except for failure to register as a sex offender under RCW 9A.44.132;

(e) The applicant was convicted of a misdemeanor or gross misdemeanor offense as defined in RCW 10.99.020, or the court determines after a review of the court file that the offense was committed by one family member or household member against another, or the court, after considering the damage to person or property that resulted in the conviction, any prior convictions for crimes defined in RCW 10.99.020, or for comparable offenses in another state or in federal court, and the totality of the records under review by the court regarding the conviction being considered for vacation, determines that the offense involved domestic violence, and any one of the following factors exist:

(i) The applicant has not provided written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought, or has not provided that notification to the court;

(ii) The applicant has ~~((previously had a conviction for domestic violence))~~ two or more domestic violence convictions stemming from different incidents. For purposes of this subsection, however, if the current application is for more than one conviction that arose out of a single incident, none of those convictions counts as a previous conviction;

(iii) The applicant has signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense, and a criminal history check reveals that the applicant has had such a conviction; or

(iv) Less than five years have elapsed since the person completed the terms of the original conditions of the

sentence, including any financial obligations and successful completion of any treatment ordered as a condition of sentencing;

(f) For any offense other than those described in (e) of this subsection, less than three years have passed since the person completed the terms of the sentence, including any financial obligations;

(g) The offender has been convicted of a new crime in this state, another state, or federal or tribal court ~~((since the date of conviction))~~ in the three years prior to the vacation application; or

(h) ~~((The applicant has ever had the record of another conviction vacated; or~~

~~((or has been restrained within five years prior to the vacation application;))~~ The applicant is currently restrained ~~((or has been restrained within five years prior to the vacation application;))~~ by a domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order which restrains one party from contacting the other party or was previously restrained by such an order and was found to have committed one or more violations of the order in the five years prior to the vacation application.

(3) Subject to RCW 9.96.070, every person convicted of prostitution under RCW 9A.88.030 who committed the offense as a result of being a victim of trafficking, RCW 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070, promoting commercial sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq. may apply to the sentencing court for vacation of the applicant's record of conviction for the prostitution offense. An applicant may not have the record of conviction for prostitution vacated if any one of the following is present:

(a) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court, for any crime other than prostitution; or

(b) The offender has been convicted of another crime, except prostitution, in this state, another state, or federal court since the date of conviction. The limitation in this subsection (3)(b) does not apply to convictions where the offender proves by a preponderance of the evidence that he or she committed the crime as a result of being a victim of trafficking, RCW 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070, promoting commercial sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq., according to the requirements provided in RCW 9.96.070 for each respective conviction.

(4) Every person convicted prior to January 1, 1975, of violating any statute or rule regarding the regulation of fishing activities, including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070, 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240 who claimed to be exercising a treaty Indian fishing right, may apply to the sentencing court for vacation of the applicant's record of the misdemeanor, gross misdemeanor, or felony

conviction for the offense. If the person is deceased, a member of the person's family or an official representative of the tribe of which the person was a member may apply to the court on behalf of the deceased person. Notwithstanding the requirements of RCW 9.94A.640, the court shall vacate the record of conviction if:

(a) The applicant is a member of a tribe that may exercise treaty Indian fishing rights at the location where the offense occurred; and

(b) The state has been enjoined from taking enforcement action of the statute or rule to the extent that it interferes with a treaty Indian fishing right as determined under *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and any posttrial orders of those courts, or any other state supreme court or federal court decision.

(5)(a) Except as provided in (c) of this subsection, once the court vacates a record of conviction under this section, the person shall be released from all penalties and disabilities resulting from the offense and the fact that the person has been convicted of the offense shall not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated under this section may state that he or she has never been convicted of that crime. However, nothing in this section affects the requirements for restoring a right to possess a firearm under RCW 9.41.040. Except as provided in (b) of this subsection, nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

(b) When a court vacates a record of domestic violence as defined in RCW 10.99.020 under this section, the state may not use the vacated conviction in a later criminal prosecution unless the conviction was for: (i) Violating the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going on to the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, ((26.26.138)) 26.26B.050, 26.44.063, 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145); or (ii) stalking (RCW 9A.46.110). A vacated conviction under this section is not considered a conviction of such an offense for the purposes of 27 C.F.R. 478.11.

~~((6) All costs incurred by the court and probation services shall be paid by the person making the motion to vacate the record unless a determination is made pursuant to chapter 10.101 RCW that the person making the motion is indigent, at the time the motion is brought.~~

~~(7)) (c) A conviction vacated on or after the effective date of this section qualifies as a prior conviction for the purpose of charging a present recidivist offense as defined in RCW 9.94A.030 occurring on or after the effective date of this section.~~

(6) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local police agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local police agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies.

**Sec. 5.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been

convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon. However, when a defendant is charged with a recidivist offense, "criminal history" includes a vacated prior conviction for the sole purpose of establishing that such vacated prior conviction constitutes an element of the present recidivist offense as provided in RCW 9.94A.640(3)(b) and 9.96.060(5)(c).

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Electronic monitoring" means tracking the location of an individual, whether pretrial or posttrial, through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

(25) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(26) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(27) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(28) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence twenty-four hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(32) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

(33) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

- (b) Assault in the second degree;
- (c) Assault of a child in the second degree;
- (d) Child molestation in the second degree;
- (e) Controlled substance homicide;
- (f) Extortion in the first degree;
- (g) Incest when committed against a child under age fourteen;
- (h) Indecent liberties;
- (i) Kidnapping in the second degree;
- (j) Leading organized crime;
- (k) Manslaughter in the first degree;
- (l) Manslaughter in the second degree;
- (m) Promoting prostitution in the first degree;
- (n) Rape in the third degree;
- (o) Robbery in the second degree;
- (p) Sexual exploitation;
- (q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;
- (r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;
- (s) Any other class B felony offense with a finding of sexual motivation;
- (t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;
- (u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;
- (v)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
- (ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(34) "Nonviolent offense" means an offense which is not a violent offense.

(35) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(36) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

(37) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

- (ix) Criminal Gang Intimidation (RCW 9A.46.120);
- (x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;
- (xi) Residential Burglary (RCW 9A.52.025);
- (xii) Burglary 2 (RCW 9A.52.030);
- (xiii) Malicious Mischief 1 (RCW 9A.48.070);
- (xiv) Malicious Mischief 2 (RCW 9A.48.080);
- (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
- (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
- (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);
- (xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);
- (xix) Extortion 1 (RCW 9A.56.120);
- (xx) Extortion 2 (RCW 9A.56.130);
- (xxi) Intimidating a Witness (RCW 9A.72.110);
- (xxii) Tampering with a Witness (RCW 9A.72.120);
- (xxiii) Reckless Endangerment (RCW 9A.36.050);
- (xxiv) Coercion (RCW 9A.36.070);
- (xxv) Harassment (RCW 9A.46.020); or
- (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(38) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible

compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (38)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(39) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(40) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(41) "Public school" has the same meaning as in RCW 28A.150.010.

(42) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, (~~26.26~~) 26.26B, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(43) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(44) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(45) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(46) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(47) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(48) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(49) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(50) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(51) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(52) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(53) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(54) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(55) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(56) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(57) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(58) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

(59) "Recidivist offense" means a felony offense where a prior conviction of the same offense or other specified offense is an element of the crime including, but not limited to:

(a) Assault in the fourth degree where domestic violence is pleaded and proven, RCW 9A.36.041(3);

(b) Cyberstalking, RCW 9.61.260(3)(a);

(c) Harassment, RCW 9A.46.020(2)(b)(i);

(d) Indecent exposure, RCW 9A.88.010(2)(c);

(e) Stalking, RCW 9A.46.110(5)(b) (i) and (iii);

(f) Telephone harassment, RCW 9.61.230(2)(a); and

(g) Violation of a no-contact or protection order, RCW 26.50.110(5)."

On page 1, line 3 of the title, after "records;" strike the remainder of the title and insert "amending RCW 9.94A.640 and 9.94A.030; reenacting and amending RCW 9.94A.637 and 9.96.060; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1041 and advanced the bill as amended by the Senate to final passage.

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

Representatives Hansen and Klippert spoke in favor of the passage of the bill.

#### MOTIONS

On motion of Representative Mead, Representative Appleton was excused.

On motion of Representative Griffey, Representative Graham was excused.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1041, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1041, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan,

Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham and Kirby.

SUBSTITUTE HOUSE BILL NO. 1041, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 10, 2019

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1065 with the following amendment:

Strike everything after the enacting clause and insert the following:

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

(a) Consumers receive surprise bills or balance bills for services provided at out-of-network facilities or by out-of-network health care providers at in-network facilities;

(b) Consumers must not be placed in the middle of contractual disputes between providers and health insurance carriers; and

(c) Facilities, providers, and health insurance carriers all share responsibility to ensure consumers have transparent information on network providers and benefit coverage, and the insurance commissioner is responsible for ensuring that provider networks include sufficient numbers and types of contracted providers to reasonably ensure consumers have in-network access for covered benefits.

(2) It is the intent of the legislature to:

(a) Ban balance billing of consumers enrolled in fully insured, regulated insurance plans and plans offered to public employees under chapter 41.05 RCW for the services described in section 6 of this act, and to provide self-funded group health plans with an option to elect to be subject to the provisions of this act;

(b) Remove consumers from balance billing disputes and require that out-of-network providers and carriers negotiate out-of-network payments in good faith under the terms of this act; and

(c) Provide an environment that encourages self-funded groups to negotiate out-of-network payments in good faith with providers and facilities in return for balance billing protections.

**Sec. 2.** RCW 48.43.005 and 2016 c 65 s 2 are each amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Adverse benefit determination" means a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit, including a denial, reduction, termination, or failure to provide or make payment that is based on a determination of an enrollee's or applicant's eligibility to participate in a plan, and including, with respect to group health plans, a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit resulting from the application of any utilization review, as well as a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(3) "Applicant" means a person who applies for enrollment in an individual health plan as the subscriber or an enrollee, or the dependent or spouse of a subscriber or enrollee.

(4) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(5) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(6) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(7) "Board" means the governing board of the Washington health benefit exchange established in chapter 43.71 RCW.

(8)(a) For grandfathered health benefit plans issued before January 1, 2014, and renewed thereafter, "catastrophic health plan" means:

(i) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand seven hundred fifty dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand five hundred dollars, both amounts to be adjusted annually by the insurance commissioner; and

(ii) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least six thousand

dollars, both amounts to be adjusted annually by the insurance commissioner.

(b) In July 2008, and in each July thereafter, the insurance commissioner shall adjust the minimum deductible and out-of-pocket expense required for a plan to qualify as a catastrophic plan to reflect the percentage change in the consumer price index for medical care for a preceding twelve months, as determined by the United States department of labor. For a plan year beginning in 2014, the out-of-pocket limits must be adjusted as specified in section 1302(c)(1) of P.L. 111-148 of 2010, as amended. The adjusted amount shall apply on the following January 1st.

(c) For health benefit plans issued on or after January 1, 2014, "catastrophic health plan" means:

(i) A health benefit plan that meets the definition of catastrophic plan set forth in section 1302(e) of P.L. 111-148 of 2010, as amended; or

(ii) A health benefit plan offered outside the exchange marketplace that requires a calendar year deductible or out-of-pocket expenses under the plan, other than for premiums, for covered benefits, that meets or exceeds the commissioner's annual adjustment under (b) of this subsection.

(9) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(10) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(11) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(12) "Dependent" means, at a minimum, the enrollee's legal spouse and dependent children who qualify for coverage under the enrollee's health benefit plan.

(13) "Emergency medical condition" means a medical, mental health, or substance use disorder condition manifesting itself by acute symptoms of sufficient severity(¿) including, but not limited to, severe pain or emotional distress, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical, mental health, or substance use disorder treatment attention to result in a condition (a) placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, (b) serious impairment to bodily functions, or (c) serious dysfunction of any bodily organ or part.

(14) "Emergency services" means a medical screening examination, as required under section 1867 of the social security act (42 U.S.C. 1395dd), that is within the

capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate that emergency medical condition, and further medical examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital, as are required under section 1867 of the social security act (42 U.S.C. 1395dd) to stabilize the patient. Stabilize, with respect to an emergency medical condition, has the meaning given in section 1867(e)(3) of the social security act (42 U.S.C. 1395dd(e)(3)).

(15) "Employee" has the same meaning given to the term, as of January 1, 2008, under section 3(6) of the federal employee retirement income security act of 1974.

(16) "Enrollee point-of-service cost-sharing" or "cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(17) "Exchange" means the Washington health benefit exchange established under chapter 43.71 RCW.

(18) "Final external review decision" means a determination by an independent review organization at the conclusion of an external review.

(19) "Final internal adverse benefit determination" means an adverse benefit determination that has been upheld by a health plan or carrier at the completion of the internal appeals process, or an adverse benefit determination with respect to which the internal appeals process has been exhausted under the exhaustion rules described in RCW 48.43.530 and 48.43.535.

(20) "Grandfathered health plan" means a group health plan or an individual health plan that under section 1251 of the patient protection and affordable care act, P.L. 111-148 (2010) and as amended by the health care and education reconciliation act, P.L. 111-152 (2010) is not subject to subtitles A or C of the act as amended.

(21) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(22) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and

operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(23) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(24) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(25) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in the patient protection and affordable care act (P.L. 111-148).

(26) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 or 48.83 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit;

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage;

(l) Plans deemed by the insurance 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 or graduate student at an accredited higher education institution, after a written request for such

classification by the carrier and subsequent written approval by the insurance commissioner; and

(m) Civilian health and medical program for the veterans affairs administration (CHAMPVA).

(27) "Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(28) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(29) "Open enrollment" means a period of time as defined in rule to be held at the same time each year, during which applicants may enroll in a carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(30) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(31) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(32) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(33) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that employed an average of at least one but no more than fifty employees, during the previous calendar year and employed at least one employee on the first day of the plan year, is not formed primarily for purposes of buying health insurance, and in which a bona fide employer-employee relationship exists. In determining the number of employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor who is covered as a group of one must also: (a) Have been employed by the same small employer or small group for at least twelve months prior to application for small group

coverage, and (b) verify that he or she derived at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year, except a self-employed individual or sole proprietor in an agricultural trade or business, must have derived at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year.

(34) "Special enrollment" means a defined period of time of not less than thirty-one days, triggered by a specific qualifying event experienced by the applicant, during which applicants may enroll in the carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(35) "Standard health questionnaire" means the standard health questionnaire designated under chapter 48.41 RCW.

(36) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(37) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

(38) "Allowed amount" means the maximum portion of a billed charge a health carrier will pay, including any applicable enrollee cost-sharing responsibility, for a covered health care service or item rendered by a participating provider or facility or by a nonparticipating provider or facility.

(39) "Balance bill" means a bill sent to an enrollee by an out-of-network provider or facility for health care services provided to the enrollee after the provider or facility's billed amount is not fully reimbursed by the carrier, exclusive of permitted cost-sharing.

(40) "In-network" or "participating" means a provider or facility that has contracted with a carrier or a carrier's contractor or subcontractor to provide health care services to enrollees and be reimbursed by the carrier at a contracted rate as payment in full for the health care services, including applicable cost-sharing obligations.

(41) "Out-of-network" or "nonparticipating" means a provider or facility that has not contracted with a carrier or a carrier's contractor or subcontractor to provide health care services to enrollees.

(42) "Out-of-pocket maximum" or "maximum out-of-pocket" means the maximum amount an enrollee is required to pay in the form of cost-sharing for covered benefits in a plan year, after which the carrier covers the entirety of the allowed amount of covered benefits under the contract of coverage.

(43) "Surgical or ancillary services" means surgery, anesthesiology, pathology, radiology, laboratory, or hospitalist services.

**Sec. 3.** RCW 48.43.093 and 1997 c 231 s 301 are each amended to read as follows:

(1) When conducting a review of the necessity and appropriateness of emergency services or making a benefit determination for emergency services:

(a) A health carrier shall cover emergency services necessary to screen and stabilize a covered person if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. In addition, a health carrier shall not require prior authorization of ~~((such))~~ emergency services provided prior to the point of stabilization if a prudent layperson acting reasonably would have believed that an emergency medical condition existed. With respect to care obtained from ~~((a nonparticipating))~~ an out-of-network hospital emergency department, a health carrier shall cover emergency services necessary to screen and stabilize a covered person ~~((if a prudent layperson would have reasonably believed that use of a participating hospital emergency department would result in a delay that would worsen the emergency, or if a provision of federal, state, or local law requires the use of a specific provider or facility)).~~ In addition, a health carrier shall not require prior authorization of ~~((such))~~ the services provided prior to the point of stabilization ~~((if a prudent layperson acting reasonably would have believed that an emergency medical condition existed and that use of a participating hospital emergency department would result in a delay that would worsen the emergency)).~~

(b) If an authorized representative of a health carrier authorizes coverage of emergency services, the health carrier shall not subsequently retract its authorization after the emergency services have been provided, or reduce payment for an item or service furnished in reliance on approval, unless the approval was based on a material misrepresentation about the covered person's health condition made by the provider of emergency services.

(c) Coverage of emergency services may be subject to applicable in-network copayments, coinsurance, and deductibles, ~~((and a health carrier may impose reasonable differential cost sharing arrangements for emergency services rendered by nonparticipating providers, if such differential between cost sharing amounts applied to emergency services rendered by participating provider versus nonparticipating provider does not exceed fifty dollars. Differential cost sharing for emergency services may not be applied when a covered person presents to a nonparticipating hospital emergency department rather than a participating hospital emergency department when the~~

health carrier requires preauthorization for postevaluation or poststabilization emergency services if:

~~(i) Due to circumstances beyond the covered person's control, the covered person was unable to go to a participating hospital emergency department in a timely fashion without serious impairment to the covered person's health; or~~

~~(ii) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that he or she would be unable to go to a participating hospital emergency department in a timely fashion without serious impairment to the covered person's health)) as provided in chapter 48.-- RCW (the new chapter created in section 27 of this act).~~

~~((d))~~ (2) If a health carrier requires preauthorization for postevaluation or poststabilization services, the health carrier shall provide access to an authorized representative twenty-four hours a day, seven days a week, to facilitate review. In order for postevaluation or poststabilization services to be covered by the health carrier, the provider or facility must make a documented good faith effort to contact the covered person's health carrier within thirty minutes of stabilization, if the covered person needs to be stabilized. The health carrier's authorized representative is required to respond to a telephone request for preauthorization from a provider or facility within thirty minutes. Failure of the health carrier to respond within thirty minutes constitutes authorization for the provision of immediately required medically necessary postevaluation and poststabilization services, unless the health carrier documents that it made a good faith effort but was unable to reach the provider or facility within thirty minutes after receiving the request.

~~((e))~~ (3) A health carrier shall immediately arrange for an alternative plan of treatment for the covered person if ~~((a nonparticipating))~~ an out-of-network emergency provider and health ~~((plan))~~ carrier cannot reach an agreement on which services are necessary beyond those immediately necessary to stabilize the covered person consistent with state and federal laws.

~~((2))~~ (4) Nothing in this section is to be construed as prohibiting the health carrier from requiring notification within the time frame specified in the contract for inpatient admission or as soon thereafter as medically possible but no less than twenty-four hours. Nothing in this section is to be construed as preventing the health carrier from reserving the right to require transfer of a hospitalized covered person upon stabilization. Follow-up care that is a direct result of the emergency must be obtained in accordance with the health plan's usual terms and conditions of coverage. All other terms and conditions of coverage may be applied to emergency services.

## **BALANCE BILLING PROTECTION AND DISPUTE RESOLUTION**

NEW SECTION. **Sec. 4.** This chapter may be known and cited as the balance billing protection act.

NEW SECTION. **Sec. 5.** The definitions in RCW 48.43.005 apply throughout this chapter unless the context clearly requires otherwise.

NEW SECTION. **Sec. 6.** (1) An out-of-network provider or facility may not balance bill an enrollee for the following health care services:

(a) Emergency services provided to an enrollee; or

(b) Nonemergency health care services provided to an enrollee at an in-network hospital licensed under chapter 70.41 RCW or an in-network ambulatory surgical facility licensed under chapter 70.230 RCW if the services:

(i) Involve surgical or ancillary services; and

(ii) Are provided by an out-of-network provider.

(2) Payment for services described in subsection (1) of this section is subject to the provisions of sections 7 and 8 of this act.

(3)(a) Except to the extent provided in (b) of this subsection, the carrier must hold an enrollee harmless from balance billing when emergency services described in subsection (1)(a) of this section are provided by an out-of-network hospital in a state that borders Washington state.

(b)(i) Upon the effective date of federal legislation prohibiting balance billing when emergency services described in subsection (1)(a) of this section are provided by a hospital, the carrier no longer has a duty to hold enrollees harmless from balance billing under (a) of this subsection; or

(ii) Upon the effective date of an interstate compact with a state bordering Washington state or enactment of legislation by a state bordering Washington state prohibiting balance billing when emergency services described in subsection (1)(a) of this section are provided by a hospital located in that border state to a Washington state resident, the carrier no longer has a duty to hold enrollees harmless from balance billing under (a) of this subsection for services provided by a hospital in that border state. The commissioner shall engage with border states on appropriate means to prohibit balance billing by out-of-state hospitals of Washington state residents.

(4) This section applies to health care providers or facilities providing services to members of entities administering a self-funded group health plan and its plan members only if the entity has elected to participate in sections 6 through 8 of this act as provided in section 23 of this act.

NEW SECTION. **Sec. 7.** (1) If an enrollee receives emergency or nonemergency health care services under the circumstances described in section 6 of this act:

(a) The enrollee satisfies his or her obligation to pay for the health care services if he or she pays the in-network cost-sharing amount specified in the enrollee's or applicable group's health plan contract. The enrollee's obligation must

be determined using the carrier's median in-network contracted rate for the same or similar service in the same or similar geographical area. The carrier must provide an explanation of benefits to the enrollee and the out-of-network provider that reflects the cost-sharing amount determined under this subsection.

(b) The carrier, out-of-network provider, or out-of-network facility, and an agent, trustee, or assignee of the carrier, out-of-network provider, or out-of-network facility must ensure that the enrollee incurs no greater cost than the amount determined under (a) of this subsection.

(c) The out-of-network provider or out-of-network facility, and an agent, trustee, or assignee of the out-of-network provider or out-of-network facility may not balance bill or otherwise attempt to collect from the enrollee any amount greater than the amount determined under (a) of this subsection. This does not impact the provider's ability to collect a past due balance for that cost-sharing amount with interest.

(d) The carrier must treat any cost-sharing amounts determined under (a) of this subsection paid by the enrollee for an out-of-network provider or facility's services in the same manner as cost-sharing for health care services provided by an in-network provider or facility and must apply any cost-sharing amounts paid by the enrollee for such services toward the enrollee's maximum out-of-pocket payment obligation.

(e) If the enrollee pays the out-of-network provider or out-of-network facility an amount that exceeds the in-network cost-sharing amount determined under (a) of this subsection, the provider or facility must refund any amount in excess of the in-network cost-sharing amount to the enrollee within thirty business days of receipt. Interest must be paid to the enrollee for any unrefunded payments at a rate of twelve percent beginning on the first calendar day after the thirty business days.

(2) The allowed amount paid to an out-of-network provider for health care services described under section 6 of this act shall be a commercially reasonable amount, based on payments for the same or similar services provided in a similar geographic area. Within thirty calendar days of receipt of a claim from an out-of-network provider or facility, the carrier shall offer to pay the provider or facility a commercially reasonable amount. If the out-of-network provider or facility wants to dispute the carrier's payment, the provider or facility must notify the carrier no later than thirty calendar days after receipt of payment or payment notification from the carrier. If the out-of-network provider or facility disputes the carrier's initial offer, the carrier and provider or facility have thirty calendar days from the initial offer to negotiate in good faith. If the carrier and the out-of-network provider or facility do not agree to a commercially reasonable payment amount within thirty calendar days, and the carrier, out-of-network provider or out-of-network facility chooses to pursue further action to resolve the dispute, the dispute shall be resolved through arbitration, as provided in section 8 of this act.

(3) The carrier must make payments for health care services described in section 6 of this act provided by out-

of-network providers or facilities directly to the provider or facility, rather than the enrollee.

(4) Carriers must make available through electronic and other methods of communication generally used by a provider to verify enrollee eligibility and benefits information regarding whether an enrollee's health plan is subject to the requirements of this act.

(5) A health care provider, hospital, or ambulatory surgical facility may not require a patient at any time, for any procedure, service, or supply, to sign or execute by electronic means, any document that would attempt to avoid, waive, or alter any provision of this section.

(6) This section shall only apply to health care providers or facilities providing services to members of entities administering a self-funded group health plan and its plan members if the entity has elected to participate in sections 6 through 8 of this act as provided in section 23 of this act.

**NEW SECTION. Sec. 8.** (1)(a) Notwithstanding RCW 48.43.055 and 48.18.200, if good faith negotiation, as described in section 7 of this act does not result in resolution of the dispute, and the carrier, out-of-network provider or out-of-network facility chooses to pursue further action to resolve the dispute, the carrier, out-of-network provider, or out-of-network facility shall initiate arbitration to determine a commercially reasonable payment amount. To initiate arbitration, the carrier, provider, or facility must provide written notification to the commissioner and the noninitiating party no later than ten calendar days following completion of the period of good faith negotiation under section 7 of this act. The notification to the noninitiating party must state the initiating party's final offer. No later than thirty calendar days following receipt of the notification, the noninitiating party must provide its final offer to the initiating party. The parties may reach an agreement on reimbursement during this time and before the arbitration proceeding.

(b) Multiple claims may be addressed in a single arbitration proceeding if the claims at issue:

(i) Involve identical carrier and provider or facility parties;

(ii) Involve claims with the same or related current procedural terminology codes relevant to a particular procedure; and

(iii) Occur within a period of two months of one another.

(2) Within seven calendar days of receipt of notification from the initiating party, the commissioner must provide the parties with a list of approved arbitrators or entities that provide arbitration. The arbitrators on the list must be trained by the American arbitration association or the American health lawyers association and should have experience in matters related to medical or health care services. The parties may agree on an arbitrator from the list provided by the commissioner. If the parties do not agree on an arbitrator, they must notify the commissioner who must

provide them with the names of five arbitrators from the list. Each party may veto two of the five named arbitrators. If one arbitrator remains, that person is the chosen arbitrator. If more than one arbitrator remains, the commissioner must choose the arbitrator from the remaining arbitrators. The parties and the commissioner must complete this selection process within twenty calendar days of receipt of the original list from the commissioner.

(3)(a) Each party must make written submissions to the arbitrator in support of its position no later than thirty calendar days after the final selection of the arbitrator. The initiating party must include in its written submission the evidence and methodology for asserting that the amount proposed to be paid is or is not commercially reasonable. A party that fails to make timely written submissions under this section without good cause shown shall be considered to be in default and the arbitrator shall require the party in default to pay the final offer amount submitted by the party not in default and may require the party in default to pay expenses incurred to date in the course of arbitration, including the arbitrator's expenses and fees and the reasonable attorneys' fees of the party not in default. No later than thirty calendar days after the receipt of the parties' written submissions, the arbitrator must: Issue a written decision requiring payment of the final offer amount of either the initiating party or the noninitiating party; notify the parties of its decision; and provide the decision and the information described in section 9 of this act regarding the decision to the commissioner.

(b) In reviewing the submissions of the parties and making a decision related to whether payment should be made at the final offer amount of the initiating party or the noninitiating party, the arbitrator must consider the following factors:

(i) The evidence and methodology submitted by the parties to assert that their final offer amount is reasonable; and

(ii) Patient characteristics and the circumstances and complexity of the case, including time and place of service and whether the service was delivered at a level I or level II trauma center or a rural facility, that are not already reflected in the provider's billing code for the service.

(c) The arbitrator may not require extrinsic evidence of authenticity for admitting data from the Washington state all payer claims database data set developed under section 26 of this act into evidence.

(d) The arbitrator may also consider other information that a party believes is relevant to the factors included in (b) of this subsection or other factors the arbitrator requests and information provided by the parties that is relevant to such request, including the Washington state all payer claims database data set developed under section 26 of this act.

(4) Expenses incurred in the course of arbitration, including the arbitrator's expenses and fees, but not including attorneys' fees, must be divided equally among the parties to the arbitration. The enrollee is not liable for any of the costs of the arbitration and may not be required to

participate in the arbitration proceeding as a witness or otherwise.

(5) Within ten business days of a party notifying the commissioner and the noninitiating party of intent to initiate arbitration, both parties shall agree to and execute a nondisclosure agreement. The nondisclosure agreement must not preclude the arbitrator from submitting the arbitrator's decision to the commissioner under subsection (3) of this section or impede the commissioner's duty to prepare the annual report under section 9 of this act.

(6) Chapter 7.04A RCW applies to arbitrations conducted under this section, but in the event of a conflict between this section and chapter 7.04A RCW, this section governs.

(7) This section applies to health care providers or facilities providing services to members of entities administering a self-funded group health plan and its plan members only if the entity has elected to participate in sections 6 through 8 of this act as provided in section 23 of this act.

(8) An entity administering a self-funded group health plan that has elected to participate in this section pursuant to section 23 of this act shall comply with the provisions of this section.

**NEW SECTION. Sec. 9.** (1) The commissioner must prepare an annual report summarizing the dispute resolution information provided by arbitrators under section 8 of this act. The report must include summary information related to the matters decided through arbitration, as well as the following information for each dispute resolved through arbitration: The name of the carrier; the name of the health care provider; the health care provider's employer or the business entity in which the provider has an ownership interest; the health care facility where the services were provided; and the type of health care services at issue.

(2) The commissioner must post the report on the office of the insurance commissioner's web site and submit the report in compliance with RCW 43.01.036 to the appropriate committees of the legislature, annually by July 1st.

(3) This section expires January 1, 2024.

## TRANSPARENCY

**NEW SECTION. Sec. 10.** (1) The commissioner, in consultation with health carriers, health care providers, health care facilities, and consumers, must develop standard template language for a notice of consumer rights notifying consumers that:

(a) The prohibition against balance billing in this chapter is applicable to health plans issued by carriers in Washington state and self-funded group health plans that elect to participate in sections 6 through 8 of this act as provided in section 23 of this act;

(b) They cannot be balance billed for the health care services described in section 6 of this act and will receive the protections provided by section 7 of this act; and

(c) They may be balance billed for health care services under circumstances other than those described in section 6 of this act or if they are enrolled in a health plan to which this act does not apply, and steps they can take if they are balance billed.

(2) The standard template language must include contact information for the office of the insurance commissioner so that consumers may contact the office of the insurance commissioner if they believe they have received a balance bill in violation of this chapter.

(3) The office of the insurance commissioner shall determine by rule when and in what format health carriers, health care providers, and health care facilities must provide consumers with the notice developed under this section.

**NEW SECTION. Sec. 11.** (1)(a) A hospital or ambulatory surgical facility must post the following information on its web site, if one is available:

(i) The listing of the carrier health plan provider networks with which the hospital or ambulatory surgical facility is an in-network provider, based upon the information provided by the carrier pursuant to RCW 48.43.730(7); and

(ii) The notice of consumer rights developed under section 10 of this act.

(b) If the hospital or ambulatory surgical facility does not maintain a web site, this information must be provided to consumers upon an oral or written request.

(2) Posting or otherwise providing the information required in this section does not relieve a hospital or ambulatory surgical facility of its obligation to comply with the provisions of this chapter.

(3) Not less than thirty days prior to executing a contract with a carrier, a hospital or ambulatory surgical facility must provide the carrier with a list of the nonemployed providers or provider groups contracted to provide surgical or ancillary services at the hospital or ambulatory surgical facility. The hospital or ambulatory surgical facility must notify the carrier within thirty days of a removal from or addition to the nonemployed provider list. A hospital or ambulatory surgical facility also must provide an updated list of these providers within fourteen calendar days of a request for an updated list by a carrier.

**NEW SECTION. Sec. 12.** (1)(a) A health care provider must provide the following information on its web site, if one is available:

(i) The listing of the carrier health plan provider networks with which the provider contracts, based upon the information provided by the carrier pursuant to RCW 48.43.730(7); and

(ii) The notice of consumer rights developed under section 10 of this act.

(b) If the health care provider does not maintain a web site, this information must be provided to consumers upon an oral or written request.

(2) Posting or otherwise providing the information required in this section does not relieve a provider of its obligation to comply with the provisions of this chapter.

(3) An in-network provider must submit accurate information to a carrier regarding the provider's network status in a timely manner, consistent with the terms of the contract between the provider and the carrier.

**NEW SECTION. Sec. 13.** (1) A carrier must update its web site and provider directory no later than thirty days after the addition or termination of a facility or provider.

(2) A carrier must provide an enrollee with:

(a) A clear description of the health plan's out-of-network health benefits; and

(b) The notice of consumer rights developed under section 10 of this act;

(c) Notification that if the enrollee receives services from an out-of-network provider or facility, under circumstances other than those described in section 6 of this act, the enrollee will have the financial responsibility applicable to services provided outside the health plan's network in excess of applicable cost-sharing amounts and that the enrollee may be responsible for any costs in excess of those allowed by the health plan;

(d) Information on how to use the carrier's member transparency tools under RCW 48.43.007;

(e) Upon request, information regarding whether a health care provider is in-network or out-of-network, and whether there are in-network providers available to provide surgical or ancillary services at specified in-network hospitals or ambulatory surgical facilities; and

(f) Upon request, an estimated range of the out-of-pocket costs for an out-of-network benefit.

## ENFORCEMENT

**NEW SECTION. Sec. 14.** (1) If the commissioner has cause to believe that any health care provider, hospital, or ambulatory surgical facility, has engaged in a pattern of unresolved violations of section 6 or 7 of this act, the commissioner may submit information to the department of health or the appropriate disciplining authority for action. Prior to submitting information to the department of health or the appropriate disciplining authority, the commissioner may provide the health care provider, hospital, or ambulatory surgical facility, with an opportunity to cure the alleged violations or explain why the actions in question did not violate section 6 or 7 of this act.

(2) If any health care provider, hospital, or ambulatory surgical facility, has engaged in a pattern of unresolved violations of section 6 or 7 of this act, the department of health or the appropriate disciplining authority may levy a fine or cost recovery upon the health care provider, hospital, or ambulatory surgical facility in an amount not to exceed the applicable statutory amount per violation and take other action as permitted under the authority of the department or disciplining authority. Upon completion of its review of any potential violation submitted by the commissioner or initiated directly by an enrollee, the department of health or the disciplining authority shall notify the commissioner of the results of the review, including whether the violation was substantiated and any enforcement action taken as a result of a finding of a substantiated violation.

(3) If a carrier has engaged in a pattern of unresolved violations of any provision of this chapter, the commissioner may levy a fine or apply remedies authorized under chapter 48.02 RCW, RCW 48.44.166, 48.46.135, or 48.05.185.

(4) For purposes of this section, "disciplining authority" means the agency, board, or commission having the authority to take disciplinary action against a holder of, or applicant for, a professional or business license upon a finding of a violation of chapter 18.130 RCW or a chapter specified under RCW 18.130.040.

**NEW SECTION. Sec. 15.** The commissioner may adopt rules to implement and administer this chapter, including rules governing the dispute resolution process established in section 8 of this act.

**NEW SECTION. Sec. 16.** A new section is added to chapter 48.30 RCW to read as follows:

(1) It is an unfair or deceptive practice for a health carrier to initiate, with such frequency as to indicate a general business practice, arbitration under section 8 of this act with respect to claims submitted by out-of-network providers for services included in section 6 of this act that request payment of a commercially reasonable amount, based on payments for the same or similar services provided in a similar geographic area.

(2) As used in this section, "health carrier" has the same meaning as in RCW 48.43.005.

**Sec. 17.** RCW 18.130.180 and 2018 c 300 s 4 and 2018 c 216 s 2 are each reenacted and amended to read as follows:

The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary

action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) Except when authorized by RCW 18.130.345, the possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers, documents, records, or other items;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing reasonable and timely access for authorized representatives of the disciplining authority seeking to perform practice reviews at facilities utilized by the license holder;

(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW or a pattern of violations of section 6 or 7 of this act;

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research

publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards;

(26) Violation of RCW 18.130.420;

(27) Performing conversion therapy on a patient under age eighteen.

**NEW SECTION. Sec. 18.** A new section is added to chapter 70.41 RCW to read as follows:

If the insurance commissioner reports to the department that he or she has cause to believe that a hospital has engaged in a pattern of violations of section 6 or 7 of this act, and the report is substantiated after investigation, the department may levy a fine upon the hospital in an amount not to exceed one thousand dollars per violation and take other formal or informal disciplinary action as permitted under the authority of the department.

**NEW SECTION. Sec. 19.** A new section is added to chapter 70.230 RCW to read as follows:

If the insurance commissioner reports to the department that he or she has cause to believe that an ambulatory surgical facility has engaged in a pattern of violations of section 6 or 7 of this act, and the report is substantiated after investigation, the department may levy a fine upon the ambulatory surgical facility in an amount not to exceed one thousand dollars per violation and take other formal or informal disciplinary action as permitted under the authority of the department.

**NEW SECTION. Sec. 20.** A new section is added to chapter 70.42 RCW to read as follows:

If the insurance commissioner reports to the department that he or she has cause to believe that a medical testing site has engaged in a pattern of violations of section 6 or 7 of this act, and the report is substantiated after investigation, the department may levy a fine upon the medical testing site in an amount not to exceed one thousand dollars per violation and take other formal or informal disciplinary action as permitted under the authority of the department.

#### **APPLICABILITY**

**Sec. 21.** RCW 41.05.017 and 2016 c 139 s 4 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, ~~((and))~~

48.43.083, and chapter 48.--- RCW (the new chapter created in section 27 of this act).

**NEW SECTION. Sec. 22.** This chapter does not apply to health plans that provide benefits under chapter 74.09 RCW.

**NEW SECTION. Sec. 23.** The provisions of this chapter apply to a self-funded group health plan governed by the provisions of the federal employee retirement income security act of 1974 (29 U.S.C. Sec. 1001 et seq.) only if the self-funded group health plan elects to participate in the provisions of sections 6 through 8 of this act. To elect to participate in these provisions, the self-funded group health plan shall provide notice, on an annual basis, to the commissioner in a manner prescribed by the commissioner, attesting to the plan's participation and agreeing to be bound by sections 6 through 8 of this act. An entity administering a self-funded health benefits plan that elects to participate under this section, shall comply with the provisions of sections 6 through 8 of this act.

**NEW SECTION. Sec. 24.** This chapter must be liberally construed to promote the public interest by ensuring that consumers are not billed out-of-network charges and do not receive additional bills from providers under the circumstances described in section 6 of this act.

**NEW SECTION. Sec. 25.** When determining the adequacy of a proposed provider network or the ongoing adequacy of an in-force provider network, the commissioner must consider whether the carrier's proposed provider network or in-force provider network includes a sufficient number of contracted providers of emergency and surgical or ancillary services at or for the carrier's contracted in-network hospitals or ambulatory surgical facilities to reasonably ensure enrollees have in-network access to covered benefits delivered at that facility.

**NEW SECTION. Sec. 26.** A new section is added to chapter 43.371 RCW to read as follows:

(1) The office of the insurance commissioner shall contract with the state agency responsible for administration of the database and the lead organization to establish a data set and business process to provide health carriers, health care providers, hospitals, ambulatory surgical facilities, and arbitrators with data to assist in determining commercially reasonable payments and resolving payment disputes for out-of-network medical services rendered by health care facilities or providers.

(a) The data set and business process must be developed in collaboration with health carriers, health care providers, hospitals, and ambulatory surgical facilities.

(b) The data set must provide the amounts for the services described in section 6 of this act. The data used to calculate the median in-network and out-of-network allowed

amounts and the median billed charge amounts by geographic area, for the same or similar services, must be drawn from commercial health plan claims, and exclude medicare and medicaid claims as well as claims paid on other than a fee-for-service basis.

(c) The data set and business process must be available beginning November 1, 2019, and must be reviewed by an advisory committee established under chapter 43.371 RCW that includes representatives of health carriers, health care providers, hospitals, and ambulatory surgical facilities for validation before use.

(2) The 2019 data set must be based upon the most recently available full calendar year of claims data. The data set for each subsequent year must be adjusted by applying the consumer price index-medical component established by the United States department of labor, bureau of labor statistics to the previous year's data set.

**NEW SECTION. Sec. 27.** Sections 4 through 15, 22 through 25, and 31 of this act constitute a new chapter in Title 48 RCW.

**Sec. 28.** RCW 48.43.055 and 2005 c 172 s 19 are each amended to read as follows:

(1) Except as provided by subsection (2) of this section, each health carrier as defined under RCW 48.43.005 shall file with the commissioner its procedures for review and adjudication of complaints initiated by health care providers. Procedures filed under this section shall provide a fair review for consideration of complaints. Every health carrier shall provide reasonable means allowing any health care provider aggrieved by actions of the health carrier to be heard after submitting a written request for review. If the health carrier fails to grant or reject a request within thirty days after it is made, the complaining health care provider may proceed as if the complaint had been rejected. A complaint that has been rejected by the health carrier may be submitted to nonbinding mediation. Mediation shall be conducted under chapter 7.07 RCW, or any other rules of mediation agreed to by the parties. This section is solely for resolution of provider complaints. Complaints by, or on behalf of, a covered person are subject to the grievance processes in RCW 48.43.530.

(2) For purposes of out-of-network payment disputes between a health carrier and health care provider covered under the provisions of chapter 48.--- RCW (the new chapter created in section 27 of this act), the arbitration provisions of chapter 48.--- RCW (the new chapter created in section 27 of this act) apply.

**Sec. 29.** RCW 48.18.200 and 1947 c 79 s .18.20 are each amended to read as follows:

(1) Except as provided by subsection (3) of this section, no insurance contract delivered or issued for delivery in this state and covering subjects located, resident,

or to be performed in this state, shall contain any condition, stipulation, or agreement

(a) requiring it to be construed according to the laws of any other state or country except as necessary to meet the requirements of the motor vehicle financial responsibility laws of such other state or country; or

(b) depriving the courts of this state of the jurisdiction of action against the insurer; or

(c) limiting right of action against the insurer to a period of less than one year from the time when the cause of action accrues in connection with all insurances other than property and marine and transportation insurances. In contracts of property insurance, or of marine and transportation insurance, such limitation shall not be to a period of less than one year from the date of the loss.

(2) Any such condition, stipulation, or agreement in violation of this section shall be void, but such voiding shall not affect the validity of the other provisions of the contract.

(3) For purposes of out-of-network payment disputes between a health carrier and health care provider covered under the provisions of chapter 48.--- RCW (the new chapter created in section 27 of this act), the arbitration provisions of chapter 48.--- RCW (the new chapter created in section 27 of this act) apply.

**Sec. 30.** RCW 48.43.730 and 2013 c 277 s 1 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Carrier" means a:

(i) Health carrier as defined in RCW 48.43.005; and

(ii) Limited health care service contractor that offers limited health care service as defined in RCW 48.44.035.

(b) "Provider" means:

(i) A health care provider as defined in RCW 48.43.005;

(ii) A participating provider as defined in RCW 48.44.010;

(iii) A health care facility, as defined in RCW 48.43.005; and

(iv) Intermediaries that have agreed in writing with a carrier to provide access to providers under this subsection (1)(b) who render covered services to enrollees of a carrier.

(c) "Provider compensation agreement" means any written agreement that includes specific information about payment methodology, payment rates, and other terms that determine the remuneration a carrier will pay to a provider.

(d) "Provider contract" means a written contract between a carrier and a provider for any health care services rendered to an enrollee.

(2) A carrier must file all provider contracts and provider compensation agreements with the commissioner

thirty calendar days before use. When a carrier and provider negotiate a provider contract or provider compensation agreement that deviates from a filed agreement, the carrier must also file that specific contract or agreement with the commissioner thirty calendar days before use.

(a) Any provider contract and related provider compensation agreements not affirmatively disapproved by the commissioner are deemed approved, except the commissioner may extend the approval date an additional fifteen calendar days upon giving notice before the expiration of the initial thirty-day period.

(b) Changes to previously filed and approved provider compensation agreements modifying the compensation amount or related terms that help determine the compensation amount must be filed and are deemed approved upon filing if no other changes are made to the previously approved provider contract or compensation agreement.

(3) The commissioner may not base a disapproval of a provider compensation agreement on the amount of compensation or other financial arrangements between the carrier and the provider, unless that compensation amount causes the underlying health benefit plan to otherwise be in violation of state or federal law. This subsection does not grant the commissioner the authority to regulate provider reimbursement amounts.

(4) The commissioner may withdraw approval of a provider contract or provider compensation agreement at any time for cause.

(5) Provider compensation agreements are confidential and not subject to public inspection under RCW 48.02.120(2), or public disclosure under chapter 42.56 RCW, if filed in accordance with the procedures for submitting confidential filings through the system for electronic rate and form filings and the general filing instructions as set forth by the commissioner. In the event the referenced filing fails to comply with the filing instructions setting forth the process to withhold the compensation agreement from public inspection, and the carrier indicates that the compensation agreement is to be withheld from public inspection, the commissioner shall reject the filing and notify the carrier through the system for electronic rate and form filings to amend its filing to comply with the confidentiality filing instructions.

(6) In the event a provider contract or provider compensation agreement is disapproved or withdrawn from use by the commissioner, the carrier has the right to demand and receive a hearing under chapters 48.04 and 34.05 RCW.

(7) Provider contracts filed pursuant to subsection (2) of this section shall identify the network or networks to which the contract applies.

(8) The commissioner may adopt rules to implement this section.

**NEW SECTION. Sec. 31.** Except for section 26 of this act, this act takes effect January 1, 2020.

**NEW SECTION. Sec. 32.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 33.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "amending RCW 48.43.005, 48.43.093, 41.05.017, 48.43.055, 48.18.200, and 48.43.730; reenacting and amending RCW 18.130.180; adding a new section to chapter 48.30 RCW; adding a new section to chapter 70.41 RCW; adding a new section to chapter 70.230 RCW; adding a new section to chapter 70.42 RCW; adding a new section to chapter 43.371 RCW; adding a new chapter to Title 48 RCW; creating new sections; prescribing penalties; providing an effective date; and providing an expiration date."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1065 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1065, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1065, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick,

Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham and Kirby.

SECOND SUBSTITUTE HOUSE BILL NO. 1065, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 15, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1094 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 69.51A.030 and 2015 c 70 s 18 are each amended to read as follows:

(1) The following acts do not constitute crimes under state law or unprofessional conduct under chapter 18.130 RCW, and a health care professional may not be arrested, searched, prosecuted, disciplined, or subject to other criminal sanctions or civil consequences or liability under state law, or have real or personal property searched, seized, or forfeited pursuant to state law, notwithstanding any other provision of law as long as the health care professional complies with subsection (2) of this section:

(a) Advising a patient about the risks and benefits of medical use of marijuana or that the patient may benefit from the medical use of marijuana; or

(b) Providing a patient or designated provider meeting the criteria established under RCW 69.51A.010 with an authorization, based upon the health care professional's assessment of the patient's medical history and current medical condition, if the health care professional has complied with this chapter and he or she determines within a professional standard of care or in the individual health care professional's medical judgment the qualifying patient may benefit from the medical use of marijuana.

(2)(a) A health care professional may provide a qualifying patient or that patient's designated provider with an authorization for the medical use of marijuana in accordance with this section.

(b) In order to authorize for the medical use of marijuana under (a) of this subsection, the health care professional must:

(i) Have a documented relationship with the patient, as a principal care provider or a specialist, relating to the diagnosis and ongoing treatment or monitoring of the patient's terminal or debilitating medical condition;

(ii) Complete an in-person physical examination of the patient or a remote physical examination of the patient if

one is determined to be appropriate under (c)(iii) of this subsection;

(iii) Document the terminal or debilitating medical condition of the patient in the patient's medical record and that the patient may benefit from treatment of this condition or its symptoms with medical use of marijuana;

(iv) Inform the patient of other options for treating the terminal or debilitating medical condition and documenting in the patient's medical record that the patient has received this information;

(v) Document in the patient's medical record other measures attempted to treat the terminal or debilitating medical condition that do not involve the medical use of marijuana; and

(vi) Complete an authorization on forms developed by the department, in accordance with subsection (3) of this section.

(c)(i) For a qualifying patient eighteen years of age or older, an authorization expires one year after its issuance. For a qualifying patient less than eighteen years of age, an authorization expires six months after its issuance.

(ii) An authorization may be renewed upon completion of an in-person physical examination ~~((and))~~ or a remote physical examination of the patient if one is determined to be appropriate under (c)(iii) of this subsection and, in compliance with the other requirements of (b) of this subsection.

(iii) Following an in-person physical examination to authorize the use of marijuana for medical purposes, the health care professional may determine and note in the patient's medical record that subsequent physical examinations for the purposes of renewing an authorization may occur through the use of telemedicine technology if the health care professional determines that requiring the qualifying patient to attend a physical examination in person to renew an authorization would likely result in severe hardship to the qualifying patient because of the qualifying patient's physical or emotional condition.

(iv) When renewing a qualifying patient's authorization for the medical use of marijuana on or after the effective date of this section, the health care professional may indicate that the qualifying patient qualifies for a compassionate care renewal of his or her registration in the medical marijuana authorization database and recognition card if the health care professional determines that requiring the qualifying patient to renew a registration in person would likely result in severe hardship to the qualifying patient because of the qualifying patient's physical or emotional condition. A compassionate care renewal of a qualifying patient's registration and recognition card allows the qualifying patient to receive renewals without the need to be physically present at a retailer and without the requirement to have a photograph taken.

(d) A health care professional shall not:

(i) Accept, solicit, or offer any form of pecuniary remuneration from or to a marijuana retailer, marijuana processor, or marijuana producer;

(ii) Offer a discount or any other thing of value to a qualifying patient who is a customer of, or agrees to be a customer of, a particular marijuana retailer;

(iii) Examine or offer to examine a patient for purposes of diagnosing a terminal or debilitating medical condition at a location where marijuana is produced, processed, or sold;

(iv) Have a business or practice which consists primarily of authorizing the medical use of marijuana or authorize the medical use of marijuana at any location other than his or her practice's permanent physical location;

(v) Except as provided in RCW 69.51A.280, sell, or provide at no charge, marijuana concentrates, marijuana-infused products, or useable marijuana to a qualifying patient or designated provider; or

(vi) Hold an economic interest in an enterprise that produces, processes, or sells marijuana if the health care professional authorizes the medical use of marijuana.

(3) The department shall develop the form for the health care professional to use as an authorization for qualifying patients and designated providers. The form shall include the qualifying patient's or designated provider's name, address, and date of birth; the health care professional's name, address, and license number; the amount of marijuana recommended for the qualifying patient; a telephone number where the authorization can be verified during normal business hours; the dates of issuance and expiration; and a statement that an authorization does not provide protection from arrest unless the qualifying patient or designated provider is also entered in the medical marijuana authorization database and holds a recognition card.

~~((Until July 1, 2016, a health care professional who, within a single calendar month, authorizes the medical use of marijuana to more than thirty patients must report the number of authorizations issued.~~

~~((5)))~~ (5) The appropriate health professions disciplining authority may inspect or request patient records to confirm compliance with this section. The health care professional must provide access to or produce documents, records, or other items that are within his or her possession or control within twenty-one calendar days of service of a request by the health professions disciplining authority. If the twenty-one calendar day limit results in a hardship upon the health care professional, he or she may request, for good cause, an extension not to exceed thirty additional calendar days. Failure to produce the documents, records, or other items shall result in citations and fines issued consistent with RCW 18.130.230. Failure to otherwise comply with the requirements of this section shall be considered unprofessional conduct and subject to sanctions under chapter 18.130 RCW.

~~((6)))~~ (5) After a health care professional authorizes a qualifying patient for the medical use of marijuana, he or

she may discuss with the qualifying patient how to use marijuana and the types of products the qualifying patient should seek from a retail outlet.

**Sec. 2.** RCW 69.51A.230 and 2015 c 70 s 21 are each amended to read as follows:

(1) The department must contract with an entity to create, administer, and maintain a secure and confidential medical marijuana authorization database that, beginning July 1, 2016, allows:

(a) A marijuana retailer with a medical marijuana endorsement to add a qualifying patient or designated provider and include the amount of marijuana concentrates, useable marijuana, marijuana-infused products, or plants for which the qualifying patient is authorized under RCW 69.51A.210;

(b) Persons authorized to prescribe or dispense controlled substances to access health care information on their patients for the purpose of providing medical or pharmaceutical care for their patients;

(c) A qualifying patient or designated provider to request and receive his or her own health care information or information on any person or entity that has queried their name or information;

(d) Appropriate local, state, tribal, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation of suspected marijuana-related activity that may be illegal under Washington state law to confirm the validity of the recognition card of a qualifying patient or designated provider;

(e) A marijuana retailer holding a medical marijuana endorsement to confirm the validity of the recognition card of a qualifying patient or designated provider;

(f) The department of revenue to verify tax exemptions under chapters 82.08 and 82.12 RCW;

(g) The department and the health care professional's disciplining authorities to monitor authorizations and ensure compliance with this chapter and chapter 18.130 RCW by their licensees; and

(h) Authorizations to expire six months or one year after entry into the medical marijuana authorization database, depending on whether the authorization is for a minor or an adult.

(2) A qualifying patient and his or her designated provider, if any, may be placed in the medical marijuana authorization database at a marijuana retailer with a medical marijuana endorsement. After a qualifying patient or designated provider is placed in the medical marijuana authorization database, he or she must be provided with a recognition card that contains identifiers required in subsection (3) of this section.

(3) The recognition card requirements must be developed by the department in rule and include:

(a) A randomly generated and unique identifying number;

(b) For designated providers, the unique identifying number of the qualifying patient whom the provider is assisting;

(c) A photograph of the qualifying patient's or designated provider's face taken by an employee of the marijuana retailer with a medical marijuana endorsement at the same time that the qualifying patient or designated provider is being placed in the medical marijuana authorization database in accordance with rules adopted by the department;

(d) The amount of marijuana concentrates, useable marijuana, marijuana-infused products, or plants for which the qualifying patient is authorized under RCW 69.51A.210;

(e) The effective date and expiration date of the recognition card;

(f) The name of the health care professional who authorized the qualifying patient or designated provider; and

(g) For the recognition card, additional security features as necessary to ensure its validity.

(4)(a) For qualifying patients who are eighteen years of age or older and their designated providers, recognition cards are valid for one year from the date the health care professional issued the authorization. For qualifying patients who are under the age of eighteen and their designated providers, recognition cards are valid for six months from the date the health care professional issued the authorization. Qualifying patients may not be reentered into the medical marijuana authorization database until they have been reexamined by a health care professional and determined to meet the definition of qualifying patient. After reexamination, a marijuana retailer with a medical marijuana endorsement must reenter the qualifying patient or designated provider into the medical marijuana authorization database and a new recognition card will then be issued in accordance with department rules.

(b) Beginning on the effective date of this section, a qualifying patient's registration in the medical marijuana authorization database and his or her recognition card may be renewed by a qualifying patient's designated provider without the physical presence of the qualifying patient at the retailer if the authorization from the health care professional indicates that the qualifying patient qualifies for a compassionate care renewal, as provided in RCW 69.51A.030. A qualifying patient receiving renewals under the compassionate care renewal provisions is exempt from the photograph requirements under subsection (3)(c) of this section.

(5) If a recognition card is lost or stolen, a marijuana retailer with a medical marijuana endorsement, in conjunction with the database administrator, may issue a new card that will be valid for six months to one year if the patient is reexamined by a health care professional and determined to meet the definition of qualifying patient and depending on whether the patient is under the age of eighteen or eighteen years of age or older as provided in subsection

(4) of this section. If a reexamination is not performed, the expiration date of the replacement recognition card must be the same as the lost or stolen recognition card.

(6) The database administrator must remove qualifying patients and designated providers from the medical marijuana authorization database upon expiration of the recognition card. Qualifying patients and designated providers may request to remove themselves from the medical marijuana authorization database before expiration of a recognition card and health care professionals may request to remove qualifying patients and designated providers from the medical marijuana authorization database if the patient or provider no longer qualifies for the medical use of marijuana. The database administrator must retain database records for at least five calendar years to permit the state liquor and cannabis board and the department of revenue to verify eligibility for tax exemptions.

(7) During development of the medical marijuana authorization database, the database administrator must consult with the department, stakeholders, and persons with relevant expertise to include, but not be limited to, qualifying patients, designated providers, health care professionals, state and local law enforcement agencies, and the University of Washington computer science and engineering security and privacy research lab or a certified cybersecurity firm, vendor, or service.

(8) The medical marijuana authorization database must meet the following requirements:

(a) Any personally identifiable information included in the database must be nonreversible, pursuant to definitions and standards set forth by the national institute of standards and technology;

(b) Any personally identifiable information included in the database must not be susceptible to linkage by use of data external to the database;

(c) The database must incorporate current best differential privacy practices, allowing for maximum accuracy of database queries while minimizing the chances of identifying the personally identifiable information included therein; and

(d) The database must be upgradable and updated in a timely fashion to keep current with state of the art privacy and security standards and practices.

(9)(a) Personally identifiable information of qualifying patients and designated providers included in the medical marijuana authorization database is confidential and exempt from public disclosure, inspection, or copying under chapter 42.56 RCW.

(b) Information contained in the medical marijuana authorization database may be released in aggregate form, with all personally ~~((identifying [identifiable]))~~ identifiable information redacted, for the purpose of statistical analysis and oversight of agency performance and actions.

(c) Information contained in the medical marijuana authorization database shall not be shared with the federal government or its agents unless the particular

~~((qualifying))~~ qualifying patient or designated provider is convicted in state court for violating this chapter or chapter 69.50 RCW.

(10)~~((a))~~ The department must charge a one dollar fee for each initial and renewal recognition card issued by a marijuana retailer with a medical marijuana endorsement. The marijuana retailer with a medical marijuana endorsement shall collect the fee from the qualifying patient or designated provider at the time that he or she is entered into the database and issued a recognition card. The department shall establish a schedule for marijuana retailers with a medical marijuana endorsement to remit the fees collected. Fees collected under this subsection shall be deposited into the health professions account created under RCW 43.70.320.

~~((b) By November 1, 2016, the department shall report to the governor and the fiscal committees of both the house of representatives and the senate regarding the cost of implementation and administration of the medical marijuana authorization database. The report must specify amounts from the health professions account used to finance the establishment and administration of the medical marijuana authorization database as well as estimates of the continuing costs associated with operating the medical marijuana [authorization] database. The report must also provide initial enrollment figures in the medical marijuana authorization database and estimates of expected future enrollment.))~~

(11) If the database administrator fails to comply with this section, the department may cancel any contracts with the database administrator and contract with another database administrator to continue administration of the database. A database administrator who fails to comply with this section is subject to a fine of up to five thousand dollars in addition to any penalties established in the contract. Fines collected under this section must be deposited into the health professions account created under RCW 43.70.320.

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

NEW SECTION. Sec. 3. A new section is added to chapter 69.51A RCW to read as follows:

The compassionate care renewals permitted in RCW 69.51A.030 and 69.51A.230 take effect November 1, 2019. The department may adopt rules to implement these renewals and to streamline administrative functions. However, the policy established in these sections may not be delayed until the rules are adopted."

On page 1, line 2 of the title, after "patients;" strike the remainder of the title and insert "amending RCW 69.51A.030 and 69.51A.230; and adding a new section to chapter 69.51A RCW."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1094 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1094, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1094, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 86; Nays, 9; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Calder, Callan, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Entenman, Eslick, Fey, Fitzgibbon, Frame, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Boehnke, Chambers, Chandler, Dufault, Dye, Gildon, Klippert, Kraft and Van Werven.

Excused: Representatives Appleton, Graham and Kirby.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1094, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

April 13, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1095 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 28A.210 RCW to read as follows:

(1) A school district must permit a student who meets the requirements of RCW 69.51A.220 to consume marijuana-infused products for medical purposes on school grounds, aboard a school bus, or while attending a school-sponsored event in accordance with the school district's policy adopted under this section.

(2) Upon the request of a parent or guardian of a student who meets the requirements of RCW 69.51A.220, the board of directors of a school district shall adopt a policy to authorize parents or guardians to administer marijuana-infused products to a student for medical purposes while the student is on school grounds, aboard a school bus, or attending a school-sponsored event. The policy must, at a minimum:

(a) Require that the student be authorized to use marijuana-infused products for medical purposes pursuant to RCW 69.51A.220 and that the parent or guardian acts as the designated provider for the student and assists the student with the consumption of the marijuana while on school grounds, aboard a school bus, or attending a school-sponsored event;

(b) Establish protocols for verifying the student is authorized to use marijuana for medical purposes and the parent or guardian is acting as the designated provider for the student pursuant to RCW 69.51A.220. The school may consider a student's and parent's or guardian's valid recognition cards to be proof of compliance with RCW 69.51A.220;

(c) Expressly authorize parents or guardians of students who have been authorized to use marijuana for medical purposes to administer marijuana-infused products to the student while the student is on school grounds at a location identified pursuant to (d) of this subsection (2), aboard a school bus, or attending a school-sponsored event;

(d) Identify locations on school grounds where marijuana-infused products may be administered; and

(e) Prohibit the administration of medical marijuana to a student by smoking or other methods involving inhalation while the student is on school grounds, aboard a school bus, or attending a school-sponsored event.

(3) School district officials, employees, volunteers, students, and parents and guardians acting in accordance with the school district policy adopted under subsection (2) of this section may not be arrested, prosecuted, or subject to other criminal sanctions, or civil or professional consequences for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver marijuana under state law, or have real or personal property seized or forfeited for possession, manufacture, or delivery of, or possession with intent to manufacture or deliver marijuana under state law.

(4) For the purposes of this section, "marijuana-infused products" has the meaning provided in RCW 69.50.101.

NEW SECTION. Sec. 2. A new section is added to chapter 69.51A RCW to read as follows:

A school district must permit a student who meets the requirements of RCW 69.51A.220 to consume marijuana-infused products on school grounds, aboard a school bus, or while attending a school-sponsored event. The use must be in accordance with school policy relating to medical marijuana use on school grounds, aboard a school bus, or while attending a school-sponsored event, as adopted under section 1 of this act.

**Sec. 3.** RCW 69.51A.060 and 2015 c 70 s 31 are each amended to read as follows:

(1) It shall be a class 3 civil infraction to use or display medical marijuana in a manner or place which is open to the view of the general public.

(2) Nothing in this chapter establishes a right of care as a covered benefit or requires any state purchased health care as defined in RCW 41.05.011 or other health carrier or health plan as defined in Title 48 RCW to be liable for any claim for reimbursement for the medical use of marijuana. Such entities may enact coverage or noncoverage criteria or related policies for payment or nonpayment of medical marijuana in their sole discretion.

(3) Nothing in this chapter requires any health care professional to authorize the medical use of marijuana for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of marijuana in any place of employment, ~~((in any school bus or on any school grounds,))~~ in any youth center, in any correctional facility, or smoking marijuana in any public place or hotel or motel. ~~((However, a school may permit a minor who meets the requirements of RCW 69.51A.220 to consume marijuana on school grounds. Such use must be in accordance with school policy relating to medication use on school grounds.))~~

(5) Nothing in this chapter authorizes the possession or use of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products on federal property.

(6) Nothing in this chapter authorizes the use of medical marijuana by any person who is subject to the Washington code of military justice in chapter 38.38 RCW.

(7) Employers may establish drug-free work policies. Nothing in this chapter requires an accommodation for the medical use of marijuana if an employer has a drug-free workplace.

(8) No person shall be entitled to claim the protection from arrest and prosecution under RCW 69.51A.040 or the affirmative defense under RCW 69.51A.043 for engaging in the medical use of marijuana in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway, including violations of RCW 46.61.502 or 46.61.504, or equivalent local ordinances.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The superintendent of public instruction and school districts must suspend implementation of sections 1 and 2 of this act if:

(a) The federal government issues a communication after the effective date of this section that suggests that federal education funding will be withheld if the state continues to implement sections 1 and 2 of this act;

(b) The superintendent of public instruction requests a formal opinion by the state attorney general on the federal communication; and

(c) The state attorney general provides a formal opinion that the federal communication has reasonably demonstrated that continued implementation of sections 1 and 2 of this act reasonably jeopardizes future federal funding.

(2) The office of the superintendent of public instruction must provide the state attorney general opinion to the education and fiscal committees of the legislature within thirty days of the issuance of the opinion."

On page 1, line 2 of the title, after "purposes;" strike the remainder of the title and insert "amending RCW 69.51A.060; adding a new section to chapter 28A.210 RCW; adding a new section to chapter 69.51A RCW; and adding a new section to chapter 28A.300 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1095 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1095, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1095, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 79; Nays, 16; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, DeBolt, Doglio, Dolan, Entenman, Eslick, Fey, Fitzgibbon, Frame, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Maeri, Maycumber, McCaslin, Mead, Morgan, Morris, Orcutt, Ormsby, Ortiz-

Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wilcox, Wylie and Young.

Voting nay: Representatives Boehnke, Caldier, Chambers, Chandler, Corry, Dent, Dufault, Dye, Gildon, Jenkin, Klippert, Kraft, Mosbrucker, Smith, Van Werven and Ybarra.

Excused: Representatives Appleton, Graham and Kirby.

SUBSTITUTE HOUSE BILL NO. 1095, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

April 11, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1105 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 84.56.020 and 2017 c 142 s 1 are each amended to read as follows:

**Treasurers' tax collection duties.**

(1) The county treasurer must be the receiver and collector of all taxes extended upon the tax rolls of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his or her county. No treasurer may accept tax payments or issue receipts for the same until the treasurer has completed the tax roll for the current year's collection and provided notification of the completion of the roll. Notification may be accomplished electronically, by posting a notice in the office, or through other written communication as determined by the treasurer. All real and personal property taxes and assessments made payable by the provisions of this title are due and payable to the county treasurer on or before the thirtieth day of April and, except as provided in this section, are delinquent after that date.

**Tax statements.**

(2)(a) Tax statements for the current year's collection must be distributed to each taxpayer on or before March 15th provided that:

(i) All city and other taxing district budgets have been submitted to county legislative authorities by November 30th per RCW 84.52.020;

(ii) The county legislative authority in turn has certified taxes levied to the county assessor by November 30th per RCW 84.52.070; and

(iii) The county assessor has delivered the tax roll to the county treasurer by January 15th per RCW 84.52.080.

(b) Each tax statement must include a notice that checks for payment of taxes may be made payable to "Treasurer of . . . . County" or other appropriate office, but tax statements may not include any suggestion that checks may be made payable to the name of the individual holding the office of treasurer nor any other individual.

(c) Each tax statement distributed to an address must include a notice with information describing the:

(i) Property tax exemption program pursuant to RCW 84.36.379 through 84.36.389; and

(ii) Property tax deferral program pursuant to chapter 84.38 RCW.

**Tax payment due dates.**

**On-time tax payments: First-half taxes paid by April 30th and second-half taxes paid by October 31st.**

(3) When the total amount of tax or special assessments on personal property or on any lot, block or tract of real property payable by one person is fifty dollars or more, and if one-half of such tax is paid on or before the thirtieth day of April, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

**Delinquent tax payments for current year: First-half taxes paid after April 30th.**

(4) When the total amount of tax or special assessments on any lot, block or tract of real property or on any mobile home payable by one person is fifty dollars or more, and if one-half of such tax is paid after the thirtieth day of April but before the thirty-first day of October, together with the applicable interest and penalty on the full amount of tax payable for that year, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

**Delinquent tax payments: Interest, penalties, and treasurer duties.**

(5) Except as provided in (c) of this subsection, delinquent taxes under this section are subject to interest at the rate of twelve percent per annum computed on a monthly basis on the amount of tax delinquent from the date of delinquency until paid. Interest must be calculated at the rate in effect at the time of the tax payment, regardless of when the taxes were first delinquent. In addition, delinquent taxes under this section are subject to penalties as follows:

(a) A penalty of three percent of the amount of tax delinquent is assessed on the tax delinquent on June 1st of the year in which the tax is due.

(b) An additional penalty of eight percent is assessed on the delinquent tax amount on December 1st of the year in which the tax is due.

(c) If a taxpayer is successfully participating in a payment agreement under subsection ~~((12))~~ (15)(b) of this section or a partial payment program pursuant to subsection

~~((13))~~ (15)(c) of this section, the county treasurer may not assess additional penalties on delinquent taxes that are included within the payment agreement. Interest and penalties that have been assessed prior to the payment agreement remain due and payable as provided in the payment agreement.

(6) A county treasurer must provide notification to each taxpayer whose taxes have become delinquent under subsections (4) and (5) of this section. The delinquency notice must specify where the taxpayer can obtain information regarding:

(a) Any current tax or special assessments due as of the date of the notice;

(b) Any delinquent tax or special assessments due, including any penalties and interest, as of the date of the notice; and

(c) Where the taxpayer can pay his or her property taxes directly and contact information, including but not limited to the phone number, for the statewide foreclosure hotline recommended by the Washington state housing finance commission.

(7) Within ninety days after the expiration of two years from the date of delinquency (when a taxpayer's taxes have become delinquent), the county treasurer must provide the name and property address of the delinquent taxpayer to a homeownership resource center or any other designated local or state entity recommended by the Washington state housing finance commission.

#### Collection of foreclosure costs.

(8)(a) When real property taxes become delinquent and prior to the filing of the certificate of delinquency, the treasurer is authorized to assess and collect tax foreclosure avoidance costs.

(b) ((For the purposes of this section, "tax foreclosure avoidance costs" means those direct costs associated with the administration of properties subject to and prior to foreclosure. Tax foreclosure avoidance costs include:

(i) Compensation of employees for the time devoted to administering the avoidance of property foreclosure; and

(ii) The cost of materials, services, or equipment acquired, consumed, or expended in administering tax foreclosure avoidance prior to the filing of a certificate of delinquency.

(e)) When tax foreclosure avoidance costs are collected, such costs must be credited to the county treasurer service fund account, except as otherwise directed.

((4)) (c) For purposes of chapter 84.64 RCW, any taxes, interest, or penalties deemed delinquent under this section remain delinquent until such time as all taxes, interest, and penalties for the tax year in which the taxes were first due and payable have been paid in full.

#### ((7)) Periods of armed conflict.

(9) Subsection (5) of this section notwithstanding, no interest or penalties may be assessed during any period of armed conflict regarding delinquent taxes imposed on the personal residences owned by active duty military personnel who are participating as part of one of the branches of the military involved in the conflict and assigned to a duty station outside the territorial boundaries of the United States.

#### ((8)) State of emergency.

(10) During a state of emergency declared under RCW 43.06.010(12), the county treasurer, on his or her own motion or at the request of any taxpayer affected by the emergency, may grant extensions of the due date of any taxes payable under this section as the treasurer deems proper.

#### ((9)) Retention of funds from interest.

(11) All collections of interest on delinquent taxes must be credited to the county current expense fund.

((40)) (12) For purposes of this chapter, "interest" means both interest and penalties.

#### ((11)) Retention of funds from property foreclosures and sales.

(13) The direct cost of foreclosure and sale of real property, and the direct fees and costs of distraint and sale of personal property, for delinquent taxes, must, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and must be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint, and sale because of delinquent taxes without regard to budget limitations and not subject to indirect costs of other charges.

#### ((12)(a)) Tax due dates and options for tax payment collections.

##### Electronic billings and payments.

(14) For purposes of this chapter, and in accordance with this section and RCW 36.29.190, the treasurer may collect taxes, assessments, fees, rates, interest, and charges by electronic billing and payment. Electronic billing and payment may be used as an option by the taxpayer, but the treasurer may not require the use of electronic billing and payment. Electronic bill presentment and payment may be on a monthly or other periodic basis as the treasurer deems proper for:

(a) Delinquent tax year payments ((only or for)); and

(b) Prepayments of current tax.

##### Tax payments.

##### Prepayment for current taxes.

(15)(a) The treasurer may accept prepayments for current year taxes by any means authorized. All prepayments must be paid in full by the due date specified in ((e) of this) subsection (16) of this section. ((Payments on past due taxes must include collection of the oldest delinquent year, which includes interest and taxes within a twelve month period;

~~prior to filing a certificate of delinquency under chapter 84.64 RCW or distraint pursuant to RCW 84.56.070.)~~

**Payment agreements for current year taxes.**

~~(b)(i) The treasurer may provide, by electronic means or otherwise, a payment agreement that provides for payment of current year taxes, inclusive of prepayment collection charges. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for current year taxes.~~

**Payment agreements for delinquent year taxes.**

~~(ii)(A) The treasurer may provide, by electronic means or otherwise, a payment agreement for payment of past due delinquencies(~~, which must also require current year taxes to be paid timely~~). The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for (~~current year taxes~~. The treasurer may accept partial payment of current and delinquent taxes including interest and penalties using electronic bill presentment and payments.~~

~~(e)) past due delinquent taxes and charges.~~

~~(B) Tax payments received by a treasurer for delinquent year taxes from a taxpayer participating on a payment agreement must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.~~

**Partial payments: Acceptance of partial payments for current and delinquent taxes.**

~~(c)(i) In addition to the payment agreement program in (b) of this subsection, the treasurer may accept partial payment of any current and delinquent taxes including interest and penalties by any means authorized including electronic bill presentment and payments.~~

~~(ii) All tax payments received by a treasurer for delinquent year taxes from a taxpayer paying a partial payment must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.~~

**Payment for delinquent taxes.**

~~(d) Payments on past due taxes must include collection of the oldest delinquent year, which includes interest, penalties, and taxes within an eighteen-month period, prior to filing a certificate of delinquency under chapter 84.64 RCW or distraint pursuant to RCW 84.56.070.~~

**Due date for tax payments.**

~~(16) All taxes upon real and personal property made payable by the provisions of this title are due and payable to the treasurer on or before the thirtieth day of April and are delinquent after that date. The remainder of the tax is due and payable on or before the following thirty-first of October and is delinquent after that date. All other assessments, fees, rates, and charges are delinquent after the due date.~~

**((d)) Electronic funds transfers.**

~~(17) A county treasurer may authorize payment of:~~

~~(a) Any current property taxes due under this chapter by electronic funds transfers on a monthly or other periodic basis; and~~

~~(b) Any past due property taxes, penalties, and interest under this chapter by electronic funds transfers on a monthly or other periodic basis. Delinquent taxes are subject to interest and penalties, as provided in subsection (5) of this section. All tax payments received by a treasurer from a taxpayer paying delinquent year taxes must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.~~

**((e)) Payment for administering prepayment collections.**

~~(18) The treasurer must pay any collection costs, investment earnings, or both on past due payments or prepayments to the credit of a county treasurer service fund account to be created and used only for the payment of expenses incurred by the treasurer, without limitation, in administering the system for collecting prepayments.~~

~~((13) In addition to the payment program in subsection (12)(b) of this section, the treasurer may accept partial payment of current and delinquent taxes including interest and penalties by any means authorized.~~

~~(14) For purposes of this section unless the context clearly requires otherwise, the following definitions apply:))~~

**Waiver of interest and penalties for qualified taxpayers subject to foreclosure.**

~~(19) No earlier than sixty days prior to the date that is three years after the date of delinquency, the treasurer must waive all outstanding interest and penalties on delinquent taxes due from a taxpayer if the property is subject to an action for foreclosure under chapter 84.64 RCW and the following requirements are met:~~

~~(a) The taxpayer is income-qualified under RCW 84.36.381(5)(a), as verified by the county assessor;~~

~~(b) The taxpayer occupies the property as their principal place of residence; and~~

~~(c) The taxpayer has not previously received a waiver on the property as provided under this subsection.~~

**Definitions.**

~~(20) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.~~

~~(a) "Electronic billing and payment" means statements, invoices, or bills that are created, delivered, and paid using the internet. The term includes an automatic electronic payment from a person's checking account, debit account, or credit card.~~

~~(b) "Internet" has the same meaning as provided in RCW 19.270.010.~~

~~(c) "Tax foreclosure avoidance costs" means those direct costs associated with the administration of properties~~

subject to and prior to foreclosure. Tax foreclosure avoidance costs include:

(i) Compensation of employees for the time devoted to administering the avoidance of property foreclosure; and

(ii) The cost of materials, services, or equipment acquired, consumed, or expended in administering tax foreclosure avoidance prior to the filing of a certificate of delinquency.

**Sec. 2.** RCW 84.64.225 and 2015 c 95 s 11 are each amended to read as follows:

(1) In lieu of the sale procedure specified in RCW 84.56.070 or 84.64.080, the county treasurer may conduct a public auction sale by electronic media as provided in RCW 36.16.145.

(2) Notice of a public auction sale by electronic media must be substantially in the following form:

**TAX JUDGMENT SALE BY ELECTRONIC MEDIA**

Public notice is hereby given that pursuant to a tax judgment of the superior court of the county of . . . . . in the state of Washington, and an order of sale duly issued by the court, entered the . . . . day of . . . . ., . . . ., in proceedings for foreclosure of tax liens, I shall on the . . . . day of . . . . ., . . . ., commencing at . . . . o'clock . . . ., at . . . [specify web site address] . . . ., sell the property to the highest and best bidder to satisfy the full amount of taxes, interest, and costs adjudged to be due. Prospective bidders must deposit . . . . to participate in bidding. A deposit paid by a winning bidder will be applied to the balance due. However, a winning bidder who does not comply with the terms of sale will forfeit the deposit. Deposits paid by nonwinning bidders will be refunded within ten business days of the close of the sale. Payment of deposits and a winning bid must be made by electronic funds transfer. In the case of an online public auction sale by electronic media as provided in RCW 36.16.145, a winning bidder is allowed no less than forty-eight hours to pay the winning bid by electronic funds transfer.

In witness whereof, I have affixed my hand and seal this . . . . day of . . . . ., . . . .

Treasurer of . . . . . county.

**Sec. 3.** RCW 36.35.110 and 2013 c 221 s 2 are each amended to read as follows:

(1) No claims are allowed against the county from any municipality, school district, road district or other taxing district for taxes levied on property acquired by the county by tax deed under the provisions of this chapter, but all taxes must at the time of deeding the property be thereby canceled. However, the proceeds of any sale of any property acquired by the county by tax deed must first be applied to reimburse the county for the costs of foreclosure and sale. The remainder of the proceeds, if any, must be applied to pay any amounts deferred under chapter 84.37 or 84.38 RCW on the property, including accrued interest, and outstanding at the

time the county acquired the property by tax deed. The remainder of the proceeds, if any, must be justly apportioned to the various funds existing at the date of the sale, in the territory in which such property is located, according to the tax levies of the year last in process of collection.

(2) For purposes of this section, "costs of foreclosure and sale" means those costs of foreclosing on the property that, when collected, are subject to RCW 84.56.020(~~(9)~~) (13), and the direct costs incurred by the county in selling the property.

**Sec. 4.** RCW 84.64.050 and 2013 c 221 s 12 are each amended to read as follows:

(1) Except as provided in subsection (7) of this section, after the expiration of three years from the date of delinquency, when any property remains on the tax rolls for which no certificate of delinquency has been issued, the county treasurer must proceed to issue certificates of delinquency on the property to the county for all years' taxes, interest, and costs. However, the county treasurer, with the consent of the county legislative authority, may elect to issue a certificate for fewer than all years' taxes, interest, and costs to a minimum of the taxes, interest, and costs for the earliest year.

(2) Certificates of delinquency are prima facie evidence that:

- (a) The property described was subject to taxation at the time the same was assessed;
- (b) The property was assessed as required by law;
- (c) The taxes or assessments were not paid at any time before the issuance of the certificate;
- (d) Such certificate has the same force and effect as a lis pendens required under chapter 4.28 RCW.

(3) The county treasurer may include in the certificate of delinquency any assessments which are due on the property and are the responsibility of the county treasurer to collect. However, if the department of revenue has previously notified the county treasurer in writing that the property has a lien on it for deferred property taxes, the county treasurer must include in the certificate of delinquency any amounts deferred under chapters 84.37 and 84.38 RCW that remain unpaid, including accrued interest and costs.

(4) The treasurer must file the certificates when completed with the clerk of the court at no cost to the treasurer, and the treasurer must thereupon, with legal assistance from the county prosecuting attorney, proceed to foreclose in the name of the county, the tax liens embraced in such certificates. Notice and summons must be served or notice given in a manner reasonably calculated to inform the owner or owners, and any person having a recorded interest in or lien of record upon the property, of the foreclosure action to appear within thirty days after service of such notice and defend such action or pay the amount due. Either (a) personal service upon the owner or owners and any person having a recorded interest in or lien of record upon

the property, or (b) publication once in a newspaper of general circulation, which is circulated in the area of the property and mailing of notice by certified mail to the owner or owners and any person having a recorded interest in or lien of record upon the property, or, if a mailing address is unavailable, personal service upon the occupant of the property, if any, is sufficient. If such notice is returned as unclaimed, the treasurer must send notice by regular first-class mail. The notice must include the legal description on the tax rolls, the year or years for which assessed, the amount of tax and interest due, and the name of owner, or reputed owner, if known, and the notice must include the local street address, if any, for informational purposes only. The certificates of delinquency issued to the county may be issued in one general certificate in book form including all property, and the proceedings to foreclose the liens against the property may be brought in one action and all persons interested in any of the property involved in the proceedings may be made codefendants in the action, and if unknown may be therein named as unknown owners, and the publication of such notice is sufficient service thereof on all persons interested in the property described therein, except as provided above. The person or persons whose name or names appear on the treasurer's rolls as the owner or owners of the property must be considered and treated as the owner or owners of the property for the purpose of this section, and if upon the treasurer's rolls it appears that the owner or owners of the property are unknown, then the property must be proceeded against, as belonging to an unknown owner or owners, as the case may be, and all persons owning or claiming to own, or having or claiming to have an interest therein, are hereby required to take notice of the proceedings and of any and all steps thereunder. However, prior to the sale of the property, the treasurer must order or conduct a title search of the property to be sold to determine the legal description of the property to be sold and the record title holder, and if the record title holder or holders differ from the person or persons whose name or names appear on the treasurer's rolls as the owner or owners, the record title holder or holders must be considered and treated as the owner or owners of the property for the purpose of this section, and are entitled to the notice provided for in this section. Such title search must be included in the costs of foreclosure.

(5) If the title search required by subsection (4) of this section reveals a lien in favor of the state for deferred taxes on the property under RCW 84.37.070 or 84.38.100 and such deferred taxes are not already included in the certificate of delinquency, the county treasurer must issue an amended certificate of delinquency on the property to include the outstanding amount of deferred taxes, including accrued interest. The amended certificate of delinquency must be filed with the clerk of the court as provided in subsection (4) of this section.

(6) The county treasurer may not sell property that is eligible for deferral of taxes under chapter 84.38 RCW but must require the owner of the property to file a declaration to defer taxes under chapter 84.38 RCW.

(7) Except those parcels where the local governing entity has declared and/or certified the parcel a nuisance

affecting public peace, safety, and welfare, or other similar code provision, in no case may a certificate of delinquency be filed on property where the tax delinquency under chapter 84.56 RCW is one hundred dollars or less in total excluding interest and penalties.

**NEW SECTION. Sec. 5.** A new section is added to chapter 84.56 RCW to read as follows:

(1) If a taxpayer requests assistance for payment of current year or delinquent taxes, the county assessor, if applicable:

(a) May assist the taxpayer in applying for a property tax exemption program under RCW 84.36.379 through 84.36.389;

(b) May assist the taxpayer in applying for the property tax deferral program under chapter 84.38 RCW; and

(c) Must refer the taxpayer to the statewide foreclosure hotline recommended by the Washington state housing finance commission.

(2) A county treasurer may also refer a taxpayer requesting tax payment assistance to the county assessor's office under subsection (1) of this section.

**NEW SECTION. Sec. 6.** A new section is added to chapter 36.29 RCW to read as follows:

(1) The county treasurer must post a notice describing the:

(a) Property tax exemption program pursuant to RCW 84.36.379 through 84.36.389; and

(b) Property tax deferral program pursuant to chapter 84.38 RCW.

(2) The notice required under subsection (1) of this section must be posted in a location visible to the public.

**NEW SECTION. Sec. 7.** A new section is added to chapter 36.21 RCW to read as follows:

(1) The county assessor must post a notice describing the:

(a) Property tax exemption program pursuant to RCW 84.36.379 through 84.36.389; and

(b) Property tax deferral program pursuant to chapter 84.38 RCW.

(2) The notice required under subsection (1) of this section must be posted in a location visible to the public.

**NEW SECTION. Sec. 8.** This act takes effect January 1, 2020."

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

84.56.020, 84.64.225, 36.35.110, and 84.64.050; adding a new section to chapter 84.56 RCW; adding a new section to chapter 36.29 RCW; adding a new section to chapter 36.21 RCW; and providing an effective date."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1105 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1105, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1105, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 57; Nays, 38; Absent, 0; Excused, 3.

Voting yea: Representatives Bergquist, Blake, Callan, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Slatter, Smith, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Volz, Walen, Walsh and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Chapman, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Shewmake, Steele, Stokesbary, Sutherland, Van Werven, Vick, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Graham and Kirby.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1105, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 13, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1114 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that the wasting of food represents a misuse of resources, including the water, land, energy, labor, and capital that go into growing, harvesting, processing, transporting, and retailing food for human consumption. Wasting edible food occurs all along the food production supply chain, and reducing the waste of edible food is a goal that can be achieved only with the collective efforts of growers, processors, distributors, retailers, consumers of food, and food bankers and related charities. Inedible food waste can be managed in ways that reduce negative environmental impacts and provide beneficial results to the land, air, soil, and energy infrastructure. Efforts to reduce the waste of food and expand the diversion of food waste to beneficial end uses will also require the mindful support of government policies that shape the behavior and waste reduction opportunities of each of those participants in the food supply chain.

(2) Every year, American consumers, businesses, and farms spend billions of dollars growing, processing, transporting, and disposing of food that is never eaten. That represents tens of millions of tons of food sent to landfills annually, plus millions of tons more that are discarded or left unharvested on farms. Worldwide, the United Nations food and agriculture organization has estimated that if one-fourth of the food lost or wasted globally could be saved, it would be enough to feed eight hundred seventy million hungry people. Meanwhile, one in eight Americans is food insecure, including one in six children. Recent data from the department of ecology indicate that Washington is not immune to food waste problems, and recent estimates indicate that seventeen percent of all garbage sent to Washington disposal facilities is food waste, including eight percent that is food that was determined to be edible at the time of disposal. In recognition of the widespread benefits that would accrue from reductions in food waste, in 2015, the administrator of the United States environmental protection agency and the secretary of the United States department of agriculture announced a national goal of reducing food waste by fifty percent by 2030. The Pacific Coast collaborative recently agreed to a similar commitment of halving food waste by 2030, including efforts to prevent, rescue, and recover wasted food.

(3) By establishing state wasted food reduction goals and developing a state wasted food reduction strategy, it is the intent of the legislature to continue its national leadership in solid waste reduction efforts by:

(a) Improving efficiencies in the food production and distribution system in order to reduce the cradle to grave greenhouse gas emissions associated with wasted food;

(b) Fighting hunger by more efficiently diverting surplus food to feed hungry individuals and families in need; and

(c) Supporting expansion of management facilities for inedible food waste to improve access and facility performance while reducing the volumes of food that flow through those facilities.

**NEW SECTION. Sec. 2.** A new section is added to chapter 70.95 RCW to read as follows:

(1) A goal is established for the state to reduce by fifty percent the amount of food waste generated annually by 2030, relative to 2015 levels. A subset of this goal must include a prevention goal to reduce the amount of edible food that is wasted.

(2) The department may estimate 2015 levels of wasted food in Washington using any combination of solid waste reporting data obtained under this chapter and surveys and studies measuring wasted food and food waste in other jurisdictions. For the purposes of measuring progress towards the goal in subsection (1) of this section, the department must adopt standardized metrics and processes for measuring or estimating volumes of wasted food and food waste generated in the state.

(3) By October 1, 2020, the department, in consultation with the department of agriculture and the department of health, must develop and adopt a state wasted food reduction and food waste diversion plan designed to achieve the goal established in subsection (1) of this section.

(a) The wasted food reduction and food waste diversion plan must include strategies, in descending order of priority, to:

(i) Prevent and reduce the wasting of edible food by residents and businesses;

(ii) Help match and support the capacity for edible food that would otherwise be wasted with food banks and other distributors that will ensure the food reaches those who need it; and

(iii) Support productive uses of inedible food materials, including using it for animal feed, energy production through anaerobic digestion, or other commercial uses, and for off-site or on-site management systems including composting, vermicomposting, or other biological systems.

(b) The wasted food reduction and food waste diversion plan must be designed to:

(i) Recommend a regulatory environment that optimizes activities and processes to rescue safe, nutritious, edible food;

(ii) Recommend a funding environment in which stable, predictable resources are provided to wasted food prevention and rescue and food waste recovery activities in such a way as to allow the development of additional capacity and the use of new technologies;

(iii) Avoid placing burdensome regulations on the hunger relief system, and ensure that organizations involved in wasted food prevention and rescue, and food waste recovery, retain discretion to accept or reject donations of food when appropriate;

(iv) Provide state technical support to wasted food prevention and rescue and food waste recovery organizations;

(v) Support the development and distribution of equitable materials to support food waste and wasted food educational and programmatic efforts in K-12 schools, in collaboration with the office of the superintendent of public instruction, and aligned with the Washington state science and social studies learning standards; and

(vi) Facilitate and encourage restaurants and other retail food establishments to safely donate food to food banks and food assistance programs through education and outreach to retail food establishment operators regarding safe food donation opportunities, practices, and benefits.

(c) The wasted food reduction and food waste diversion plan must include suggested best practices that local governments may incorporate into solid waste management plans developed under RCW 70.95.080.

(d) The department must solicit feedback from the public and interested stakeholders throughout the process of developing and adopting the wasted food reduction and food waste diversion plan. To assist with its food waste reduction plan development responsibilities, the department may designate a stakeholder advisory panel. If the department designates a stakeholder advisory panel, it must consist of local government health departments, local government solid waste departments, food banks, hunger-focused nonprofit organizations, waste-focused nonprofit organizations, K-12 public education, and food businesses or food business associations.

(e) The department must identify the sources of scientific, economic, or other technical information it relied upon in developing the plan required under this section, including peer-reviewed science.

(f) In conjunction with the development of the wasted food reduction and food waste diversion plan, the department and the departments of agriculture and health must consider recommending changes to state law, including changes to food quality, labeling, and inspection requirements under chapter 69.80 RCW and any changes in laws relating to the donation of food waste or wasted food for animals, in order to achieve the goal established in subsection (1) of this section. Any such recommendations must be explained via a report to the legislature submitted consistent with RCW 43.01.036 by December 1, 2020. Prior to any implementation of the plan, for the activities, programs, or policies in the plan that would impose new obligations on state agencies, local governments, businesses, or citizens, the December 1, 2020, report must outline the plan for making regulatory changes identified in the report. This outline must include the department or the appropriate state agency's plan to make recommendations for statutory or administrative rule changes identified. In combination

with any identified statutory or administrative rule changes, the department or the appropriate state agency must include expected cost estimates for both government entities and private persons or businesses to comply with any recommended changes.

(4) In support of the development of the plan in subsection (3) of this section, the department of commerce must contract for an independent evaluation of the state's food waste and wasted food management system.

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

(a)(i) "Food waste" means waste from fruits, vegetables, meats, dairy products, fish, shellfish, nuts, seeds, grains, and similar materials that results from the storage, preparation, cooking, handling, selling, or serving of food for human consumption.

(ii) "Food waste" includes, but is not limited to, excess, spoiled, or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, and peels. "Food waste" does not include dead animals not intended for human consumption or animal excrement.

(b) "Prevention" refers to avoiding the wasting of food in the first place and represents the greatest potential for cost savings and environmental benefits for businesses, governments, and consumers.

(c) "Recovery" refers to processing inedible food waste to extract value from it, through composting, anaerobic digestion, or for use as animal feedstock.

(d) "Rescue" refers to the redistribution of surplus edible food to other users.

(e) "Wasted food" means the edible portion of food waste.

**Sec. 3.** RCW 70.93.180 and 2015 c 15 s 3 are each amended to read as follows:

(1) There is hereby created an account within the state treasury to be known as the waste reduction, recycling, and litter control account. Moneys in the account may be spent only after appropriation. Expenditures from the waste reduction, recycling, and litter control account shall be used as follows:

(a) Fifty percent to the department of ecology, for use by the departments of ecology, natural resources, revenue, transportation, and corrections, and the parks and recreation commission, for use in litter collection programs, to be distributed under RCW 70.93.220. The amount to the department of ecology shall also be used for a central coordination function for litter control efforts statewide; for statewide public awareness programs under RCW 70.93.200(7); and to support employment of youth in litter cleanup as intended in RCW 70.93.020, and for litter pick up using other authorized agencies. The amount to the department shall also be used to defray the costs of

administering the funding, coordination, and oversight of local government programs for waste reduction, litter control, recycling, and composting so that local governments can apply one hundred percent of their funding to achieving program goals. The amount to the department of revenue shall be used to enforce compliance with the litter tax imposed in chapter 82.19 RCW;

(b)(i) Twenty percent to the department for local government funding programs for waste reduction, litter control, recycling activities, and composting activities by cities and counties under RCW 70.93.250, to be administered by the department of ecology; (ii) any unspent funds under (b)(i) of this subsection may be used to create and pay for a matching fund competitive grant program to be used by local governments and nonprofit organizations for local or statewide education programs designed to help the public with litter control, waste reduction, recycling, and composting of primarily the products taxed under chapter 82.19 RCW. Recipients under this subsection include programs to reduce wasted food and food waste that are designed to achieve the goals established in section 2(1) of this act and that are consistent with the plan developed in section 2(3) of this act. Grants must adhere to the following requirements: (A) No grant may exceed sixty thousand dollars; (B) grant recipients shall match the grant funding allocated by the department by an amount equal to twenty-five percent of eligible expenses. A local government's share of these costs may be met by cash or contributed services; (C) the obligation of the department to make grant payments is contingent upon the availability of the amount of money appropriated for this subsection (1)(b); and (D) grants are managed under the guidelines for existing grant programs; and

(c) Thirty percent to the department of ecology to: (i) Implement activities under RCW 70.93.200 for waste reduction, recycling, and composting efforts; (ii) provide technical assistance to local governments for commercial business and residential recycling programs primarily for the products taxed under chapter 82.19 RCW designed to educate citizens about waste reduction, litter control, and recyclable and compostable products and programs; ~~((and))~~ (iii) increase access to waste reduction, composting, and recycling programs, particularly for food packaging and plastic bags and appropriate composting techniques; and (iv) for programs to reduce wasted food and food waste that are designed to achieve the goals established in section 2(1) of this act and that are consistent with the plan developed in section 2(3) of this act.

(2) All taxes imposed in RCW 82.19.010 and fines and bail forfeitures collected or received pursuant to this chapter shall be deposited in the waste reduction, recycling, and litter control account and used for the programs under subsection (1) of this section.

(3) Not less than five percent and no more than ten percent of the amount appropriated into the waste reduction, recycling, and litter control account every biennium shall be reserved for capital needs, including the purchase of vehicles for transporting crews and for collecting litter and solid waste. Capital funds shall be distributed among state agencies and local governments according to the same

criteria provided in RCW 70.93.220 for the remainder of the funds, so that the most effective waste reduction, litter control, recycling, and composting programs receive the most funding. The intent of this subsection is to provide funds for the purchase of equipment that will enable the department to account for the greatest return on investment in terms of reaching a zero litter goal.

(4) Funds in the waste reduction, recycling, and litter control account, collected under chapter 82.19 RCW, must be prioritized for the products identified under RCW 82.19.020 solely for the purposes of recycling, composting, and litter collection, reduction, and control programs.

**Sec. 4.** RCW 70.95.090 and 1991 c 298 s 3 are each amended to read as follows:

Each county and city comprehensive solid waste management plan shall include the following:

(1) A detailed inventory and description of all existing solid waste handling facilities including an inventory of any deficiencies in meeting current solid waste handling needs.

(2) The estimated long-range needs for solid waste handling facilities projected twenty years into the future.

(3) A program for the orderly development of solid waste handling facilities in a manner consistent with the plans for the entire county which shall:

(a) Meet the minimum functional standards for solid waste handling adopted by the department and all laws and regulations relating to air and water pollution, fire prevention, flood control, and protection of public health;

(b) Take into account the comprehensive land use plan of each jurisdiction;

(c) Contain a six year construction and capital acquisition program for solid waste handling facilities; and

(d) Contain a plan for financing both capital costs and operational expenditures of the proposed solid waste management system.

(4) A program for surveillance and control.

(5) A current inventory and description of solid waste collection needs and operations within each respective jurisdiction which shall include:

(a) Any franchise for solid waste collection granted by the utilities and transportation commission in the respective jurisdictions including the name of the holder of the franchise and the address of his or her place of business and the area covered by the franchise;

(b) Any city solid waste operation within the county and the boundaries of such operation;

(c) The population density of each area serviced by a city operation or by a franchised operation within the respective jurisdictions;

(d) The projected solid waste collection needs for the respective jurisdictions for the next six years.

(6) A comprehensive waste reduction and recycling element that, in accordance with the priorities established in RCW 70.95.010, provides programs that (a) reduce the amount of waste generated, (b) provide incentives and mechanisms for source separation, and (c) establish recycling opportunities for the source separated waste.

(7) The waste reduction and recycling element shall include the following:

(a) Waste reduction strategies, which may include strategies to reduce wasted food and food waste that are designed to achieve the goals established in section 2(1) of this act and that are consistent with the plan developed in section 2(3) of this act;

(b) Source separation strategies, including:

(i) Programs for the collection of source separated materials from residences in urban and rural areas. In urban areas, these programs shall include collection of source separated recyclable materials from single and multiple-family residences, unless the department approves an alternative program, according to the criteria in the planning guidelines. Such criteria shall include: Anticipated recovery rates and levels of public participation, availability of environmentally sound disposal capacity, access to markets for recyclable materials, unreasonable cost impacts on the ratepayer over the six-year planning period, utilization of environmentally sound waste reduction and recycling technologies, and other factors as appropriate. In rural areas, these programs shall include but not be limited to drop-off boxes, buy-back centers, or a combination of both, at each solid waste transfer, processing, or disposal site, or at locations convenient to the residents of the county. The drop-off boxes and buy-back centers may be owned or operated by public, nonprofit, or private persons;

(ii) Programs to monitor the collection of source separated waste at nonresidential sites where there is sufficient density to sustain a program;

(iii) Programs to collect yard waste and food waste, if the county or city submitting the plan finds that there are adequate markets or capacity for composted yard waste and food waste within or near the service area to consume the majority of the material collected; and

(iv) Programs to educate and promote the concepts of waste reduction and recycling;

(c) Recycling strategies, including a description of markets for recyclables, a review of waste generation trends, a description of waste composition, a discussion and description of existing programs and any additional programs needed to assist public and private sector recycling, and an implementation schedule for the designation of specific materials to be collected for recycling, and for the provision of recycling collection services;

(d) Other information the county or city submitting the plan determines is necessary.

(8) An assessment of the plan's impact on the costs of solid waste collection. The assessment shall be prepared in conformance with guidelines established by the utilities and transportation commission. The commission shall cooperate with the Washington state association of counties and the association of Washington cities in establishing such guidelines.

(9) A review of potential areas that meet the criteria as outlined in RCW 70.95.165."

On page 1, line 2 of the title, after "impacts;" strike the remainder of the title and insert "amending RCW 70.93.180 and 70.95.090; adding a new section to chapter 70.95 RCW; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1114 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Doglio and Shea spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1114, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1114, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham and Kirby.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1114, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 12, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1130 with the following amendment:

Strike everything after the enacting clause and insert the following:

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

(1) It is the policy of the state to welcome and encourage the presence of diverse cultures and the use of diverse languages and modalities of communication in business, government, and private affairs in this state;

(2) Washington public schools' ability to effectively communicate with students and their family members who have language access barriers impacts the schools' ability to engage students and families effectively in the education process and contributes to inequalities and increased gaps in student achievement;

(3) Effective communication is not taking place for a variety of reasons, including: (a) Some school districts do not consistently assess the language needs of their communities or consistently evaluate the effectiveness of their language access services; (b) resources, including time and money, are often not prioritized to engage families with language access barriers; and even when language access is a priority, some districts do not know the best practices for engaging families with language access barriers; (c) school staff are often not trained on how to engage families with language access barriers, how to engage and use interpreters, or when to provide translated documents; and (d) there are not enough interpreters qualified to work in educational settings; and

(4) Providing meaningful, equitable access to students and their family members who have language access barriers will not only help schools meet their civil rights obligations, but will help students meet the state's basic education goals under RCW 28A.150.210 resulting in a decrease in the educational opportunity gap between learners with language access barriers and other students, because student outcomes improve when families are engaged in the student's education.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.630 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction and the office of the education ombuds must jointly convene a work group to improve meaningful, equitable access for public school

students and their family members who have language access barriers.

(2) The work group must advise the office of the superintendent of public instruction and the Washington state school directors' association on the following topics:

(a) The elements of an effective language access program for systemic family engagement and a plan for the implementation of this program;

(b) The components of a technical assistance program for language access and a plan for the implementation of this program;

(c) The development and sharing of a tool kit to help public schools:

(i) Assess the language needs of their communities; and

(ii) Develop, implement, and evaluate their language access plans and language services;

(d) The development and sharing of educational terminology glossaries that improve all families' access to the public school system; and

(e) The development and sharing of best practices or strategies for improving meaningful, equitable access for public school students and their family members who have language access barriers, including effective use of interpreters and when to provide translated documents in other formats.

(3) The work group must develop recommendations for practices and policies that should be adopted at the state or local level to improve meaningful, equitable access for public school students and their family members who have language access barriers, including recommendations on the following topics:

(a) Standards for interpreters working in education settings, including familiarity with legal concepts related to, and service requirements of, Part B of the federal individuals with disabilities education improvement act and section 504 of the federal rehabilitation act of 1973;

(b) Development and assessment of interpreters' knowledge of education terminology;

(c) The feasibility and cost-effectiveness of adapting another state agency's interpreter program to test, train, or both, interpreters for educational purposes;

(d) Updates to the Washington state school directors' association's model language access policy;

(e) Use of remote interpreter services, including the conditions under which remote interpreter services may be used to provide high quality interpreter services; and

(f) Data collection and use necessary to create and improve state and local language access programs.

(4) The office of the superintendent of public instruction and the office of the education ombuds must select up to twenty-five work group members who:

(a) Are geographically diverse and represent people with a variety of language access barriers; and

(b) Represent the following groups: The educational opportunity gap oversight and accountability committee; the state school for the blind; the childhood center for deafness and hearing loss; the special education advisory council at the office of the superintendent of public instruction; the Washington state school directors' association; a state association of teachers; a state association of principals; a state association of parents; the Washington state commissions on African-American affairs, Asian Pacific American affairs, and Hispanic affairs; the governor's office of Indian affairs; interpreters working in education settings; interpreter unions; families with language access barriers; and community-based organizations supporting families with language access barriers.

(5) The office of the superintendent of public instruction and the office of the education ombuds must provide staff support to the work group.

(6) The work group may form subcommittees and consult with necessary experts.

(7) By October 1, 2020, and in compliance with RCW 43.01.036, the work group must report its findings and recommendations to the appropriate committees of the legislature.

(8) This section expires December 31, 2020.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28A.155 RCW to read as follows:

(1) Beginning in the 2019-20 school year, school districts must document the language in which families of special education students prefer to communicate and whether a qualified interpreter for the student's family was provided at any planning meeting related to a student's individualized education program or plan developed under section 504 of the rehabilitation act of 1973 and meetings related to school discipline and truancy.

(2) For the purposes of this section, "qualified interpreter" means someone who is able to interpret effectively, accurately, and impartially, both receptively and expressively using any necessary specialized vocabulary."

On page 1, line 1 of the title, after "schools;" strike the remainder of the title and insert "adding a new section to chapter 28A.630 RCW; adding a new section to chapter 28A.155 RCW; creating a new section; and providing an expiration date."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

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

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE

HOUSE BILL NO. 1130 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1130, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1130, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham and Kirby.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1130, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

April 10, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1197 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.18.245 and 2017 c 24 s 1 are each amended to read as follows:

(1) A registered owner who is an eligible family member of a member of the United States armed forces who died while in service to his or her country, or as a result of his or her service, may apply to the department for special gold star license plates for use on a motor vehicle. The registered owner must:

(a) Be a resident of this state;

(b) Provide proof to the satisfaction of the department that the registered owner is an eligible family member, which includes:

(i) A widow;

(ii) A widower;

(iii) A biological parent;

(iv) An adoptive parent;

(v) A stepparent;

(vi) An adult in loco parentis or foster parent;

(vii) A biological child;

(viii) An adopted child; or

(ix) A sibling;

(c) Provide certification from the Washington state department of veterans affairs that the registered owner qualifies for the special license plate under this section; and

(d) Be recorded as the registered owner of the motor vehicle on which the gold star license plates will be displayed(~~and~~

~~(e) Except as provided in subsection (2) of this section, pay all fees and taxes required by law for registering the motor vehicle).~~

~~(2)((a) In addition to the license plate fee exemption in subsection (3)(b) of this section, the widow or widower recipient of a gold star license plate under this section is also exempt from annual vehicle registration fees for one personal use motor vehicle.~~

~~(b))~~ In lieu of applying for a gold star license plate under this section, an eligible widow or widower under subsection (1)(b) of this section may apply for a standard issue license plate or any qualifying special license plate for one personal use motor vehicle and be exempt from ~~((both))~~ payment of annual vehicle registration fees, motor vehicle excise taxes, and license plate fees for that vehicle.

~~(3)(a)~~ For a widow, a widower, a biological parent, an adoptive parent, a stepparent, or an adult in loco parentis or foster parent applicant, a gold star license plate(s) must be issued:

~~((a))~~ (i) Only for motor vehicles owned by qualifying applicants; and

~~((b))~~ (ii) Without payment of any vehicle license fees, license plate fees, and motor vehicle excise taxes for one motor vehicle. For other motor vehicles, a qualified widow, a widower, a biological parent, an adoptive parent, a stepparent, or an adult in loco parentis or foster parent applicant may purchase gold star license plates without payment of any license plate fees, but the applicant must pay all other fees and taxes required by law for registering the motor vehicle.

(b) For a biological child, an adopted child, or a sibling applicant, a gold star license plate must be issued:

(i) Only for motor vehicles owned by qualifying applicants; and

(ii) Without payment of any license plate fees but the applicant must pay all other fees and taxes required by law for registering the motor vehicle.

(4) Gold star license plates must be replaced, free of charge, if the license plates become lost, stolen, damaged, defaced, or destroyed.

(5) Gold star license plates may be transferred from one motor vehicle to another motor vehicle owned by the eligible family member, as described in subsection (1) of this section, upon application to the department, county auditor or other agent, or subagent appointed by the director."

On page 1, line 1 of the title, after "plates;" strike the remainder of the title and insert "and amending RCW 46.18.245."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1197 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1197, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1197, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham and Kirby.

SUBSTITUTE HOUSE BILL NO. 1197, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 8, 2019

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1252 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. This act shall be known and cited as the corporate crime act.

Sec. 2. RCW 9A.08.030 and 2011 c 336 s 352 are each amended to read as follows:

(1) As used in this section:

(a) "Agent" means any director, officer, or employee of ~~((a corporation))~~ an entity, or any other person who is authorized to act on behalf of the ~~((corporation))~~ entity;

(b) ~~(("Corporation"))~~ "Entity" includes ~~((a joint stock association))~~ any domestic entity formed under or governed as to its internal affairs by Title 23, 23B, 24, or 25 RCW or any foreign business entity formed under or governed as to its internal affairs by the laws of a jurisdiction other than this state;

(c) "Governor" has the same meaning as provided in RCW 23.95.105.

~~((d))~~ "High managerial agent" means ~~((an officer or director of a corporation or any other agent))~~ a governor or person in a position of comparable authority ~~((with respect to the formulation of corporate policy or the supervision in a managerial capacity of))~~ in an entity not governed by chapter 23.95 RCW, and any other agent who manages subordinate employees.

(2) ~~((A corporation))~~ An entity is guilty of an offense when:

(a) The conduct constituting the offense consists of an omission to discharge a specific duty of performance imposed on ~~((corporations))~~ entities by law; or

(b) The conduct constituting the offense is engaged in, authorized, requested, constituted, commanded, or tolerated by ~~((the board of directors or by))~~ a high managerial agent acting within the scope of his or her ((employment)) duties and on behalf of the ((corporation)) entity; or

(c) The conduct constituting the offense is engaged in by an agent of the ~~((corporation))~~ entity, other than a high managerial agent, while acting within the scope of his or her

~~((employment))~~ duties and ~~((in))~~ on behalf of the ~~((corporation))~~ entity and (i) the offense is a gross misdemeanor or misdemeanor, or (ii) the offense is one defined by a statute which clearly indicates a legislative intent to impose such criminal liability on ~~((a corporation))~~ an entity.

(3) A person is criminally liable for conduct constituting an offense which he or she performs or causes to be performed in the name of or on behalf of ~~((a corporation))~~ an entity to the same extent as if such conduct were performed in his or her own name or behalf.

(4) Whenever a duty to act is imposed by law upon ~~((a corporation))~~ an entity, any agent of the ~~((corporation))~~ entity who knows he or she has or shares primary responsibility for the discharge of the duty is criminally liable for a reckless omission or, if a high managerial agent, criminally negligent omission to perform the required act to the same extent as if the duty were by law imposed directly upon such agent.

(5) Every ~~((corporation))~~ entity, whether foreign or domestic, which shall violate any provision of RCW 9A.28.040, shall forfeit every right and franchise to do business in this state. The attorney general shall begin and conduct all actions and proceedings necessary to enforce the provisions of this subsection.

**Sec. 3.** RCW 10.01.070 and 1987 c 202 s 147 are each amended to read as follows:

(1) Whenever an indictment or information shall be filed in any superior court against ~~((a corporation))~~ an entity charging it with the commission of a crime, a summons shall be issued by the clerk of such court, signed by one of the judges thereof, commanding the sheriff forthwith to notify the accused thereof, and commanding it to appear before such court at such time as shall be specified in said summons. Such summons and a copy of the indictment or information shall be at once delivered by such clerk to said sheriff and by the sheriff forthwith served and returned in the manner provided for service of summons upon such ~~((corporation))~~ entity in a civil action. Whenever a complaint against ~~((a corporation))~~ an entity, charging it with the commission of a crime, shall be made before any district or municipal judge, a like summons, signed by such judge, shall be issued, which, together with a copy of said complaint, shall be delivered to the sheriff at once and by the sheriff forthwith served as herein provided.

(2) For the purposes of this section, "entity" has the same meaning as provided in RCW 9A.08.030.

**Sec. 4.** RCW 10.01.090 and 1987 c 202 s 148 are each amended to read as follows:

~~((If the corporation shall be found guilty and a fine imposed, it))~~ (1) An entity convicted of an offense may be ordered to pay legal financial obligations, including restitution, crime victims' assessments, costs, fines, penalties, and other assessments authorized or required by law. Legal financial obligations imposed upon an entity shall

be entered and docketed by the clerk, or district or municipal court as a judgment against the ~~((corporation))~~ entity, and it shall be of the same force and effect and be enforced against such ~~((corporation))~~ entity in the same manner as a judgment in a civil action. Notwithstanding any other provisions pertaining to legal financial obligations, all legal financial obligations imposed in a judgment against an entity under this section bear interest from the date of the judgment until payment at the rate applicable to civil judgments under RCW 4.56.110. When an entity is ordered to pay restitution, payments to the clerk must be distributed to restitution prior to all other obligations.

(2) Except as otherwise provided under subsection (1) of this section, payments on legal financial obligations must be collected and distributed according to the requirements under RCW 3.50.100, 3.62.020, 3.62.040, 9.92.070, 9.94A.760, 10.01.160, 10.01.170, 10.01.180, 10.46.190, 10.64.015, 10.73.160, 10.82.090, 35.20.220, and any other sections applicable to legal financial obligations imposed as a result of a criminal conviction.

(3) For the purposes of this section, "entity" has the same meaning as provided in RCW 9A.08.030.

**Sec. 5.** RCW 10.01.100 and 1925 ex.s. c 101 s 1 are each amended to read as follows:

~~((Every corporation guilty of a violation of any law of the state of Washington, where the prescribed penalty is, for any reason, incapable of execution or enforcement against such corporation, shall be punished by a fine of not more than ten thousand dollars, if such offense is a felony; or, by a fine of not more than one thousand dollars if such offense is a gross misdemeanor; or, by a fine of not more than five hundred dollars if such offense is a misdemeanor.))~~

(1) When imposed on an entity for any criminal offense for which no special business fine is specified, a sentence to pay a fine may not exceed:

(a) One million dollars for a class A felony;

(b) Seven hundred fifty thousand dollars for a class B felony;

(c) Five hundred thousand dollars for a class C felony;

(d) Two hundred fifty thousand dollars for a gross misdemeanor; and

(e) Fifty thousand dollars for a misdemeanor.

(2) If a special fine for entities is expressly specified in the statute that defines an offense, the fine fixed must be within the limits specified in the statute.

(3) For the purposes of this section, "entity" has the same meaning as provided in RCW 9A.08.030."

On page 1, line 1 of the title, after "entities;" strike the remainder of the title and insert "amending RCW 9A.08.030, 10.01.070, 10.01.090, and 10.01.100; creating a new section; and prescribing penalties."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1252 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Pellicciotti and Klippert spoke in favor of the passage of the bill.

### MOTION

On motion of Representative Griffey, Representative Steele was excused.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of House Bill No. 1252, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1252, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

HOUSE BILL NO. 1252, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 15, 2019

Mr. Speaker:

The Senate has passed ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1257 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that state policy encouraging energy efficiency has been extremely successful in reducing energy use, avoiding costly investment in new generating capacity, lowering customer energy bills, and reducing air pollution and greenhouse gas emissions. The state's 2019 biennial energy report indicates that utility conservation investments under chapter 19.285 RCW, the energy independence act, now save consumers more than seven hundred fifty million dollars annually, helping to keep Washington's electricity prices among the lowest in the nation.

(2) Studies by the Northwest power and conservation council and by individual Washington utilities repeatedly show that efficiency is the region's largest, cheapest, lowest risk energy resource; that without it, the Northwest would have needed to invest in additional natural gas-fired generation; and that, looking ahead, efficiency can approach the size of the region's hydropower system as a regional resource. The Northwest power and conservation council forecasts that with an aggressive new energy efficiency policy, the region can potentially meet one hundred percent of its electricity load growth over the next twenty years with energy efficiency.

(3) Energy efficiency investments that reduce energy use in buildings bring cobenefits that directly impact Washingtonians' quality of life. These benefits include improved indoor air quality, more comfortable homes and workplaces, and lower tenant energy bills. The legislature notes that according to the United States department of energy's energy and employment report, 2017, the energy efficiency sector has created more than sixty-five thousand jobs in the state, more than two-thirds of which are in the construction sector, and that the number continues to grow.

(4) Considering the benefits of and the need for additional energy efficiency to meet regional energy demand, the legislature notes that attaining as much of this resource as possible from the buildings sector can have a significant effect on state greenhouse gas emissions by deferring or displacing the need for natural gas-fired electricity generation and reducing the direct use of natural gas. Buildings represent the second largest source of greenhouse gas emissions in Washington and emissions from the buildings sector have grown by fifty percent since 1990, far outpacing all other emission sources.

(5) The legislature therefore determines that it is in the state's interest to maximize the full potential of energy efficiency standards, retrofit incentives, utility programs, and building codes to keep energy costs low and to meet statutory goals for increased building efficiency and reduced greenhouse gas emissions.

(6) It is the intent of this act to provide incentives and regulations that encourage greater energy efficiency in all aspects of new and existing buildings, including building design, energy delivery, and utilization and operations. This act:

(a) Establishes energy performance standards for larger existing commercial buildings;

(b) Provides financial incentives and technical assistance for building owners taking early action to meet these standards before they are required to be met;

(c) Enhances access to commercial building energy consumption data in order to assist with monitoring progress toward meeting energy performance standards; and

(d) Establishes efficiency performance requirements for natural gas distribution companies, recognizing the significant contribution of natural gas to the state's greenhouse gas emissions, the role that natural gas plays in heating buildings and powering equipment within buildings across the state, and the greenhouse gas reduction benefits associated with substituting renewable natural gas for fossil fuels.

NEW SECTION. Sec. 2. A new section is added to chapter 19.27A RCW to read as follows:

The definitions in this section apply throughout sections 3 through 6 of this act unless the context clearly requires otherwise.

(1) "Agricultural structure" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products, and that is not a place used by the public or a place of human habitation or employment where agricultural products are processed, treated, or packaged.

(2) "Baseline energy use intensity" means a building's weather normalized energy use intensity measured the previous year to making an application for an incentive under section 4 of this act.

(3) "Building owner" means an individual or entity possessing title to a building.

(4) "Building tenant" means a person or entity occupying or holding possession of a building or premises pursuant to a rental agreement.

(5) "Conditional compliance" means a temporary compliance method used by building owners that demonstrate the owner has implemented energy use reduction strategies required by the standard, but has not demonstrated full compliance with the energy use intensity target.

(6) "Consumer-owned utility" has the same meaning as defined in RCW 19.27A.140.

(7) "Covered commercial building" means a building where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds fifty thousand gross square feet, excluding the parking garage area.

(8) "Department" means the department of commerce.

(9) "Director" means the director of the department of commerce or the director's designee.

(10) "Electric utility" means a consumer-owned utility or an investor-owned utility.

(11) "Eligible building owner" means: (a) The owner of a covered commercial building required to comply with the standard established in section 3 of this act; or (b) the owner of a multifamily residential building where the floor area exceeds fifty thousand gross square feet, excluding the parking garage area.

(12) "Energy" includes: Electricity, including electricity delivered through the electric grid and electricity generated at the building premises using solar or wind energy resources; natural gas; district steam; district hot water; district chilled water; propane; fuel oil; wood; coal; or other fuels used to meet the energy loads of a building.

(13) "Energy use intensity" means a measurement that normalizes a building's site energy use relative to its size. A building's energy use intensity is calculated by dividing the total net energy consumed in one year by the gross floor area of the building, excluding the parking garage. "Energy use intensity" is reported as a value of thousand British thermal units per square foot per year.

(14) "Energy use intensity target" means the net energy use intensity of a covered commercial building that has been established for the purposes of complying with the standard established under section 3 of this act.

(15) "Gas company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receiver appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any gas plant within this state.

(16) "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(17)(a) "Gross floor area" means the total number of square feet measured between the exterior surfaces of the enclosing fixed walls of a building, including all supporting functions such as offices, lobbies, restrooms, equipment storage areas, mechanical rooms, break rooms, and elevator shafts.

(b) "Gross floor area" does not include outside bays or docks.

(18) "Investor-owned utility" means a company owned by investors, that meets one of the definitions of RCW 80.04.010, and that is engaged in distributing electricity to more than one retail electric customer in the state.

(19) "Multifamily residential building" means a building containing sleeping units or more than two dwelling units where occupants are primarily permanent in nature.

(20) "Net energy use" means the sum of metered and bulk fuel energy entering the building, minus the sum of metered energy leaving the building.

(21) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more

than twenty-five thousand customers in the state of Washington.

(22) "Savings-to-investment ratio" means the ratio of the total present value savings to the total present value costs of a bundle of an energy or water conservation measure estimated over the projected useful life of each measure. The numerator of the ratio is the present value of net savings in energy or water and nonfuel or nonwater operation and maintenance costs attributable to the proposed energy or water conservation measure. The denominator of the ratio is the present value of the net increase in investment and replacement costs less salvage value attributable to the proposed energy or water conservation measure.

(23) "Standard" means the state energy performance standard for covered commercial buildings established under section 3 of this act.

(24) "Thermal energy company" has the same meaning as defined in RCW 80.04.550.

(25) "Weather normalized" means a method for modifying the measured building energy use in a specific weather year to energy use under normal weather conditions.

NEW SECTION. Sec. 3. A new section is added to chapter 19.27A RCW to read as follows:

(1)(a) By November 1, 2020, the department must establish by rule a state energy performance standard for covered commercial buildings.

(b) In developing energy performance standards, the department shall seek to maximize reductions of greenhouse gas emissions from the building sector. The standard must include energy use intensity targets by building type and methods of conditional compliance that include an energy management plan, operations and maintenance program, energy efficiency audits, and investment in energy efficiency measures designed to meet the targets. The department shall use ANSI/ASHRAE/IES standard 100-2018 as an initial model for standard development. The department must update the standard by July 1, 2029, and every five years thereafter. Prior to the adoption or update of the standard, the department must identify the sources of information it relied upon, including peer-reviewed science.

(2) In establishing the standard under subsection (1) of this section, the department:

(a) Must develop energy use intensity targets that are no greater than the average energy use intensity for the covered commercial building occupancy type with adjustments for unique energy using features. The department must also develop energy use intensity targets for additional property types eligible for incentives in section 4 of this act. The department must consider regional and local building energy utilization data, such as existing energy star benchmarking data, in establishing targets for the standard. Energy use intensity targets must be developed for two or more climate zones and be representative of energy use in a normal weather year;

(b) May consider building occupancy classifications from ANSI/ASHRAE/IES standard 100-2018 and the United States environmental protection agency's energy star portfolio manager when developing energy use intensity targets;

(c) May implement lower energy use intensity targets for more recently built covered commercial buildings based on the state energy code in place when the buildings were constructed;

(d)(i) Must adopt a conditional compliance method that ensures that covered commercial buildings that do not meet the specified energy use intensity targets are taking action to achieve reduction in energy use, including investment criteria for conditional compliance that ensure that energy efficiency measures identified by energy audits are implemented to achieve a covered commercial building's energy use intensity target. The investment criteria must require that a building owner adopt an implementation plan to meet the energy intensity target or implement an optimized bundle of energy efficiency measures that provides maximum energy savings without resulting in a savings-to-investment ratio of less than 1.0, except as exempted in (d)(ii) of this subsection. The implementation plan must be based on an investment grade energy audit and a life-cycle cost analysis that accounts for the period during which a bundle of measures will provide savings. The building owner's cost for implementing energy efficiency measures must reflect net cost, excluding any costs covered by utility or government grants. The implementation plan may exclude measures that do not pay for themselves over the useful life of the measure and measures excluded under (d)(ii) of this subsection. The implementation plan may include phased implementation such that the building owner is not required to replace a system or equipment before the end of the system or equipment's useful life;

(ii) For those buildings or structures that are listed in the state or national register of historic places; designated as a historic property under local or state designation law or survey; certified as a contributing resource with a national register listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the national or state registers of historic places either individually or as a contributing building to a historic district by the state historic preservation officer or the keeper of the national register of historic places, no individual energy efficiency requirement need be met that would compromise the historical integrity of a building or part of a building.

(3) Based on records obtained from each county assessor and other available information sources, the department must create a database of covered commercial buildings and building owners required to comply with the standard established in accordance with this section.

(4) By July 1, 2021, the department must provide the owners of covered buildings with notification of compliance requirements.

(5) The department must develop a method for administering compliance reports from building owners.

(6) The department must provide a customer support program to building owners including, but not limited to, outreach and informational material, periodic training, phone and email support, and other technical assistance.

(7) The building owner of a covered commercial building must report the building owner's compliance with the standard to the department in accordance with the schedule established under subsection (8) of this section and every five years thereafter. For each reporting date, the building owner must submit documentation to demonstrate that:

(a) The weather normalized energy use intensity of the covered commercial building measured in the previous calendar year is less than or equal to the energy use intensity target; or

(b) The covered commercial building has received conditional compliance from the department based on energy efficiency actions prescribed by the standard; or

(c) The covered commercial building is exempt from the standard by demonstrating that the building meets one of the following criteria:

(i) The building did not have a certificate of occupancy or temporary certificate of occupancy for all twelve months of the calendar year prior to the building owner compliance schedule established under subsection (8) of this section;

(ii) The building did not have an average physical occupancy of at least fifty percent throughout the calendar year prior to the building owner compliance schedule established under subsection (8) of this section;

(iii) The sum of the buildings gross floor area minus unconditioned and semiconditioned spaces, as defined in the Washington state energy code, is less than fifty thousand square feet;

(iv) The primary use of the building is manufacturing or other industrial purposes, as defined under the following use designations of the international building code: (A) Factory group F; or (B) high hazard group H;

(v) The building is an agricultural structure; or

(vi) The building meets at least one of the following conditions of financial hardship: (A) The building had arrears of property taxes or water or wastewater charges that resulted in the building's inclusion, within the prior two years, on a city's or county's annual tax lien sale list; (B) the building has a court appointed receiver in control of the asset due to financial distress; (C) the building is owned by a financial institution through default by a borrower; (D) the building has been acquired by a deed in lieu of foreclosure within the previous twenty-four months; (E) the building has a senior mortgage subject to a notice of default; or (F) other conditions of financial hardship identified by the department by rule.

(8) A building owner of a covered commercial building must meet the following reporting schedule for complying with the standard established under this section:

(a) For a building with more than two hundred twenty thousand gross square feet, June 1, 2026;

(b) For a building with more than ninety thousand gross square feet but less than two hundred twenty thousand and one gross square feet, June 1, 2027; and

(c) For a building with more than fifty thousand gross square feet but less than ninety thousand and one square feet, June 1, 2028.

(9)(a) The department may issue a notice of violation to a building owner for noncompliance with the requirements of this section. A determination of noncompliance may be made for any of the following reasons:

(i) Failure to submit a compliance report in the form and manner prescribed by the department;

(ii) Failure to meet an energy use intensity target or failure to receive conditional compliance approval;

(iii) Failure to provide accurate reporting consistent with the requirements of the standard established under this section; and

(iv) Failure to provide a valid exemption certificate.

(b) In order to create consistency with the implementation of the standard and rules adopted under this section, the department must reply and cite the section of law, code, or standard in a notice of violation for noncompliance with the requirements of this section when requested to do so by the building owner or the building owner's agent.

(10) The department is authorized to impose an administrative penalty upon a building owner for failing to submit documentation demonstrating compliance with the requirements of this section. The penalty may not exceed an amount equal to five thousand dollars plus an amount based on the duration of any continuing violation. The additional amount for a continuing violation may not exceed a daily amount equal to one dollar per year per gross square foot of floor area. The department may by rule increase the maximum penalty rates to adjust for the effects of inflation.

(11) Administrative penalties collected under this section must be deposited into the low-income weatherization and structural rehabilitation assistance account created in RCW 70.164.030.

(12) The department must adopt rules as necessary to implement this section, including but not limited to:

(a) Rules necessary to ensure timely, accurate, and complete reporting of building energy performance for all covered commercial buildings;

(b) Rules necessary to enforce the standard established under this section; and

(c) Rules that provide a mechanism for appeal of any administrative penalty imposed by the department under this section.

(13) Upon request by the department, each county assessor must provide property data from existing records to the department as necessary to implement this section.

(14) By January 15, 2022, and each year thereafter through 2029, the department must submit a report to the governor and the appropriate committees of the legislature on the implementation of the state energy performance standard established under this section. The report must include information regarding the adoption of the ANSI/ASHRAE/IES standard 100-2018 as an initial model, the financial impact to building owners required to comply with the standard, the amount of incentives provided under sections 4 and 5 of this act, and any other significant information associated with the implementation of this section.

**NEW SECTION. Sec. 4.** A new section is added to chapter 19.27A RCW to read as follows:

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

(2) The department must adopt application and reporting requirements for the incentive program. Building energy reporting for the incentive program must be consistent with the energy reporting requirements established under section 3 of this act.

(3) Upon receiving documentation demonstrating that a building owner qualifies for an incentive under this section, the department must authorize each applicable entity administering incentive payments, as provided in section 6 of this act, to make an incentive payment to the building owner. When a building is served by more than one entity offering incentives or more than one type of fuel, incentive payments must be proportional to the energy use intensity reduction of each specific fuel provided by each entity.

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

(a) The building is either: (i) A covered commercial building subject to the requirements of the standard established under section 3 of this act; or (ii) a multifamily residential building where the floor area exceeds fifty thousand gross square feet, excluding the parking garage area;

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

(c) At least one electric utility, gas company, or thermal energy company providing or delivering energy to the covered commercial building is participating in the incentive program by administering incentive payments as provided in section 6 of this act; and

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

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

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

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

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

(b) The department must review each application and determine whether the applicant is eligible for the incentive program and if funds are available for the incentive payment within the limitation established in section 5 of this act. If the department certifies an application, it must provide verification to the building owner and each entity participating as provided in section 6 of this act and providing service to the building owner.

(6) An eligible building owner that demonstrates early compliance with the applicable energy use intensity target under the standard established under section 3 of this act may receive a base incentive payment of eighty-five cents per gross square foot of floor area, excluding parking, unconditioned, or semiconditioned spaces.

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

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

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

(10) By September 30, 2025, and every two years thereafter, the department must report to the appropriate committees of the legislature on the results of the incentive program under this section and may provide recommendations to improve the effectiveness of the program.

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

**NEW SECTION. Sec. 5.** A new section is added to chapter 19.27A RCW to read as follows:

The department may not issue a certification for an incentive application under section 4 of this act if doing so

is likely to result in total incentive payments under section 4 of this act in excess of seventy-five million dollars.

**NEW SECTION. Sec. 6.** A new section is added to chapter 19.27A RCW to read as follows:

(1)(a) Each qualifying utility must administer incentive payments for the state energy performance standard early adoption incentive program established in section 4 of this act on behalf of its customers who are eligible building owners of covered commercial buildings or multifamily residential buildings, consistent with the requirements of this section. Any thermal energy company, electric utility, or gas company not otherwise required to administer incentive payments may voluntarily participate by providing notice to the department in a form and manner prescribed by the department.

(b) Nothing in this subsection (1) requires a qualifying utility to administer incentive payments for the state energy performance standard early adoption incentive program established in section 4 of this act for which the qualifying utility is not allowed a credit against taxes due under this chapter.

(2) An entity that administers the payments for the incentive program under this section must administer the program in a manner that is consistent with the standard established and any rules adopted by the department under sections 3 and 4 of this act.

(3) Upon receiving notification from the department that a building owner has qualified for an incentive payment, each entity that administers incentive payments under this section must make incentive payments to its customers who are eligible building owners of covered commercial buildings or multifamily residential buildings who qualify as provided under this section and at rates specified in section 4(6) of this act. When a building is served by more than one entity administering incentive payments, incentive payments must be proportional to the energy use intensity reduction of the participating entities' fuel.

(4) The participation by an entity in the administration of incentive payments under this section does not relieve the entity of any obligation that may otherwise exist or be established to provide customer energy efficiency programs or incentives.

(5) An entity that administers the payments for the incentive program under this section is not liable for excess payments made in reliance on amounts reported by the department as due and payable as provided under section 4 of this act, if such amounts are later found to be abnormal or inaccurate due to no fault of the business.

**NEW SECTION. Sec. 7.** This section is the tax preference performance statement for the tax preference contained in section 8, chapter . . . , Laws of 2019 (section 8 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party

or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to induce implementation of building energy efficiency measures, as indicated in section 4 of this act.

(2) It is the legislature's specific public policy objective to increase energy efficiency and the use of renewable fuels that reduce the amount of greenhouse gas emissions in Washington. It is the legislature's intent to provide a credit against the taxes owing by utilities under chapter 82.16 RCW for the incentives provided for the implementation by eligible building owners of energy efficiency and renewable energy measures.

(3) If a review finds that measurable energy savings have increased in covered commercial buildings for which building owners are receiving an incentive payment from a qualifying utility, then the legislature intends to extend the expiration date of the tax preference.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee may refer to the number of building owners receiving an incentive payment from qualifying utilities taking the public utility tax preference under section 8 of this act, the amount of the incentive payment, and the energy use intensity reduction of the buildings as a result of the incentive program, as reported by the department of commerce.

**NEW SECTION. Sec. 8.** A new section is added to chapter 82.16 RCW to read as follows:

(1) Subject to the requirements of this section, a light and power business or a gas distribution business is allowed a credit against taxes due under this chapter in an amount equal to:

(a) Incentive payments made in any calendar year under section 4 of this act; and

(b) Documented administrative cost not to exceed eight percent of the incentive payments.

(2) The credit must be taken in a form and manner as required by the department.

(3) Credit must be claimed against taxes due under this chapter for the incentive payments made and administrative expenses incurred. Credit earned in one calendar year may not be carried backward but may be claimed against taxes due under this chapter during the same calendar year and for the following two calendar years. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds may not be granted in the place of a credit.

(4)(a) Except as provided in (c) of this subsection, any business that has claimed credit in excess of the amount of credit the business earned under subsection (1) of this section must repay the amount of tax against which the excess credit was claimed.

(b) The department must assess interest on the taxes due under this subsection. Interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and accrues until the taxes against which the credit was claimed are repaid. The department must provide written notice of the amount due under this subsection and that the amount due must be paid within thirty days of the date of the notice. The department may not impose penalties as provided in chapter 82.32 RCW on taxes due under this subsection unless the amount due is not paid in full by the due date in the notice.

(c) A business is not liable for excess credits claimed in reliance on amounts reported to the business by the department of commerce as due and payable as provided under section 4 of this act, if such amounts are later found to be abnormal or inaccurate due to no fault of the business.

(5) The amount of credit taken under this section and the identity of a business that takes the credit is not confidential taxpayer information under RCW 82.32.330 and is subject to disclosure.

(6) This section expires June 30, 2032.

**Sec. 9.** RCW 19.27A.140 and 2011 1st sp.s. c 43 s 245 are each amended to read as follows:

The definitions in this section apply to RCW 19.27A.130 through 19.27A.190 and 19.27A.020 unless the context clearly requires otherwise.

(1) "Benchmark" means the energy used by a facility as recorded monthly for at least one year and the facility characteristics information inputs required for a portfolio manager.

(2) "Conditioned space" means conditioned space, as defined in the Washington state energy code.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Cost-effectiveness" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(5) "Council" means the state building code council.

(6) "Embodied energy" means the total amount of fossil fuel energy consumed to extract raw materials and to manufacture, assemble, transport, and install the materials in a building and the life-cycle cost benefits including the recyclability and energy efficiencies with respect to building materials, taking into account the total sum of current values for the costs of investment, capital, installation, operating, maintenance, and replacement as estimated for the lifetime of the product or project.

(7) "Energy consumption data" means the monthly amount of energy consumed by a customer as recorded by the applicable energy meter for the most recent twelve-month period.

(8) "Energy service company" has the same meaning as in RCW 43.19.670.

(9) "Enterprise services" means the department of enterprise services.

(10) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(11) "Investment grade energy audit" means an intensive engineering analysis of energy efficiency and management measures for the facility, net energy savings, and a cost-effectiveness determination.

(12) "Investor-owned utility" means a corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing either electricity or natural gas, or both, to more than one retail electric customer in the state.

(13) "Major facility" means any publicly owned or leased building, or a group of such buildings at a single site, having ten thousand square feet or more of conditioned floor space.

(14) "National energy performance rating" means the score provided by the energy star program, to indicate the energy efficiency performance of the building compared to similar buildings in that climate as defined in the United States environmental protection agency "ENERGY STAR® Performance Ratings Technical Methodology."

(15) "Net zero energy use" means a building with net energy consumption of zero over a typical year.

(16) "Portfolio manager" means the United States environmental protection agency's energy star portfolio manager or an equivalent tool adopted by the department of enterprise services.

(17) "Preliminary energy audit" means a quick evaluation by an energy service company of the energy savings potential of a building.

(18) "Qualifying public agency" includes all state agencies, colleges, and universities.

(19) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than twenty-five thousand customers in the state of Washington.

(20) "Reporting public facility" means any of the following:

(a) A building or structure, or a group of buildings or structures at a single site, owned by a qualifying public agency, that exceed ten thousand square feet of conditioned space;

(b) Buildings, structures, or spaces leased by a qualifying public agency that exceeds ten thousand square feet of conditioned space, where the qualifying public agency purchases energy directly from the investor-owned or consumer-owned utility;

(c) A wastewater treatment facility owned by a qualifying public agency; or

(d) Other facilities selected by the qualifying public agency.

(21) "State portfolio manager master account" means a portfolio manager account established to provide a single shared portfolio that includes reports for all the reporting public facilities.

(22) "Building owner" has the same meaning as defined in section 2 of this act.

(23) "Covered commercial building" has the same meaning as defined in section 2 of this act.

**Sec. 10.** RCW 19.27A.170 and 2009 c 423 s 6 are each amended to read as follows:

(1) On and after January 1, 2010, qualifying utilities shall maintain records of the energy consumption data of all nonresidential and qualifying public agency buildings to which they provide service. This data must be maintained for at least the most recent twelve months in a format compatible for uploading to the United States environmental protection agency's energy star portfolio manager.

(2) On and after January 1, 2010, upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, a qualifying utility shall upload the energy consumption data for the accounts specified by the owner or operator for a building to the United States environmental protection agency's energy star portfolio manager in a form that does not disclose personally identifying information.

(3) In carrying out the requirements of this section, a qualifying utility shall use any method for providing the specified data in order to maximize efficiency and minimize overall program cost. Qualifying utilities are encouraged to consult with the United States environmental protection agency and their customers in developing reasonable reporting options.

(4) Disclosure of nonpublic nonresidential benchmarking data and ratings required under subsection (5) of this section will be phased in as follows:

(a) By January 1, 2011, for buildings greater than fifty thousand square feet; and

(b) By January 1, 2012, for buildings greater than ten thousand square feet.

(5) Based on the size guidelines in subsection (4) of this section, a building owner or operator, or their agent, of a nonresidential building shall disclose the United States environmental protection agency's energy star portfolio manager benchmarking data and ratings to a prospective buyer, lessee, or lender for the most recent continuously occupied twelve-month period. A building owner or operator, or their agent, who delivers United States environmental protection agency's energy star portfolio manager benchmarking data and ratings to a prospective buyer, lessee, or lender is not required to provide additional information regarding energy consumption, and the information is deemed to be adequate to inform the prospective buyer, lessee, or lender regarding the United States environmental protection agency's energy star portfolio manager benchmarking data and ratings for the most recent twelve-month period for the building that is being sold, leased, financed, or refinanced.

(6) Notwithstanding subsections (4) and (5) of this section, nothing in this section increases or decreases the duties, if any, of a building owner, operator, or their agent under this chapter or alters the duty of a seller, agent, or broker to disclose the existence of a material fact affecting the real property.

(7) An electric or gas utility that is not a qualifying utility must either offer the upload service specified in subsection (2) of this section or provide customers who are building owners of covered commercial buildings with consumption data in an electronic document formatted for direct upload to the United States environmental protection agency's energy star portfolio manager. Within sixty days of receiving a written or electronic request and authorization of a building owner, the utility must provide the building owner with monthly energy consumption data as required to benchmark the specified building.

(8) For any covered commercial building with three or more tenants, an electric or gas utility must, upon request of the building owner, provide the building owner with aggregated monthly energy consumption data without requiring prior consent from tenants.

(9) Each electric or gas utility must ensure that all data provided in compliance with this section does not contain personally identifiable information or customer-specific billing information about tenants of a covered commercial building.

**NEW SECTION. Sec. 11.** A new section is added to chapter 80.28 RCW to read as follows:

Each gas company must identify and acquire all conservation measures that are available and cost-effective. Each company must establish an acquisition target every two years and must demonstrate that the target will result in the acquisition of all resources identified as available and cost-effective. The cost-effectiveness analysis required by this section must include the costs of greenhouse gas emissions established in section 15 of this act. The targets must be

based on a conservation potential assessment prepared by an independent third party and approved by the commission. Conservation targets must be approved by order by the commission. The initial conservation target must take effect by 2022.

**NEW SECTION. Sec. 12.** (1) The legislature finds and declares that:

(a) Renewable natural gas provides benefits to natural gas utility customers and to the public; and

(b) The development of renewable natural gas resources should be encouraged to support a smooth transition to a low carbon energy economy in Washington.

(2) It is the policy of the state to provide clear and reliable guidelines for gas companies that opt to supply renewable natural gas resources to serve their customers and that ensure robust ratepayer protections.

**NEW SECTION. Sec. 13.** A new section is added to chapter 80.28 RCW to read as follows:

(1) A natural gas company may propose a renewable natural gas program under which the company would supply renewable natural gas for a portion of the natural gas sold or delivered to its retail customers. The renewable natural gas program is subject to review and approval by the commission. The customer charge for a renewable natural gas program may not exceed five percent of the amount charged to retail customers for natural gas.

(2) The environmental attributes of renewable natural gas provided under this section must be retired using procedures established by the commission and may not be used for any other purpose. The commission must approve procedures for banking and transfer of environmental attributes.

(3) As used in this section, "renewable natural gas" includes renewable natural gas as defined in RCW 54.04.190. The commission may approve inclusion of other sources of gas if those sources are produced without consumption of fossil fuels.

**NEW SECTION. Sec. 14.** A new section is added to chapter 80.28 RCW to read as follows:

(1) Each gas company must offer by tariff a voluntary renewable natural gas service available to all customers to replace any portion of the natural gas that would otherwise be provided by the gas company. The tariff may provide reasonable limits on participation based on the availability of renewable natural gas and may use environmental attributes of renewable natural gas combined with natural gas. The voluntary renewable natural gas service must include delivery to, or the retirement on behalf of, the customer of all environmental attributes associated with the renewable natural gas.

(2) For the purposes of this section, "renewable natural gas" includes renewable natural gas as defined in

RCW 54.04.190. The commission may approve inclusion of other sources of gas if those sources are produced without consumption of fossil fuels.

**NEW SECTION. Sec. 15.** A new section is added to chapter 80.28 RCW to read as follows:

For the purposes of section 11 of this act, the cost of greenhouse gas emissions resulting from the use of natural gas, including the effect of emissions occurring in the gathering, transmission, and distribution of natural gas to the end user is equal to the cost per metric ton of carbon dioxide emissions, using the two and one-half percent discount rate, listed in table 2, Technical Support Document: Technical update of the social cost of carbon for regulatory impact analysis under Executive Order 12866, published by the interagency working group on social cost of greenhouse gases of the United States government, August 2016. The commission must adjust the costs established in this section to reflect the effect of inflation.

**NEW SECTION. Sec. 16.** A new section is added to chapter 80.28 RCW to read as follows:

The commission must monitor the greenhouse gas emissions resulting from natural gas and renewable natural gas delivered by each gas company to its customers, relative to a proportionate share of the state's greenhouse gas emissions reduction goal. The commission must report to the governor by January 1, 2020, and every three years thereafter, an assessment of whether the gas companies are on track to meet a proportionate share of the state's greenhouse gas emissions reduction goal. The commission may rely on reports submitted by gas companies to the United States environmental protection agency or other governmental agencies in complying with this section.

**Sec. 17.** RCW 19.27A.025 and 1991 c 122 s 3 are each amended to read as follows:

(1) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 1986 edition, as amended. The state building code council may, by rule adopted pursuant to chapter 34.05 RCW, amend that code's requirements for new nonresidential buildings provided that:

(a) Such amendments increase the energy efficiency of typical newly constructed nonresidential buildings; and

(b) Any new measures, standards, or requirements adopted must be technically feasible, commercially available, and ~~((cost effective to building owners and tenants))~~ developed to yield the lowest overall cost to the building owner and occupant while meeting the energy reduction goals established under RCW 19.27A.160.

(2) In considering amendments to the state energy code for nonresidential buildings, the state building code council shall establish and consult with a technical advisory committee including representatives of appropriate state agencies, local governments, general contractors, building

owners and managers, design professionals, utilities, and other interested and affected parties.

(3) Decisions to amend the Washington state energy code for new nonresidential buildings shall be made prior to December 15th of any year and shall not take effect before the end of the regular legislative session in the next year. Any disputed provisions within an amendment presented to the legislature shall be approved by the legislature before going into effect. A disputed provision is one which was adopted by the state building code council with less than a two-thirds majority vote. Substantial amendments to the code shall be adopted no more frequently than every three years.

**Sec. 18.** RCW 19.27.540 and 2009 c 459 s 16 are each amended to read as follows:

(1) The building code council shall adopt rules for electric vehicle infrastructure requirements. Rules adopted by the state building code council must consider applicable national and international standards and be consistent with rules adopted under RCW 19.28.281.

(2)(a) Except as provided in (b) of this subsection, the rules adopted under this section must require electric vehicle charging capability at all new buildings that provide on-site parking. Where parking is provided, the greater of one parking space or ten percent of parking spaces, rounded to the next whole number, must be provided with wiring or raceway sized to accommodate 208/240 V 40-amp or equivalent electric vehicle charging. Electrical rooms serving buildings with on-site parking must be sized to accommodate the potential for electrical equipment and distribution required to serve a minimum of twenty percent of the total parking spaces with 208/240 V 40-amp or equivalent electric vehicle charging. Load management infrastructure may be used to adjust the size and capacity of the required building electric service equipment and circuits on the customer facilities, as well as electric utility owned infrastructure, as allowed by applicable local and national electrical code. For accessible parking spaces, the greater of one parking space or ten percent of accessible parking spaces, rounded to the next whole number, must be provided with electric vehicle charging infrastructure that may also serve adjacent parking spaces not designated as accessible parking.

(b) For occupancies classified as assembly, education, or mercantile, the requirements of this section apply only to employee parking spaces. The requirements of this section do not apply to occupancies classified as residential R-3, utility, or miscellaneous.

(c) The required rules required under this subsection must be implemented by July 1, 2021."

On page 1, line 1 of the title, after "efficiency;" strike the remainder of the title and insert "amending RCW 19.27A.140, 19.27A.170, 19.27A.025, and 19.27.540; adding new sections to chapter 19.27A RCW; adding a new section to chapter 82.16 RCW; adding new sections to chapter 80.28 RCW; creating new sections; prescribing penalties; and providing an expiration date."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1257 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

Representative Shea spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Third Substitute House Bill No. 1257, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Third Substitute House Bill No. 1257, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 55; Nays, 39; Absent, 0; Excused, 4.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1257, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 12, 2019

Mr. Speaker:

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.118.010 and 2018 c 204 s 1 and 2018 c 12 s 1 are each reenacted and amended to read as follows:

The office of student financial assistance shall design the Washington college bound scholarship program in accordance with this section and in alignment with the state need grant program in chapter 28B.92 RCW unless otherwise provided in this section.

(1) "Eligible students" are those students who:

(a) Qualify for free or reduced-price lunches.

(i) If a student qualifies in the seventh or eighth grade, the student remains eligible even if the student does not receive free or reduced-price lunches thereafter.

(ii) Beginning in the 2019-20 academic year, if a student qualifies for free or reduced-price lunches in the ninth grade and was previously ineligible during the seventh or eighth grade while he or she was a student in Washington, the student is eligible for the college bound scholarship program;

(b) Are dependent pursuant to chapter 13.34 RCW and:

(i) In grade seven through twelve; or

(ii) Are between the ages of eighteen and twenty-one and have not graduated from high school; or

(c) Were dependent pursuant to chapter 13.34 RCW and were adopted between the ages of fourteen and eighteen with a negotiated adoption agreement that includes continued eligibility for the Washington state college bound scholarship program pursuant to RCW 74.13A.025.

(2) Eligible students and the students' parents or guardians shall be notified of the student's eligibility for the Washington college bound scholarship program (~~(beginning in the student's seventh grade year)~~). Students and the students' parents or guardians shall also be notified of the requirements for award of the scholarship.

(3)(a) To be eligible for a Washington college bound scholarship, a student eligible under subsection (1)(a)(i) of this section must sign a pledge during seventh or eighth grade (~~(that includes)~~) or a student eligible under subsection (1)(a)(ii) of this section must sign a pledge during ninth grade. The pledge must include a commitment to graduate from high school with at least a C average and with no felony convictions. The pledge must be witnessed by a parent or guardian and forwarded to the office of student financial assistance by mail or electronically, as indicated on the pledge form.

(b)(i) Beginning in the 2018-19 academic year, the office of student financial assistance shall make multiple attempts to secure the signature of the student's parent or guardian for the purpose of witnessing the pledge.

(ii) If the signature of the student's parent or guardian is not obtained, the office of student financial assistance may partner with the school counselor or administrator to secure the parent's or guardian's signature to witness the pledge. The school counselor or administrator shall make multiple attempts via all phone numbers, email addresses, and mailing addresses on record to secure the parent's or guardian's signature. All attempts to contact the parent or guardian must be documented and maintained in the student's official file.

(iii) If a parent's or guardian's signature is still not obtained, the school counselor or administrator shall indicate to the office of student financial assistance the nature of the unsuccessful efforts to contact the student's parent or guardian and the reasons the signature is not available. Then the school counselor or administrator may witness the pledge unless the parent or guardian has indicated that he or she does not wish for the student to participate in the program.

(c) A student eligible under subsection (1)(b) of this section shall be automatically enrolled, with no action necessary by the student or the student's family, and the enrollment form must be forwarded by the department of social and health services to the office of student financial assistance by mail or electronically, as indicated on the form.

(4)(a) Scholarships shall be awarded to eligible students graduating from public high schools, approved private high schools under chapter 28A.195 RCW, or who received home-based instruction under chapter 28A.200 RCW.

(b)(i) To receive the Washington college bound scholarship, a student must graduate with at least a "C" average from a public high school or an approved private high school under chapter 28A.195 RCW in Washington or have received home-based instruction under chapter 28A.200 RCW, must have no felony convictions, and must be a resident student as defined in RCW 28B.15.012(2) (a) through (e). A student who is eligible to receive the Washington college bound scholarship because the student is a resident student under RCW 28B.15.012(2)(e) must provide the institution, as defined in RCW 28B.15.012, 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.

(ii) For eligible children as defined in subsection (1)(b) and (c) of this section, to receive the Washington college bound scholarship, a student must have received a high school equivalency certificate as provided in RCW 28B.50.536 or have graduated with at least a "C" average from a public high school or an approved private high school under chapter 28A.195 RCW in Washington or have received home-based instruction under chapter 28A.200 RCW, must have no felony convictions, and must be a

resident student as defined in RCW 28B.15.012(2) (a) through (e).

For a student who does not meet the "C" average requirement, and who completes fewer than two quarters in the running start program, under chapter 28A.600 RCW, the student's first quarter of running start course grades must be excluded from the student's overall grade point average for purposes of determining their eligibility to receive the scholarship.

(5) A student's family income will be assessed upon graduation before awarding the scholarship. ~~((6))~~ If at graduation from high school the student's family income does not exceed sixty-five percent of the state median family income, scholarship award amounts shall be as provided in this section.

~~(6)~~(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, the value of the award shall be (i) the difference between the student's tuition and required fees, less the value of any state-funded grant, scholarship, or waiver assistance the student receives; (ii) plus five hundred dollars for books and materials.

(b) For students attending private four-year institutions of higher education in Washington, the award amount shall be the representative average of awards granted to students in public research universities in Washington or the representative average of awards granted to students in public research universities in Washington in the 2014-15 academic year, whichever is greater.

(c) For students attending private vocational schools in Washington, the award amount shall be the representative average of awards granted to students in public community and technical colleges in Washington or the representative average of awards granted to students in public community and technical colleges in Washington in the 2014-15 academic year, whichever is greater.

(7) Recipients may receive no more than four full-time years' worth of scholarship awards.

(8) Institutions of higher education shall award the student all need-based and merit-based financial aid for which the student would otherwise qualify. The Washington college bound scholarship is intended to replace unmet need, loans, and, at the student's option, work-study award before any other grants or scholarships are reduced.

(9) The first scholarships shall be awarded to students graduating in 2012.

(10) The state of Washington retains legal ownership of tuition units awarded as scholarships under this chapter until the tuition units are redeemed. These tuition units shall remain separately held from any tuition units owned under chapter 28B.95 RCW by a Washington college bound scholarship recipient.

(11) The scholarship award must be used within five years of receipt. Any unused scholarship tuition units revert to the Washington college bound scholarship account.

(12) Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the scholarship tuition units shall revert to the Washington college bound scholarship account.

**Sec. 2.** RCW 28B.118.040 and 2018 c 12 s 2 are each amended to read as follows:

The office of student financial assistance shall:

(1) With the assistance of the office of the superintendent of public instruction, implement and administer the Washington college bound scholarship program;

(2) Develop and distribute, to all schools with students enrolled in grades seven ~~((or eight))~~ through nine, a pledge form that can be completed and returned electronically or by mail by the student or the school to the office of student financial assistance;

(3) Develop and implement a student application, selection, and notification process for scholarships, which includes working with other state agencies, law enforcement, or the court system to verify that eligible students do not have felony convictions;

(4) Annually in March, with the assistance of the office of the superintendent of public instruction, distribute to tenth grade college bound scholarship students and their families: (a) Notification that, to qualify for the scholarship, a student's family income may not exceed sixty-five percent of the state median family income at graduation from high school; (b) the current year's value for sixty-five percent of the state median family income; and (c) a statement that a student should consult their school counselor if their family makes, or is projected to make, more than this value before the student graduates;

(5) Develop comprehensive social media outreach with grade-level specific information designed to keep students on track to graduate and leverage current tools such as the high school and beyond plan required by the state board of education and the ready set grad web site maintained by the student achievement council;

(6) Track scholarship recipients to ensure continued eligibility and determine student compliance for awarding of scholarships;

(7) Within existing resources, collaborate with college access providers and K-12, postsecondary, and youth-serving organizations to map and coordinate mentoring and advising resources across the state;

(8) Subject to appropriation, deposit funds into the state educational trust fund;

(9) Purchase tuition units under the advanced college tuition payment program in chapter 28B.95 RCW to be owned and held in trust by the office of student financial assistance, for the purpose of scholarship awards as provided for in this section; and

(10) Distribute scholarship funds, in the form of tuition units purchased under the advanced college tuition

payment program in chapter 28B.95 RCW or through direct payments from the state educational trust fund, to institutions of higher education on behalf of scholarship recipients identified by the office, as long as recipients maintain satisfactory academic progress.

**Sec. 3.** RCW 28B.118.090 and 2015 c 244 s 6 are each amended to read as follows:

(1) Beginning January 1, 2015, and at a minimum every year thereafter, the student achievement council and all institutions of higher education eligible to participate in the college bound scholarship program shall ensure data needed to analyze and evaluate the effectiveness of the college bound scholarship program is promptly transmitted to the education data center created in RCW 43.41.400 so that it is available and easily accessible. The data to be reported should include but not be limited to:

(a) The number of students who sign up for the college bound scholarship program in seventh ~~((6<sup>th</sup>))~~, eighth, or ninth grade;

(b) The number of college bound scholarship students who graduate from high school;

(c) The number of college bound scholarship students who enroll in postsecondary education;

(d) Persistence and completion rates of college bound scholarship recipients disaggregated by institutions of higher education;

(e) College bound scholarship recipient grade point averages;

(f) The number of college bound scholarship recipients who did not remain eligible and reasons for ineligibility;

(g) College bound scholarship program costs; and

(h) Impacts to the state need grant program.

(2) Beginning May 12, 2015, and at a minimum every December 1st thereafter, the student achievement council shall submit student unit record data for the college bound scholarship program applicants and recipients to the education data center.

**Sec. 4.** RCW 28B.92.060 and 2012 c 229 s 558 are each amended to read as follows:

In awarding need grants, the office shall proceed substantially as follows: PROVIDED, That nothing contained herein shall be construed to prevent the office, in the exercise of its sound discretion, from following another procedure when the best interest of the program so dictates:

(1) The office shall annually select the financial aid award recipients from among Washington residents applying for student financial aid who have been ranked according to:

(a) College bound scholarship eligibility. Eligible students as defined in RCW 28B.118.010 who meet the

requirements in RCW 28B.118.010(4)(b)(i) for the college bound scholarship may not be denied state need grant funding due to institutional policies or delayed awarding of college bound scholarship students. College bound scholarship eligible students whose family income exceeds sixty-five percent of the state median family income, but who are eligible for the state need grant, shall be prioritized and awarded the maximum state need grant for which the student is eligible;

(b) Financial need as determined by the amount of the family contribution; and

~~((b))~~ (c) Other considerations, such as whether the student is a former foster youth, or is a placebound student who has completed an associate of arts or associate of science degree or its equivalent.

(2) The financial need of the highest ranked students shall be met by grants depending upon the evaluation of financial need until the total allocation has been disbursed. Funds from grants which are declined, forfeited or otherwise unused shall be reawarded until disbursed, except that eligible former foster youth shall be assured receipt of a grant. The office, in consultation with four-year institutions of higher education, the council, and the state board for community and technical colleges, shall develop award criteria and methods of disbursement based on level of need, and not solely rely on a first-come, first-served basis.

(3) A student shall be eligible to receive a state need grant for up to five years, or the credit or clock hour equivalent of five years, or up to one hundred twenty-five percent of the published length of time of the student's program. A student may not start a new associate degree program as a state need grant recipient until at least five years have elapsed since earning an associate degree as a need grant recipient, except that a student may earn two associate degrees concurrently. Qualifications for renewal will include maintaining satisfactory academic progress toward completion of an eligible program as determined by the office. Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the state educational grant fund by the institution according to the institution's own policy for issuing refunds, except as provided in RCW 28B.92.070.

(4) In computing financial need, the office shall determine a maximum student expense budget allowance, not to exceed an amount equal to the total maximum student expense budget at the public institutions plus the current average state appropriation per student for operating expense in the public institutions. Any child support payments received by students who are parents attending less than half-time shall not be used in computing financial need.

(5)(a) A student who is enrolled in three to six credit-bearing quarter credits, or the equivalent semester credits, may receive a grant for up to one academic year before beginning a program that leads to a degree or certificate.

(b) An eligible student enrolled on a less-than-full-time basis shall receive a prorated portion of his or her state need grant for any academic period in which he or she is

enrolled on a less-than-full-time basis, as long as funds are available.

(c) An institution of higher education may award a state need grant to an eligible student enrolled in three to six credit-bearing quarter credits, or the semester equivalent, on a provisional basis if:

(i) The student has not previously received a state need grant from that institution;

(ii) The student completes the required free application for federal student aid;

(iii) The institution has reviewed the student's financial condition, and the financial condition of the student's family if the student is a dependent student, and has determined that the student is likely eligible for a state need grant; and

(iv) The student has signed a document attesting to the fact that the financial information provided on the free application for federal student aid and any additional financial information provided directly to the institution is accurate and complete, and that the student agrees to repay the institution for the grant amount if the student submitted false or incomplete information.

(6) As used in this section, "former foster youth" means a person who is at least eighteen years of age, but not more than twenty-four years of age, who was a dependent of the department of social and health services at the time he or she attained the age of eighteen.

**NEW SECTION. Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, beginning on line 1 of the title, after "students;" strike the remainder of the title and insert "amending RCW 28B.118.040, 28B.118.090, and 28B.92.060; reenacting and amending RCW 28B.118.010; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

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

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

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

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

Representative Van Werven spoke against the passage of the bill.

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

#### **ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1311, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 63; Nays, 31; Absent, 0; Excused, 4.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Dent, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goehner, Goodman, Gregerson, Hansen, Harris, Hudgins, Jinkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Walen, Wylie and Ybarra.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dufault, Dye, Eslick, Gildon, Griffey, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Schmick, Shea, Stokesbary, Van Werven, Vick, Volz, Walsh, Wilcox and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

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

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

April 10, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1325 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of licensing.

(2) "Eligible entity" means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in business.

(3) "Hazardous material" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103, and is required to be placarded under subpart F of 49 C.F.R. Part 172.

(4) "Personal delivery device" means an electrically powered device to which all of the following apply:

(a) The device is intended primarily to transport property on sidewalks and crosswalks;

(b) The device weighs less than one hundred twenty pounds, excluding any property being carried in the device;

(c) The device will operate at a maximum speed of six miles per hour; and

(d) The device is equipped with automated driving technology, including software and hardware, enabling the operation of the device, with the support and supervision of a remote personal delivery device operator.

(5)(a) "Personal delivery device operator" means an employee or agent of an eligible entity who has the capability to control or monitor the navigation and operation of a personal delivery device.

(b) "Personal delivery device operator" does not include:

(i) With respect to a delivery or other service rendered by a personal delivery device, the person who requests the delivery or service; or

(ii) A person who only arranges for and dispatches a personal delivery device for a delivery or other service.

**NEW SECTION. Sec. 2.** An eligible entity may operate a personal delivery device so long as all of the following requirements are met:

(1) The personal delivery device is operated in accordance with all ordinances, resolutions, rules and regulations established by the jurisdiction governing the rights-of-way within which the personal delivery device is operated;

(2) An eligible entity may operate a personal delivery device only upon:

(a) Crosswalks; and

(b)(i) Sidewalks; or

(ii) If a sidewalk is not provided or is not accessible, an area where a pedestrian is permitted to travel, subject to RCW 46.61.250, provided that the adjacent roadway has a speed limit of less than forty-five miles per hour;

(3) A personal delivery device operator is controlling or monitoring the navigation and operation of the personal delivery device;

(4) The eligible entity maintains an insurance policy that includes general liability coverage of not less than one hundred thousand dollars for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity;

(5) The eligible entity must report any incidents, resulting in personal injury or property damage that meets the accident reporting threshold for property damage under RCW 46.52.030(5), to the law enforcement agency of the

local jurisdiction governing the right-of-way containing the sidewalk, crosswalk, or roadway where the incident occurred, within forty-eight hours of the incident;

(6) The eligible entity registers an agent located in Washington state for the purposes of addressing traffic infractions and incidents involving personal delivery devices operated by the eligible entity;

(7) The eligible entity submits a self-certification form to the department with the information required under section 3 of this act, both before operating a personal delivery device and on an annual basis thereafter;

(8) The personal delivery device is equipped with all of the following:

(a) A marker that clearly identifies the name and contact information of the eligible entity operating the personal delivery device, a unique identification number for the device, and the name and contact information including a mailing address of the agent required to be registered under subsection (6) of this section;

(b) A braking system that enables the personal delivery device to come to a controlled stop; and

(c) If the personal delivery device is being operated between sunset and sunrise, a light on both the front and rear of the personal delivery device that is visible on all sides of the personal delivery device in clear weather from a distance of at least five hundred feet to the front and rear of the personal delivery device when directly in front of low beams of headlights on a motor vehicle; and

(9) A delivery device may not be operated in Washington until it has been added to the list in the self-certification and the annual registration fee has been paid.

**NEW SECTION. Sec. 3.** The department of licensing shall create a self-certification form for an eligible entity to submit prior to operating a personal delivery device and thereafter on an annual basis. Through the form, the department must obtain:

(1) The name and address of the eligible entity and its registered agent within Washington, including the registered agent's name, address, and driver's license number, and any other information the department may require;

(2) The name of the jurisdiction in which the personal delivery device will be operated;

(3) An acknowledgment by the eligible entity that: (a) Each personal delivery device will display a unique identification number and other information specified in section 2(8) of this act; and (b) the registered agent is responsible for any infraction committed by its personal delivery device;

(4) An affirmation by the eligible entity that it possesses insurance as required in section 2 of this act;

(5) A list of any incidents, as described in section 2(5) of this act, and any traffic infractions, as described in

section 5 of this act, involving any personal delivery device operated by the eligible entity in Washington state in the previous year; and

(6) A list of each device identified by a unique identification number that the eligible entity intends to operate in the state during the year and payment of a fee of fifty dollars per personal delivery device listed. The fee must be deposited into the motor vehicle fund. The list must be updated and the fee paid prior to the eligible entity operating a device not listed in the annual self-certification.

**NEW SECTION. Sec. 4.** (1) A personal delivery device may not be operated to transport hazardous material, in a quantity and form that may pose an unreasonable risk to health, safety, or property when transported in commerce.

(2) A personal delivery device may not be operated to transport beer, wine, spirits, or other consumable alcohol.

**NEW SECTION. Sec. 5.** (1) A violation of this chapter, or of chapter 46.61 RCW by a personal delivery device, is a traffic infraction. A notice of infraction must be mailed to the registered agent listed on the personal delivery device within fourteen days of the violation.

(2) The registered agent of the eligible entity operating a personal delivery device is responsible for an infraction under RCW 46.63.030(1).

(3) Infractions committed by a personal delivery device are not part of the registered agent's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions issued under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(2). The amount of the fine issued for an infraction issued under this section shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction.

**Sec. 6.** RCW 46.04.320 and 2010 c 217 s 1 are each amended to read as follows:

(1) "Motor vehicle" means ~~((every))~~ a vehicle that is self-propelled ~~((and every))~~ or a vehicle that is propelled by electric power obtained from overhead trolley wires~~((s))~~ but not operated upon rails.

(2) "Motor vehicle" includes:

(a) A neighborhood electric vehicle as defined in RCW 46.04.357~~((-"Motor vehicle" includes))~~;

(b) A medium-speed electric vehicle as defined in RCW 46.04.295; and

(c) A golf cart for the purposes of chapter 46.61 RCW.

(3) "Motor vehicle" excludes:

(a) An electric personal assistive mobility device ~~((is not considered a motor vehicle.))~~;

(b) A power wheelchair ~~((is not considered a motor vehicle.))~~;

(c) A golf cart ~~((is not considered a motor vehicle.))~~, except ~~((for the purposes of chapter 46.61 RCW))~~ as provided in subsection (2) of this section;

(d) A moped, for the purposes of chapter 46.70 RCW; and

(e) A personal delivery device as defined in section 1 of this act.

**Sec. 7.** RCW 46.04.670 and 2011 c 171 s 19 are each amended to read as follows:

(1) "Vehicle" ~~((includes every))~~ means a device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway~~((-including bicycles))~~.

(2) "Vehicle" ~~((does not include))~~ excludes:

(a) A power wheelchair~~((s))~~ or device~~((s))~~ other than a bicycle~~((s))~~ moved by human or animal power or used exclusively upon stationary rails or tracks~~((-Mopeds are not considered vehicles or motor vehicles))~~;

(b) A moped, for the purposes of chapter 46.70 RCW~~((-Bicycles are not considered vehicles))~~;

(c) A bicycle, for the purposes of chapter 46.12, 46.16A, or 46.70 RCW, or for RCW 82.12.045~~((-))~~;

(d) An electric personal assistive mobility device~~((s are not considered vehicles or motor vehicles))~~, for the purposes of chapter 46.12, 46.16A, 46.29, 46.37, or 46.70 RCW~~((-))~~;

(e) A golf cart ~~((is not considered a vehicle))~~, except for the purposes of chapter 46.61 RCW; and

(f) A personal delivery device as defined in section 1 of this act, except for the purposes of chapter 46.61 RCW.

**NEW SECTION. Sec. 8.** A new section is added to chapter 46.61 RCW to read as follows:

For the purposes of this chapter, "personal delivery device" has the same meaning as in section 1 of this act.

**Sec. 9.** RCW 46.61.050 and 1975 c 62 s 18 are each amended to read as follows:

(1) The driver of any vehicle, every bicyclist, and every pedestrian shall obey, and the operation of every personal delivery device shall follow, the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exception granted the driver of an authorized emergency vehicle in this chapter.

(2) No provision of this chapter for which official traffic control devices are required shall be enforced against

an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible or visible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

(3) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(4) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

**Sec. 10.** RCW 46.61.055 and 1993 c 153 s 2 are each amended to read as follows:

Whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word or legend, and said lights shall indicate and apply to drivers of vehicles (~~and~~), pedestrians, and personal delivery devices, as follows:

(1) Green indication

(a) Vehicle operators facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. Vehicle operators turning right or left shall stop to allow other vehicles lawfully within the intersection control area to complete their movements. Vehicle operators turning right or left shall also stop for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Vehicle operators facing a green arrow signal, shown alone or in combination with another indication, may enter the intersection control area only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Vehicle operators shall stop to allow other vehicles lawfully within the intersection control area to complete their movements. Vehicle operators shall also stop for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(c) Unless otherwise directed by a pedestrian control signal, as provided in RCW 46.61.060 as now or hereafter amended, pedestrians or personal delivery devices facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication

(a) Vehicle operators facing a steady circular yellow or yellow arrow signal are thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. Vehicle operators shall stop for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Pedestrians or personal delivery devices facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian control signal as provided in RCW 46.61.060 shall not enter the roadway.

(3) Steady red indication

(a) Vehicle operators facing a steady circular red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection control area and shall remain standing until an indication to proceed is shown. However, the vehicle operators facing a steady circular red signal may, after stopping proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(b) Unless otherwise directed by a pedestrian control signal as provided in RCW 46.61.060 as now or hereafter amended, pedestrians or personal delivery devices facing a steady circular red signal alone shall not enter the roadway.

(c) Vehicle operators facing a steady red arrow indication may not enter the intersection control area to make the movement indicated by such arrow, and unless entering the intersection control area to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line, but if none, before entering a crosswalk on the near side of the intersection control area, or if none, then before entering the intersection control area and shall remain standing until an indication to make the movement indicated by such arrow is shown. However, the vehicle operators facing a steady red arrow indication may, after stopping proceed to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way street or two-way street into a one-way street carrying traffic in the direction of the left turn; unless a sign posted by competent authority prohibits such movement. Vehicle operators planning to make such turns shall remain stopped to allow other vehicles lawfully within or approaching the intersection control area to complete their movements. Vehicle operators planning to make such turns shall also remain stopped for pedestrians

who or personal delivery devices that are lawfully within the intersection control area as required by RCW 46.61.235(1).

(d) Unless otherwise directed by a pedestrian signal, pedestrians or personal delivery devices facing a steady red arrow signal indication shall not enter the roadway.

(4) If an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

**Sec. 11.** RCW 46.61.060 and 1993 c 153 s 3 are each amended to read as follows:

Whenever pedestrian control signals exhibiting the words "Walk" or the walking person symbol or "Don't Walk" or the hand symbol are operating, the signals shall indicate as follows:

(1) WALK or walking person symbol—Pedestrians or personal delivery devices facing such signal may cross the roadway in the direction of the signal. Vehicle operators shall stop for pedestrians who or personal delivery devices that are lawfully moving within the intersection control area on such signal as required by RCW 46.61.235(1).

(2) Steady or flashing DON'T WALK or hand symbol—Pedestrians or personal delivery devices facing such signal shall not enter the roadway. Vehicle operators shall stop for pedestrians who or personal delivery devices that have begun to cross the roadway before the display of either signal as required by RCW 46.61.235(1).

(3) Pedestrian control signals having the "Wait" legend in use on August 6, 1965, shall be deemed authorized signals and shall indicate the same as the "Don't Walk" legend. Whenever such pedestrian control signals are replaced the legend "Wait" shall be replaced by the legend "Don't Walk" or the hand symbol.

**Sec. 12.** RCW 46.61.235 and 2010 c 242 s 1 are each amended to read as follows:

(1) The operator of an approaching vehicle shall stop and remain stopped to allow a pedestrian ~~((or))~~, bicycle, or personal delivery device to cross the roadway within an unmarked or marked crosswalk when the pedestrian ~~((or))~~, bicycle, or personal delivery device is upon or within one lane of the half of the roadway upon which the vehicle is traveling or onto which it is turning. For purposes of this section "half of the roadway" means all traffic lanes carrying traffic in one direction of travel, and includes the entire width of a one-way roadway.

(2) No pedestrian ~~((or))~~, bicycle, or personal delivery device shall suddenly leave a curb or other place of safety and walk, run, or otherwise move into the path of a vehicle which is so close that it is impossible for the driver to stop.

(3) Subsection (1) of this section does not apply under the conditions stated in RCW 46.61.240(2).

(4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian ~~((or))~~, bicycle, or personal delivery device to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(5)(a) If a person is found to have committed an infraction under this section within a school, playground, or crosswalk speed zone created under RCW 46.61.440, the person must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. The penalty may not be waived, reduced, or suspended.

(b) Fifty percent of the moneys collected under this subsection must be deposited into the school zone safety account.

**Sec. 13.** RCW 46.61.240 and 1990 c 241 s 5 are each amended to read as follows:

(1) Every pedestrian or personal delivery device crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(2) Where curb ramps exist at or adjacent to intersections or at marked crosswalks in other locations, ~~((disabled))~~ persons with disabilities or personal delivery devices may enter the roadway from the curb ramps and cross the roadway within or as closely as practicable to the crosswalk. All other pedestrian rights and duties as defined elsewhere in this chapter remain applicable.

(3) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(4) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(5) No pedestrian or personal delivery device shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians and personal delivery devices shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

(6) No pedestrian or personal delivery device shall cross a roadway at an unmarked crosswalk where an official sign prohibits such crossing.

**Sec. 14.** RCW 46.61.250 and 1990 c 241 s 6 are each amended to read as follows:

(1) Where sidewalks are provided it is unlawful for any pedestrian to walk or otherwise move along and upon an adjacent roadway. Where sidewalks are provided but

wheelchair access is not available, (~~(disabled)~~) persons with disabilities who require such access may walk or otherwise move along and upon an adjacent roadway until they reach an access point in the sidewalk.

(2) Where sidewalks are not provided, any pedestrian walking or otherwise moving along and upon a highway, and any personal delivery device moving along and upon a highway, shall, when practicable, walk or move only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction and upon meeting an oncoming vehicle shall move clear of the roadway.

**Sec. 15.** RCW 46.61.261 and 2010 c 242 s 3 are each amended to read as follows:

(1) The driver of a vehicle shall yield the right-of-way to any pedestrian (~~(or)~~), bicycle, or personal delivery device on a sidewalk. The rider of a bicycle shall yield the right-of-way to a pedestrian on a sidewalk or crosswalk. A personal delivery device must yield the right-of-way to a pedestrian or a bicycle on a sidewalk or crosswalk.

(2)(a) If a person is found to have committed an infraction under this section within a school, playground, or crosswalk speed zone created under RCW 46.61.440, the person must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. The penalty may not be waived, reduced, or suspended.

(b) Fifty percent of the moneys collected under this subsection must be deposited into the school zone safety account.

**Sec. 16.** RCW 46.61.264 and 1975 c 62 s 42 are each amended to read as follows:

(1) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of RCW 46.37.380 (~~(subsection)~~) (4) and visual signals meeting the requirements of RCW 46.37.190, or of a police vehicle meeting the requirements of RCW 46.61.035 (~~(subsection)~~) (3), every pedestrian and every personal delivery device shall yield the right-of-way to the authorized emergency vehicle.

(2) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian or any personal delivery device.

**Sec. 17.** RCW 46.61.269 and 1975 c 62 s 44 are each amended to read as follows:

(1) No pedestrian or personal delivery device shall enter or remain upon any bridge or approach thereto beyond a bridge signal gate, or barrier indicating a bridge is closed to through traffic, after a bridge operation signal indication has been given.

(2) No pedestrian or personal delivery device shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

**Sec. 18.** RCW 46.61.365 and 1965 ex.s. c 155 s 51 are each amended to read as follows:

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian or personal delivery device as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

**Sec. 19.** RCW 46.61.710 and 2018 c 60 s 5 are each amended to read as follows:

(1) No person shall operate a moped upon the highways of this state unless the moped has been assigned a moped registration number and displays a moped permit in accordance with RCW 46.16A.405(2).

(2) Notwithstanding any other provision of law, a moped may not be operated on a bicycle path or trail, bikeway, equestrian trail, or hiking or recreational trail.

(3) Operation of a moped, electric personal assistive mobility device, or motorized foot scooter on a fully controlled limited access highway is unlawful. Operation of a personal delivery device on any part of a highway other than a sidewalk or crosswalk is unlawful, except as provided in RCW 46.61.240(2) and 46.61.250(2). Operation of a moped on a sidewalk is unlawful. Operation of a motorized foot scooter or class 3 electric-assisted bicycle on a sidewalk is unlawful, unless there is no alternative for a motorized foot scooter or a class 3 electric-assisted bicycle to travel over a sidewalk as part of a bicycle or pedestrian path.

(4) Removal of any muffling device or pollution control device from a moped is unlawful.

(5) Subsections (1), (2), and (4) of this section do not apply to electric-assisted bicycles.

(6) Electric-assisted bicycles and motorized foot scooters may have access to highways of the state to the same extent as bicycles, subject to RCW 46.61.160.

(7) Subject to subsection (10) of this section, class 1 and class 2 electric-assisted bicycles and motorized foot scooters may be operated on a shared-use path or any part of a highway designated for the use of bicycles, but local jurisdictions or state agencies may restrict or otherwise limit the access of electric-assisted bicycles and motorized foot scooters, and local jurisdictions or state agencies may regulate the use of class 1 and class 2 electric-assisted bicycles and motorized foot scooters on facilities and properties under their jurisdiction and control. Local regulation of the operation of class 1 or class 2 electric-assisted bicycles, upon a shared use path designated for the

use of bicycles that crosses jurisdictional boundaries of two or more local jurisdictions, must be consistent for the entire shared use path in order for the local regulation to be enforceable; however, this does not apply to local regulations of a shared use path in effect as of January 1, 2018.

(8) Class 3 electric-assisted bicycles may be operated on facilities that are within or adjacent to a highway. Class 3 electric-assisted bicycles may not be operated on a shared-use path, except where local jurisdictions may allow the use of class 3 electric-assisted bicycles. State agencies or local jurisdictions may regulate the use of class 3 electric-assisted bicycles on facilities and properties under their jurisdiction and control. Local regulation of the operation of class 3 electric-assisted bicycles, upon a shared use path designated for the use of bicycles that crosses jurisdictional boundaries of two or more local jurisdictions, must be consistent for the entire shared use path in order for the local regulation to be enforceable; however, this does not apply to local regulations of a shared use path in effect as of January 1, 2018.

(9) Except as otherwise provided in this section, an individual shall not operate an electric-assisted bicycle on a trail that is specifically designated as nonmotorized and that has a natural surface tread that is made by clearing and grading the native soil with no added surfacing materials. A local authority or agency of this state having jurisdiction over a trail described in this subsection may allow the operation of an electric-assisted bicycle on that trail.

(10) Subsections (1) and (4) of this section do not apply to motorized foot scooters. Subsection (2) of this section applies to motorized foot scooters when the bicycle path, trail, bikeway, equestrian trail, or hiking or recreational trail was built or is maintained with federal highway transportation funds. Additionally, any new trail or bicycle path or readily identifiable existing trail or bicycle path not built or maintained with federal highway transportation funds may be used by persons operating motorized foot scooters only when appropriately signed.

(11) A person operating an electric personal assistive mobility device (EPAMD) shall obey all speed limits and shall yield the right-of-way to pedestrians and human-powered devices at all times. An operator must also give an audible signal before overtaking and passing a pedestrian. Except for the limitations of this subsection, persons operating an EPAMD have all the rights and duties of a pedestrian.

(12) The use of an EPAMD may be regulated in the following circumstances:

(a) A municipality and the department of transportation may prohibit the operation of an EPAMD on public highways within their respective jurisdictions where the speed limit is greater than twenty-five miles per hour;

(b) A municipality may restrict the speed of an EPAMD in locations with congested pedestrian or nonmotorized traffic and where there is significant speed differential between pedestrians or nonmotorized traffic and

EPAMD operators. The areas in this subsection must be designated by the city engineer or designee of the municipality. Municipalities shall not restrict the speed of an EPAMD in the entire community or in areas in which there is infrequent pedestrian traffic;

(c) A state agency or local government may regulate the operation of an EPAMD within the boundaries of any area used for recreation, open space, habitat, trails, or conservation purposes.

**Sec. 20.** RCW 81.80.010 and 2009 c 94 s 1 are each reenacted and amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Common carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules, including motor vehicle operations of other carriers by rail or water and of express or forwarding companies. "Common carrier" does not include a personal delivery device or a personal delivery device operator as those terms are defined in section 1 of this act.

(2) "Contract carrier" includes all motor vehicle operators not included under the terms "common carrier" and "private carrier" as defined in this section, and further includes any person who under special and individual contracts or agreements transports property by motor vehicle for compensation.

(3) "Common carrier" and "contract carrier" includes persons engaged in the business of providing, contracting for, or undertaking to provide transportation of property for compensation over the public highways of the state of Washington as brokers or forwarders.

(4) "Exempt carrier" means any person operating a vehicle exempted under RCW 81.80.040.

(5) "Household goods carrier" means a person who transports for compensation, by motor vehicle within this state, or who advertises, solicits, offers, or enters into an agreement to transport household goods as defined by the commission.

(6) "Motor carrier" includes "common carrier," "contract carrier," "private carrier," and "exempt carrier" as defined in this section.

(7) "Motor vehicle" means any truck, trailer, semitrailer, tractor, dump truck which uses a hydraulic or mechanical device to dump or discharge its load, or any self-propelled or motor-driven vehicle used upon any public highway of this state for the purpose of transporting property, but not including baggage, mail, and express transported on the vehicles of auto transportation companies carrying passengers.

(8) "Person" includes an individual, firm, copartnership, corporation, company, or association or their lessees, trustees, or receivers.

(9) A "private carrier" is a person who transports by his or her own motor vehicle, with or without compensation, property which is owned or is being bought or sold by the person, or property where the person is the seller, purchaser, lessee, or bailee and the transportation is incidental to and in furtherance of some other primary business conducted by the person in good faith.

(10) "Public highway" means every street, road, or highway in this state.

(11) "Vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human or animal power or used exclusively upon stationary rail or tracks.

**NEW SECTION. Sec. 21.** Sections 1 through 5 of this act constitute a new chapter in Title 46 RCW.

**NEW SECTION. Sec. 22.** This act takes effect September 1, 2019."

On page 1, line 1 of the title, after "devices;" strike the remainder of the title and insert "amending RCW 46.04.320, 46.04.670, 46.61.050, 46.61.055, 46.61.060, 46.61.235, 46.61.240, 46.61.250, 46.61.261, 46.61.264, 46.61.269, 46.61.365, and 46.61.710; reenacting and amending RCW 81.80.010; adding a new section to chapter 46.61 RCW; adding a new chapter to Title 46 RCW; prescribing penalties; and providing an effective date."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1325 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1325, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1325, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 92; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Calder, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Boehnke and Klippert.

Excused: Representatives Appleton, Graham, Kirby and Steele.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1325, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 12, 2019

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1344 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that child care is a sector that is critical to the vitality and economic security of our state and communities and families, and that families in Washington face significant barriers to accessing and affording high quality child care. The legislature finds that Washington's committed caregivers and state investments and advancements in our quality rating and improvement system ensure that quality, culturally relevant child care supports children's healthy development and prepares them for success in school and in life. The legislature recognizes that provider diversity and cultural relevance are fundamental components of quality, and that parent choice is a priority throughout the state's early learning system.

(2) The legislature finds that the cost of quality child care is unaffordable for many families and state support is needed to ensure that all children and families in Washington can access safe, enriching child care.

(3) The legislature recognizes that expanding access to quality child care requires preparing the market of child care providers to meet existing and expanded demand. The legislature finds that the market of child care providers is shrinking, that child care deserts are expanding, and that fewer providers are offering services to working connections child care subsidy recipients. The legislature additionally

finds that child care providers are unable to recruit and retain a qualified workforce; that wages in the industry remain among the lowest of all professions, at or near minimum wage; and that the relationship between a child and a qualified caregiver is of paramount importance to parents and, according to a rapidly accumulating body of brain science, is foundational to supporting healthy development.

(4) Further, while the system awaits systemic change, the legislature finds that steps must be taken to begin to preserve and expand access to child care for child care subsidy recipients, stabilize the child care industry, and reduce turnover in the workforce.

(5) Therefore, the legislature intends to promote high quality child care from diverse providers that is accessible and affordable to all families of Washington's children ages birth to twelve.

NEW SECTION. Sec. 2. A new section is added to chapter 43.330 RCW to read as follows:

(1)(a) The department shall enter into one or more contracts for the development of a regional assessment of the child care industry in Washington in order to better understand issues affecting child care access and affordability for families. The department shall collaborate with the office of innovation, alignment, and accountability within the department of children, youth, and families to ensure efficient use of available data and rigorous research methods and to assist with interpretation of data and report preparation.

(b) The department shall conduct one or more competitive solicitations in accordance with chapter 39.26 RCW to select a third-party entity or entities to conduct the industry assessment in partnership with a statewide organization representing parents. The third-party entity or entities selected by the department through the competitive process must have experience in national industry assessment and expertise in conducting facilities' needs assessments. The statewide organization representing parents must have experience conducting parent listening tours.

(c) The department may use a combination of private and public resources to support activities related to the child care industry assessment conducted under this section.

(2) The industry assessment must be submitted to the appropriate policy and fiscal committees of the legislature, the governor, and the members of the child care collaborative task force established in chapter 91, Laws of 2018 by July 1, 2020. The assessment may be developed using existing reports, studies, models, and analysis related to child care affordability and access. The assessment must, at a minimum:

(a) Incorporate current data on the number of children age twelve and under who are receiving care from child care and early learning providers. The data must differentiate, to the extent possible: Children served by licensed and certified child care centers and family homes; public schools providing preschool and child care programs;

private schools providing child care programs; state agencies and other public municipalities providing child care programs; license-exempt providers who care for children for four hours or less per day; family, friend, and neighbor caregivers; nannies and au pairs; religious organizations providing care; entities providing before-and-after school care; employer-supported child care; and other formal and informal networks of care. The data must, to the extent possible, include a breakdown by provider type of the:

(i) Number of children receiving state subsidized care;

(ii) Number of children receiving exclusively private pay care;

(iii) Number of providers who are accepting state subsidy and, for providers who are not accepting subsidy, reasons why not;

(iv) Demographics of children served, including age, race, rates of developmental delays or disability, family income, home language, and population group trends. Demographic information must include military, homeless, and tribal families; and

(v) Demographics of providers, including age, race, family income, home language, number of years providing care, education levels, utilization rates of state assistance, and the number of times a provider has changed locations;

(b) Define and describe the characteristics of the informal child care market, including estimates of the children served in this market by age group;

(c) Identify family child care choices by family income bracket;

(d) Include a visual representation of child care supply and demand by region that identifies areas with the highest need related to child care accessibility and affordability;

(e) Identify trends in the relationship between private pay rates and subsidy rates for child care providers;

(f) Include, to the extent possible, an analysis of the industry's quantitative or qualitative contribution to the state's economy, including:

(i) Employment and wage information for self-employed licensed child care providers and the employees of licensed child care providers, including information about providers accessing public assistance;

(ii) Workforce pipeline data for early learning professions;

(iii) The estimated costs to the state economy of child care inaccessibility, including lost economic activity and reduced tax revenue; and

(iv) Direct and indirect effects on labor participation, workplace productivity, and household earnings of working parents who use child care. The analysis must include information related to the workplace productivity of workers using employer-supported child care; and

(g) Include a facilities needs assessment to determine the type and number of child care facilities necessary to address unmet capacity needs for high quality child care programs such as the early childhood education and assistance program, headstart, working connections child care, and early head start. The needs assessment must include zip code level analysis to identify geographic areas with concentrated barriers to access.

(3) For the purposes of this section, "employer-supported child care" means:

(a) A licensed child care center operated at or near the workplace by an employer for the benefit of employees; or

(b) Financial assistance provided by an employer for licensed child care expenses incurred by an employee.

(4) This section expires December 31, 2020.

NEW SECTION. Sec. 3. A new section is added to chapter 43.41 RCW to read as follows:

(1) The office of financial management, within existing resources, in partnership with the department of commerce, the office of innovation, alignment, and accountability within the department of children, youth, and families, and the health care authority, shall develop a survey for state executive branch agency employees in order to better understand issues affecting child care access and affordability for state employees' families.

(2) The survey must, at a minimum:

(a) Identify the number of children age twelve and under of state employees who are receiving care from child care or early learning providers. The survey must allow employees to differentiate, to the extent possible, the type of child care or early learning provider serving the family, including:

(i) Licensed and certified child care centers and family homes;

(ii) License-exempt providers who care for children for four hours or less per day;

(iii) Family, friend, and neighbor caregivers;

(iv) Nannies and au pairs;

(v) Religious organizations providing care;

(vi) Entities providing before-and-after school care;

(vii) Employer-supported child care; and

(viii) Other formal and informal networks of care;

(b) Identify the number of children age twelve and under whose care is paid for in whole or in part with state subsidies;

(c) Allow employees to describe challenges they face in accessing or paying for child care; and

(d) Ask employees to provide their total annual household income.

(3) The survey must be made available to all state executive branch agency employees with children age twelve and under no later than January 15, 2020.

(4) The department of commerce, in collaboration with the office of financial management and the office of innovation, alignment, and accountability within the department of children, youth, and families, shall analyze this data and report as part of the larger industry analysis described in section 2 of this act. In addition to the information required under section 2 of this act, the report must also include:

(a) A breakdown of:

(i) The number of children of state executive branch agency employees receiving care based on provider type;

(ii) The number of children of state executive branch agency employees receiving state subsidized care; and

(iii) The number of children of state executive branch agency employees receiving exclusively private pay care;

(b) An analysis of the relationship between family child care choices and household income bracket; and

(c) A narrative summary of the challenges that state executive branch agency employees face in accessing or paying for child care.

(5) This section expires December 31, 2020.

**Sec. 4.** 2018 c 91 s 1 (uncodified) is amended to read as follows:

(1) The department of commerce and the department of children, youth, and families shall jointly convene and facilitate a child care collaborative task force to:

(a) Examine the effects of child care affordability and accessibility on the workforce and on businesses; and

(b) Develop policy recommendations pursuant to section 6 of this act. ~~((The director of the department of commerce or his or her designee must convene the first meeting of the task force by September 1, 2018.))~~

(2) The task force shall develop policies and recommendations to incentivize employer-supported child care and improve child care access and affordability for employees. To accomplish its duties, the task force shall evaluate current available data including, but not limited to:

(a) Child care market rate survey reports, including data related to the geographic distribution of licensed child care providers and the demand for, cost, and availability of such providers;

(b) Best practices for employer-supported child care; ~~((and))~~

(c) Research related to the economic and workforce impacts of employee access to high quality, affordable child care; and

(d) The industry assessment conducted pursuant to section 2 of this act.

(3) The governor shall appoint ~~((additional))~~ voting task force members as follows:

~~(a) ((Five representatives of private business, including: One representative of a small business; one representative of a medium sized business; one representative of a large business; and two chamber of commerce representatives, one located east of the crest of the Cascade mountains and one located west of the crest of the Cascade mountains;~~

~~(b))~~ One representative from a union representing child care providers;

~~((e))~~ (b) One representative from the statewide child care resource and referral network;

~~((d))~~ (c) One representative of an organization representing the interests of licensed child day care centers;

~~((e))~~ (d) One representative of a statewide nonprofit organization comprised of senior executives of major private sector employers;

~~((f))~~ (e) One representative of a nongovernmental private-public partnership supporting home visiting service delivery;

~~((g))~~ (f) One representative of a federally recognized tribe; and

~~((h))~~ (g) One representative from an association representing business interests.

(4) One representative from each of the following agencies shall serve as a nonvoting member of the task force and provide data and information to the task force upon request:

(a) The department of commerce;

(b) The department of children, youth, and families. The representative from the department of children, youth, and families must have expertise in child care subsidy policy; and

~~(c) ((The employment security department;~~

~~(d) The department of revenue;~~

~~(e) The department of social and health services; and~~

~~(f))~~ The office of the governor.

(5) The president of the senate shall appoint one member to the task force from each of the two largest caucuses of the senate to serve as ~~((nonvoting))~~ voting members of the task force.

(6) The speaker of the house of representatives shall appoint one member to the task force from each of the two largest caucuses in the house of representatives to serve as ~~((nonvoting))~~ voting members of the task force.

(7) The governor shall appoint the following nonvoting members:

(a) Three representatives from the child care industry. At least one of the child care industry representatives must be a provider from a rural community. The three representatives must include: One licensed child day care center provider; one licensed family day care provider; and one representative of family, friend, and neighbor child care providers;

~~(b) ((Two representatives of economic development organizations, one located east of the crest of the Cascade mountains and one located west of the crest of the Cascade mountains;~~

~~(e) Four representatives of)~~ One representative from each of the following: An advocacy organization((s)) representing parents, an early learning advocacy organization, a foster care youth advocacy organization, and an organization representing expanded learning opportunity interests;

~~((d) One representative from an association representing statewide transit interests;~~

~~(e) One representative of an institution of higher education; and~~

~~(f) One representative of a nonprofit organization providing training and professional development for family day care providers and family, friend, and neighbor child care providers))~~

(c) One representative from the child care workforce development technical work group established in chapter 1, Laws of 2017 3rd sp. sess.;

(d) An early learning policy expert; and

(e) One representative of an organization of early learning providers focused on preserving languages and culture by serving immigrant and refugee communities.

(8) The director of commerce or the secretary of the department of children, youth, and families or ~~((his or her))~~ their designee, may invite additional representatives to participate as nonvoting members of the task force.

(9) The task force chair and vice chair must be elected by a majority vote of voting task force members.

(10) Staff support for the task force must be provided by the department of commerce.

(11) Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members shall be reimbursed for travel expenses in accordance with chapter 43.03 RCW.

(12) Licensed family home child care providers and child care center providers serving as members of the task force must be reimbursed for the cost of hiring a substitute for times the provider is away from the child care businesses for official task force travel and meetings.

(13) In accordance with RCW 43.01.036 the task force shall report its initial findings and recommendations pursuant to this section to the governor and the appropriate committees of the legislature by November 1, 2019. The report must include findings related to:

of: (a) Options for the state to incentivize the provision

(i) Employer-supported child care by public and private employers; and

(ii) Back-up child care by public and private employers;

(b) Opportunities for streamlining permitting and licensing requirements to facilitate the development and construction of child care facilities;

(c) Potential tax incentives for private businesses providing employer-supported child care;

(d) A model policy for the establishment of a "bring your infant to work" program for public and private sector employees; and

(e) Policy recommendations that address racial, ethnic, and geographic disparity and disproportionality in service delivery and accessibility to services for families.

~~((43))~~ (14) For the purposes of this section:

(a) "Back-up child care" means a temporary child care arrangement that is provided when normal child care arrangements are unavailable.

(b) "Employer-supported child care" includes:

(i) A licensed child care center operated at or near the workplace by an employer for the benefit of employees; or

(ii) Financial assistance provided by an employer for licensed child care expenses incurred by an employee.

~~((44))~~ (15) This section expires ~~((December 30, 2019))~~ July 1, 2021.

NEW SECTION. Sec. 5. (1) Members of the child care collaborative task force created by chapter 91, Laws of 2018, and serving on the task force as of January 1, 2019, may continue to serve as members of the task force without reappointment.

(2) This section expires July 1, 2021.

NEW SECTION. Sec. 6. A new section is added to chapter 43.330 RCW to read as follows:

(1) The child care collaborative task force shall:

(a)(i) Develop a child care cost estimate model to determine the full costs providers would incur when providing high quality child care, including recommended teacher-child ratios based on research and best practices. The model must include:

(A) Regional differences;

(B) Employee salaries and benefits;

(C) Enrollment levels;

(D) Facility costs; and

(E) Costs associated with compliance with statutory and regulatory requirements, including quality rating system participation and identify specific costs associated with each level of the rating system and any quality indicators utilized.

(ii) The model must utilize existing data and research available from existing studies and reports.

(iii) The model must consider differentiating subsidy rates by child age and region, evaluate the effectiveness of current child care subsidy region boundaries, and examine alternatives such as zip code level regions or regionalization based on urban, suburban, and rural designations;

(b) Consider how the measure of state median income could be used in place of federal poverty level when determining eligibility for child care subsidy;

(c) Evaluate recommendations from the department of children, youth, and families' technical work group on compensation, including consideration of pay scale changes, to achieve pay parity with K-12 teachers by January 1, 2025. When considering implementation of the technical work group recommendations, the task force shall further develop policy recommendations for the department of children, youth, and families that:

(i) Endeavor to preserve and increase racial and ethnic equity and diversity in the child care workforce and recognize the value of cultural competency and multilingualism;

(ii) Include a salary floor that supports recruitment and retention of a qualified workforce in every early learning setting, determined by an analysis of fields that compete to recruit workers with comparable skills, competencies, and experience of early childhood educators;

(iii) Index salaries for providers against the salary for a typical preschool lead teacher, differentiating base compensation for varying levels of responsibility within the early childhood workplace including consideration of center directors, assistant directors, lead teachers, assistant teachers, paraprofessionals, family child care owners, and family home assistants;

(iv) Incentivize advancements in relevant higher education credentials and credential equivalencies, training, and years of experience, by increasing compensation for each of these, including early learning certificates, associate degrees, bachelor's degrees, master's degrees, and doctoral degrees;

(v) Consider credential equivalencies, including certified demonstration of competencies developed through apprenticeships, peer learning models, community-based training, and other strategies;

(vi) Consider a provider's years of experience in the field and years of experience at his or her current site;

(vii) Differentiate subsidy rates by region; and

(viii) Provide additional targeted investments for providers serving a high proportion of working connections child care families, providers demonstrating additional

linguistic or cultural competency, and providers serving populations furthest from opportunity, including:

- (A) Families enrolled in the early childhood education and assistance program;
- (B) Underserved geographic communities;
- (C) Underserved ethnic or linguistic communities;
- (D) Underserved age groups such as infants and toddlers; and
- (E) Populations with specialized health or educational needs;

(d) Develop a phased implementation plan for policy changes to the working connections child care program. The implementation plan must focus on children and families furthest from opportunity as defined by income and must include recommended targeted supports for providers serving children who are underserved and emphasize greater racial equity. Implementation plan components must include:

- (i) Increasing program income eligibility to three hundred percent of the federal poverty level or eighty-five percent of the state median income;
- (ii) Establishing a graduated system of copayments that eliminates the cliff effect for families and limits the amount a family pays for child care to a maximum of seven percent of the family's income by January 1, 2025;
- (iii) Developing a model to enable the state to provide contracted slots to programs serving working connections child care families in order to expand access for low-income families;
- (iv) Eliminating work requirements for student families participating in the working connections child care program; and
- (v) Eliminating the fiscal cap on working connections child care enrollment; and

(e) Develop a strategy, timeline, and implementation plan to reach the goal of accessible and affordable child care for all families by the year 2025.

(2) By December 1, 2020, the task force must submit its findings and required implementation plan pursuant to subsection (1)(a) through (d) of this section to the governor and the appropriate committees of the legislature. By June 1, 2021, the task force must submit the strategy, timeline, and implementation plan required by subsection (1)(e) of this section to the governor and the appropriate committees of the legislature.

(3) This section expires July 1, 2021.

**NEW SECTION. Sec. 7.** (1) By January 1, 2025, the department of children, youth, and families must use the child care cost model developed under section 6 of this act to determine child care subsidy rates.

(2) This section expires January 30, 2025.

**NEW SECTION. Sec. 8.** Section 4 of this act is added to chapter 43.330 RCW.

**NEW SECTION. Sec. 9.** This act may be known and cited as the Washington child care access now act.

**NEW SECTION. Sec. 10.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "amending 2018 c 91 s 1 (uncodified); adding new sections to chapter 43.330 RCW; adding a new section to chapter 43.41 RCW; creating new sections; and providing expiration dates."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

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

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1344 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1344, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1344, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 75; Nays, 19; Absent, 0; Excused, 4.

Voting yea: Representatives Bergquist, Blake, Calder, Callan, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Griffey, Hansen, Harris, Hudgins, Irwin, Jinkins, Kilduff, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Walsh, Wilcox and Wylie.

Voting nay: Representatives Barkis, Boehnke, Chambers, Chandler, Dufault, Gildon, Goehner, Hoff,

Jenkin, Klippert, Kraft, McCaslin, Shea, Sutherland, Van Werven, Vick, Volz, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SECOND SUBSTITUTE HOUSE BILL NO. 1344, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 12, 2019

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1366 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.145.110 and 2010 c 7 s 502 are each amended to read as follows:

(1) The board of supervisors of a community facilities district may impose special assessments on property located inside the district and benefited by the facilities and improvements provided, or to be provided, by a district, whether the facilities and improvements are located inside or outside of the boundaries of the proposed district. The requirements and powers of a district relating to the formation, assessment, collection, foreclosure, and other powers of a special assessment district are as set forth in chapters 35.43, 35.44, 35.49, and 35.50 RCW, except where otherwise addressed under this chapter. In any case where the provisions of this chapter conflict with the requirements under any other chapter that applies to the formation, assessment, collection, foreclosure, or other powers of a special assessment district, the provisions of this chapter control.

(2) Except as otherwise expressly provided under this chapter, the special assessments imposed and collected on property within a district may not exceed the amount set forth in a petition or amended petition approved in accordance with this chapter.

(3) The term of the special assessment is limited to the lesser of (a) ~~((twenty-eight))~~ thirty-five years or (b) ~~((two years less than))~~ the full term of any bonds issued by or on behalf of the district to which the assessments or other revenue of the district is specifically dedicated, pledged, or obligated.

(4) The computation of special assessments must follow the requirements of chapter 35.44 RCW, including the authority to use any method or combination of methods to compute assessments which may be deemed by the board of supervisors to fairly reflect the benefit to the properties being assessed. The method of assessment may utilize the supplemental authority granted under chapter 35.51 RCW. A petition meeting the requirements of RCW 36.145.020 may provide for the reduction or waiver of special

assessments for low-income households as that term is defined in RCW 36.130.010.

(5) The board must set a date, time, and place for hearing any objections to the assessment roll, which hearing must occur no later than one hundred twenty days from final approval of formation of the district. Petitioners or representatives thereof serving on the board of supervisors must not participate in the determination of the special assessment roll or vote on the confirmation of that assessment roll. The restriction in this subsection does not apply to members of the board of supervisors appointed from among the qualified professionals that petitioners may nominate under RCW 36.145.020(1)(h).

(6) The procedures and requirements for assessments, hearings on the assessment roll, filing of objections to the assessment roll, and appeals from the decision of the board approving or rejecting the assessment roll, must be as set forth in RCW 35.44.010 through 35.44.020, 35.44.080 through 35.44.110, and 35.44.190 through 35.44.270.

(7) At the hearing on the assessment roll, and ~~((;))~~ in no event later than thirty days after the day of the hearing, the board may adopt a resolution approving the assessment roll or may correct, revise, raise, lower, change, or modify the assessment roll or any part thereof, and provide the petitioner with a detailed explanation of the changes made by the board.

(8) If the assessment roll is revised by the board in any way, then, within thirty days of the board's decision, the petitioner(s) must unanimously make one of the following elections: (a) Rescind the petition; or (b) accept the changes made by the board, upon which occurrence the board must adopt a resolution approving the assessment roll as modified by the board.

(9) Reassessments, assessments on omitted property, and supplemental assessments are governed by the provisions set forth under chapter 35.44 RCW.

(10) Any assessment approved under the provisions of this chapter may be segregated upon a petition of one hundred percent of the owners of the property subject to the assessment to be segregated. The segregation must be made as nearly as possible on the same basis as the original assessment was levied and approved by the board. The board, in approving a petition for segregation and amendment of the assessment roll, must do so in a fashion such that the total of the segregated parts of the assessment equal the assessment before segregation. As to any property originally entered upon the roll the assessment upon which has not been raised, no objections to the approval of the petition for segregation, the resulting assessment, or the amended assessment roll may be considered by the jurisdiction in which the district is located, the board, or by any court on appeal. Assessments must be collected in districts pursuant to the district's previous assessment roll until the amendment to the assessment roll is finalized under this section.

(11) Except as provided under chapter 35.44 RCW, assessments may not be increased without the approval of

one hundred percent of the property owners subject to the proposed increase.

(12) Special assessments must be collected by the district treasurer determined in accordance with RCW 36.145.140.

(13) A notice of any special assessment imposed under this chapter must be provided to the owner of the assessed property, not less than once per year, with the following appearing at the top of the page in at least fourteen point, bold font:

\*\*\*\*NOTICE\*\*\*\*

**THIS PROPERTY IS SUBJECT TO THE ASSESSMENTS ITEMIZED BELOW AND APPROVED BY COMMUNITY FACILITIES DISTRICT #..... AS THE OWNER OR POTENTIAL BUYER OF THIS PROPERTY, YOU ARE, OR WOULD BE, RESPONSIBLE FOR PAYMENT OF THE AMOUNTS ITEMIZED BELOW.**

**PLEASE REFER TO RCW 36.145.110 OR CONTACT YOUR COUNTY AUDITOR FOR ADDITIONAL INFORMATION.**

(14) The district treasurer responsible for collecting special assessments may account for the costs of handling the assessments and may collect a fee not to exceed the measurable costs incurred by the treasurer.

NEW SECTION. Sec. 2. A new section is added to chapter 43.21C RCW to read as follows:

The formation of a community facilities district under chapter 36.145 RCW is exempted from compliance with this chapter, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not otherwise exempt under state law or rule."

On page 1, line 2 of the title, after "districts;" strike the remainder of the title and insert "amending RCW 36.145.110; and adding a new section to chapter 43.21C RCW."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1366 and advanced the bill as amended by the Senate to final passage.

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

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

Representative Kraft spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of House Bill No. 1366, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1366, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 78; Nays, 16; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, Dent, Doglio, Dolan, Dufault, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hudgins, Irwin, Jinkins, Kilduff, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Wilcox, Wylie and Ybarra.

Voting nay: Representatives Caldier, DeBolt, Dye, Hoff, Jenkin, Kraft, McCaslin, Orcutt, Schmick, Shea, Sutherland, Van Werven, Vick, Volz, Walsh and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

HOUSE BILL NO. 1366, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 12, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1377 with the following amendment:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. A new section is added to chapter 35.63 RCW to read as follows:

(1) A city planning under this chapter must allow an increased density bonus consistent with local needs for any affordable housing development of any single-family or multifamily residence located on real property owned or controlled by a religious organization provided that:

(a) The affordable housing development is set aside for or occupied exclusively by low-income households;

(b) The affordable housing development is part of a lease or other binding obligation that requires the development to be used exclusively for affordable housing

purposes for at least fifty years, even if the religious organization no longer owns the property; and

(c) The affordable housing development does not discriminate against any person who qualifies as a member of a low-income household based on race, creed, color, national origin, sex, veteran or military status, sexual orientation, or mental or physical disability; or otherwise act in violation of the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.).

(2) A city may develop policies to implement this section if it receives a request from a religious organization for an increased density bonus for an affordable housing development.

(3) The religious organization developing the affordable housing development must pay all fees, mitigation costs, and other charges required through the development of the affordable housing development.

(4) If applicable, the religious organization developing the affordable housing development should work with the local transit agency to ensure appropriate transit services are provided to the affordable housing development.

(5) This section applies to any religious organization rehabilitating an existing affordable housing development.

(6) For purposes of this section:

(a) "Affordable housing development" means a proposed or existing structure in which one hundred percent of all single-family or multifamily residential dwelling units within the development are set aside for or are occupied by low-income households at a sales price or rent amount that may not exceed thirty percent of the income limit for the low-income housing unit;

(b) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the affordable housing development is located; and

(c) "Religious organization" has the same meaning as in RCW 35.21.915.

**NEW SECTION. Sec. 2.** A new section is added to chapter 35A.63 RCW to read as follows:

(1) A city planning under this chapter must allow an increased density bonus consistent with local needs for any affordable housing development of any single-family or multifamily residence located on real property owned or controlled by a religious organization provided that:

(a) The affordable housing development is set aside for or occupied exclusively by low-income households;

(b) The affordable housing development is part of a lease or other binding obligation that requires the development to be used exclusively for affordable housing purposes for at least fifty years, even if the religious organization no longer owns the property; and

(c) The affordable housing development does not discriminate against any person who qualifies as a member of a low-income household based on race, creed, color, national origin, sex, veteran or military status, sexual orientation, or mental or physical disability; or otherwise act in violation of the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.).

(2) A city may develop policies to implement this section if it receives a request from a religious organization for an increased density bonus for an affordable housing development.

(3) The religious organization developing the affordable housing development must pay all fees, mitigation costs, and other charges required through the development of the affordable housing development.

(4) If applicable, the religious organization developing the affordable housing development should work with the local transit agency to ensure appropriate transit services are provided to the affordable housing development.

(5) This section applies to any religious organization rehabilitating an existing affordable housing development.

(6) For purposes of this section:

(a) "Affordable housing development" means a proposed or existing structure in which one hundred percent of all single-family or multifamily residential dwelling units within the development are set aside for or are occupied by low-income households at a sales price or rent amount that may not exceed thirty percent of the income limit for the low-income housing unit;

(b) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the affordable housing development is located; and

(c) "Religious organization" has the same meaning as in RCW 35A.21.360.

**NEW SECTION. Sec. 3.** A new section is added to chapter 36.70A RCW to read as follows:

(1) Any city or county fully planning under this chapter must allow an increased density bonus consistent with local needs for any affordable housing development of any single-family or multifamily residence located on real property owned or controlled by a religious organization provided that:

(a) The affordable housing development is set aside for or occupied exclusively by low-income households;

(b) The affordable housing development is part of a lease or other binding obligation that requires the development to be used exclusively for affordable housing purposes for at least fifty years, even if the religious organization no longer owns the property; and

(c) The affordable housing development does not discriminate against any person who qualifies as a member

of a low-income household based on race, creed, color, national origin, sex, veteran or military status, sexual orientation, or mental or physical disability; or otherwise act in violation of the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.).

(2) A city or county may develop policies to implement this section if it receives a request from a religious organization for an increased density bonus for an affordable housing development.

(3) An affordable housing development created by a religious institution within a city or county fully planning under RCW 36.70A.040 must be located within an urban growth area as defined in RCW 36.70A.110.

(4) The religious organization developing the affordable housing development must pay all fees, mitigation costs, and other charges required through the development of the affordable housing development.

(5) If applicable, the religious organization developing the affordable housing development should work with the local transit agency to ensure appropriate transit services are provided to the affordable housing development.

(6) This section applies to any religious organization rehabilitating an existing affordable housing development.

(7) For purposes of this section:

(a) "Affordable housing development" means a proposed or existing structure in which one hundred percent of all single-family or multifamily residential dwelling units within the development are set aside for or are occupied by low-income households at a sales price or rent amount that may not exceed thirty percent of the income limit for the low-income housing unit;

(b) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the affordable housing development is located; and

(c) "Religious organization" has the same meaning as in RCW 36.01.290.

**NEW SECTION. Sec. 4.** A new section is added to chapter 44.28 RCW to read as follows:

The joint committee must review the efficacy of the increased density bonus incentive for affordable housing development located on property owned by a religious organization pursuant to this act and report its findings to the appropriate committees of the legislature by December 1, 2030. The review must include a recommendation on whether this incentive should be continued without change or should be amended or repealed."

On page 1, line 2 of the title, after "property;" strike the remainder of the title and insert "adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70A RCW; and adding a new section to chapter 44.28 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1377 and advanced the bill as amended by the Senate to final passage.

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

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

Representative Jenkin spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1377, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1377, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 85; Nays, 9; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Callan, Chambers, Chapman, Chopp, Cody, Corry, Davis, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Volz, Walen, Walsh, Wilcox, Wylie and Ybarra.

Voting nay: Representatives Caldier, Chandler, DeBolt, Jenkin, McCaslin, Orcutt, Shea, Vick and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SUBSTITUTE HOUSE BILL NO. 1377, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 13, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1391 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that a commitment to early learning quality was established through the passage of the early start act and creation of the early achievers program. The legislature recognizes that achieving the desired child outcomes from high quality early learning and child care requires additional financial support, including the payment of living wages to providers, and that the success of the early achievers system must continue to be supported through adequate funding. Further, the legislature finds that the federal administration of children and families advises states to set child care subsidy rates at the seventy-fifth percentile of private market rates in order to ensure equal access to high quality child care. The legislature further finds that objectives of the early achievers program include providing professional development and robust training and coaching opportunities that are available in geographically diverse areas to child care and early education providers who are often small business owners and as such play a critical role in our state's economy.

(2) The legislature further finds that the department of children, youth, and families has undertaken efforts to identify professional equivalencies for early learning providers that recognize the commitment and years of experience that much of the workforce demonstrates.

(3) Therefore, as recommended by the joint select committee on the early achievers program, the legislature intends to work toward raising base subsidy rates for licensed child care centers and family homes and further incentivize the provision of care for infants and toddlers by considering rates for providers serving these young children. Further, the legislature intends to look to increase needs-based grants, scholarships, and professional development assistance, as well as reduce early achievers coaching ratios, in order to support providers in continuous improvement. The legislature further intends to support the work of the department of children, youth, and families' professional equivalencies committee and the department's development of the proficiency review process.

**Sec. 2.** RCW 43.216.085 and 2017 3rd sp.s. c 6 s 113 are each amended to read as follows:

(1) The department, in collaboration with tribal governments and community and statewide partners, shall implement a quality rating and improvement system, called the early achievers program. The early achievers program provides a foundation of quality for the early care and education system. The early achievers program is applicable to licensed or certified child care centers and homes and early learning programs such as working connections child care and early childhood education and assistance programs.

(2) The objectives of the early achievers program are to:

(a) Improve short-term and long-term educational outcomes for children as measured by assessments including, but not limited to, the Washington kindergarten inventory of developing skills in RCW 28A.655.080;

(b) Give parents clear and easily accessible information about the quality of child care and early education programs;

(c) Support improvement in early learning and child care programs throughout the state;

(d) Increase the readiness of children for school;

(e) Close the disparities in access to quality care;

(f) Provide professional development and coaching opportunities to early child care and education providers; and

(g) Establish a common set of expectations and standards that define, measure, and improve the quality of early learning and child care settings.

(3)(a) Licensed or certified child care centers and homes serving nonschool-age children and receiving state subsidy payments must participate in the early achievers program by the required deadlines established in RCW 43.216.135.

(b) Approved early childhood education and assistance program providers receiving state-funded support must participate in the early achievers program by the required deadlines established in RCW 43.216.515.

(c) Participation in the early achievers program is voluntary for:

(i) Licensed or certified child care centers and homes not receiving state subsidy payments; and

(ii) Early learning programs not receiving state funds.

(d) School-age child care providers are exempt from participating in the early achievers program. By July 1, 2017, the department and the office of the superintendent of public instruction shall jointly design a plan to incorporate school-age child care providers into the early achievers program or other appropriate quality improvement system. To test implementation of the early achievers system for school-age child care providers the department and the office of the superintendent of public instruction shall implement a pilot program.

(4)(a) There are five primary levels in the early achievers program.

(b) In addition to the primary levels, the department must establish an intermediate level that is between level 3 and level 4 and serves to assist participants in transitioning to level 4.

(c) Participants are expected to actively engage and continually advance within the program.

(5) The department has the authority to determine the rating cycle for the early achievers program. The department shall streamline and eliminate duplication

between early achievers standards and state child care rules in order to reduce costs associated with the early achievers rating cycle and child care licensing.

(a) Early achievers program participants may request to be rated at any time after the completion of all level 2 activities.

(b) The department shall provide an early achievers program participant an update on the participant's progress toward completing level 2 activities after the participant has been enrolled in the early achievers program for fifteen months.

(c) The first rating is free for early achievers program participants.

(d) Each subsequent rating within the established rating cycle is free for early achievers program participants.

(6)(a) Early achievers program participants may request to be rerated outside the established rating cycle. A rerating shall reset the rating cycle timeline for participants.

(b) The department may charge a fee for optional rerating requests made by program participants that are outside the established rating cycle.

(c) Fees charged are based on, but may not exceed, the cost to the department for activities associated with the early achievers program.

(7)(a) The department must create a single source of information for parents and caregivers to access details on a provider's early achievers program rating level, licensing history, and other indicators of quality and safety that will help parents and caregivers make informed choices. The licensing history that the department must provide for parents and caregivers pursuant to this subsection shall only include license suspension, surrender, revocation, denial, stayed suspension, or reinstatement. No unfounded child abuse or neglect reports may be provided to parents and caregivers pursuant to this subsection.

(b) The department shall publish to the department's web site, or offer a link on its web site to, the following information:

(i) ~~((By November 1, 2015,))~~ Early achievers program rating levels 1 through 5 for all child care programs that receive state subsidy, early childhood education and assistance programs, and federal head start programs in Washington; and

(ii) New early achievers program ratings within thirty days after a program becomes licensed or certified, or receives a rating.

(c) The early achievers program rating levels shall be published in a manner that is easily accessible to parents and caregivers and takes into account the linguistic needs of parents and caregivers.

(d) The department must publish early achievers program rating levels for child care programs that do not receive state subsidy but have voluntarily joined the early achievers program.

(e) Early achievers program participants who have published rating levels on the department's web site or on a link on the department's web site may include a brief description of their program, contingent upon the review and approval by the department, as determined by established marketing standards.

(8)(a) The department shall create a professional development pathway for early achievers program participants to obtain a high school diploma or equivalency or higher education credential in early childhood education, early childhood studies, child development, or an academic field related to early care and education.

(b) The professional development pathway must include opportunities for scholarships and grants to assist early achievers program participants with the costs associated with obtaining an educational degree.

(c) The department shall address cultural and linguistic diversity when developing the professional development pathway.

(9) The early achievers quality improvement awards shall be reserved for participants offering programs to an enrollment population consisting of at least five percent of children receiving a state subsidy.

(10) In collaboration with tribal governments, community and statewide partners, and the early achievers review subcommittee created in RCW 43.216.075, the department shall develop a protocol for granting early achievers program participants an extension in meeting rating level requirement timelines outlined for the working connections child care program and the early childhood education and assistance program.

(a) The department may grant extensions only under exceptional circumstances, such as when early achievers program participants experience an unexpected life circumstance.

(b) Extensions shall not exceed six months, and early achievers program participants are only eligible for one extension in meeting rating level requirement timelines.

(c) Extensions may only be granted to early achievers program participants who have demonstrated engagement in the early achievers program.

(11)(a) The department shall accept national accreditation that meets the requirements of this subsection (11) as a qualification for the early achievers program ratings.

(b) Each national accreditation agency will be allowed to submit its most current standards of accreditation to establish potential credit earned in the early achievers program. The department shall grant credit to accreditation bodies that can demonstrate that their standards meet or exceed the current early achievers program standards. By December 1, 2019, and subject to the availability of amounts appropriated for this specific purpose, the department must submit a detailed plan to the governor and the legislature to implement a robust cross-accreditation process with multiple pathways that allows a provider to earn equivalent

early achievers credit resulting from accreditation by high quality national organizations.

(c) Licensed child care centers and child care home providers must meet national accreditation standards approved by the department for the early achievers program in order to be granted credit for the early achievers program standards. Eligibility for the early achievers program is not subject to bargaining, mediation, or interest arbitration under RCW 41.56.028, consistent with the legislative reservation of rights under RCW 41.56.028(4)(d).

(12) The department shall explore the use of alternative quality assessment tools that meet the culturally specific needs of the federally recognized tribes in the state of Washington.

(13) A child care or early learning program that is operated by a federally recognized tribe and receives state funds shall participate in the early achievers program. The tribe may choose to participate through an interlocal agreement between the tribe and the department. The interlocal agreement must reflect the government-to-government relationship between the state and the tribe, including recognition of tribal sovereignty. The interlocal agreement must provide that:

(a) Tribal child care facilities and early learning programs may volunteer, but are not required, to be licensed by the department;

(b) Tribal child care facilities and early learning programs are not required to have their early achievers program rating level published to the department's web site or through a link on the department's web site; and

(c) Tribal child care facilities and early learning programs must provide notification to parents or guardians who apply for or have been admitted into their program that early achievers program rating level information is available and provide the parents or guardians with the program's early achievers program rating level upon request.

(14) The department shall consult with the early achievers review subcommittee on all substantial policy changes to the early achievers program.

(15) Nothing in this section changes the department's responsibility to collectively bargain over mandatory subjects or limits the legislature's authority to make programmatic modifications to licensed child care and early learning programs under RCW 41.56.028(4)(d).

**Sec. 3.** RCW 43.216.515 and 2015 3rd sp.s. c 7 s 9 are each amended to read as follows:

(1) Approved early childhood education and assistance programs shall receive state-funded support through the department. Public or private organizations(;) including, but not limited to, school districts, educational service districts, community and technical colleges, local governments, or nonprofit organizations, are eligible to participate as providers of the state early childhood education and assistance program.

(2) Funds obtained by providers through voluntary grants or contributions from individuals, agencies, corporations, or organizations may be used to expand or enhance preschool programs so long as program standards established by the department are maintained.

(3) Persons applying to conduct the early childhood education and assistance program shall identify targeted groups and the number of children to be served, program components, the qualifications of instructional and special staff, the source and amount of grants or contributions from sources other than state funds, facilities and equipment support, and transportation and personal care arrangements.

~~(4) ((Existing early childhood education and assistance program providers must complete the following requirements to be eligible to receive state funded support under the early childhood education and assistance program:~~

~~(a) Enroll in the early achievers program by October 1, 2015;~~

~~(b) Rate at a level 4 or 5 in the early achievers program by March 1, 2016. If an early childhood education and assistance program provider rates below a level 4 by March 1, 2016, the provider must complete remedial activities with the department, and rate at a level 4 or 5 within six months of beginning remedial activities.~~

~~(5) Effective October 1, 2015,)~~ A new early childhood education and assistance program provider must complete the requirements in this subsection (~~((5))~~) to be eligible to receive state-funded support under the early childhood education and assistance program:

(a) Enroll in the early achievers program within thirty days of the start date of the early childhood education and assistance program contract;

(b)(i) Except as provided in (b)(ii) of this subsection, rate at a level 4 or 5 in the early achievers program within ~~((twelve))~~ twenty-four months of enrollment. If an early childhood education and assistance program provider rates below a level 4 within ~~((twelve))~~ twenty-four months of enrollment, the provider must complete remedial activities with the department, and rate at a level 4 or 5 within six months of beginning remedial activities.

(ii) Licensed or certified child care centers and homes that administer an early childhood education and assistance program shall rate at a level 4 or 5 in the early achievers program within ~~((eighteen))~~ twenty-four months of the start date of the early childhood education and assistance program contract. If an early childhood education and assistance program provider rates below a level 4 within ~~((eighteen))~~ twenty-four months, the provider must complete remedial activities with the department, and rate at a level 4 or 5 within six months of beginning remedial activities.

~~((6))~~ (5)(a) If an early childhood education and assistance program provider has successfully completed all of the required early achievers program activities and is waiting to be rated by the deadline provided in this section, the provider may continue to participate in the early achievers program as an approved early childhood education

and assistance program provider and receive state subsidy pending the successful completion of a level 4 or 5 rating.

(b) To avoid disruption, the department may allow for early childhood education and assistance program providers who have rated below a level 4 after completion of the six-month remedial period to continue to provide services until the current school year is finished.

(6)(a) When an early childhood education and assistance program in good standing changes classroom locations to a comparable or improved space within the same facility, a rerating is not required outside of the regular rerating and renewal cycle.

(b) When an early childhood education and assistance program in good standing moves to a new facility, the provider must notify the department of the move within six months of changing locations in order to retain their existing rating. The early achievers program must conduct an observational visit to ensure the new classroom space is of comparable or improved environmental quality. If a provider fails to notify the department within six months of a move, the early achievers rating must be changed from the posted rated level to "Participating, Not Yet Rated" and the provider will cease to receive tiered reimbursement incentives until a new rating is completed.

(7) The department shall collect data periodically to determine the demand for full-day programming for early childhood education and assistance program providers. The department shall analyze this demand by geographic region and shall include the findings in the annual report required under RCW ~~((43.215.102))~~ 43.216.089.

(8) ~~((By December 1, 2015,))~~ The department shall develop ~~((a))~~ multiple pathways for licensed or certified child care centers and homes to administer an early childhood education and assistance program. The pathways shall include an accommodation for these providers to rate at a level 4 or 5 in the early achievers program according to the timelines and standards established in subsection ~~((5))~~ (4)(b)(ii) of this section. The department must consider using the intermediate level that is between level 3 and level 4 as described in RCW 43.216.085, incentives, and front-end funding in order to encourage providers to participate in the pathway.

**Sec. 4.** RCW 43.216.135 and 2018 c 52 s 6 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 Public Law 113-186, authorizations for the working connections child care subsidy shall be effective for twelve months beginning July 1, 2016, unless an earlier date is provided in the omnibus appropriations act.

(3) Existing child care providers serving nonschool-age children and receiving state subsidy payments must complete the following requirements to be eligible for a state subsidy under this section:

(a) Enroll in the early achievers program by August 1, 2016;

(b) Complete level 2 activities in the early achievers program by August 1, 2017; and

(c) Rate or request to be rated at a level 3 or higher in the early achievers program by December 31, 2019. If a child care provider ~~((rates below))~~ does not rate at or request to be rated at a level 3 by December 31, 2019, the provider is no longer eligible to receive state subsidy. If the provider rates below a level 3 when the rating is released, the provider must complete remedial activities with the department, and ~~((rate at))~~ must rate at or request to be rated at a level 3 or higher no later than ~~((June))~~ December 30, 2020.

(4) ~~((Effective July 1, 2016,))~~ A new child care provider serving nonschool-age children and receiving state subsidy payments must complete the following activities to be eligible to receive a state subsidy under this section:

(a) Enroll in the early achievers program within thirty days of receiving the initial state subsidy payment;

(b) Complete level 2 activities in the early achievers program within twelve months of enrollment; and

(c) Rate or request to be rated at a level 3 or higher in the early achievers program within thirty months of enrollment. If a child care provider ~~((rates below))~~ does not rate or request to be rated at a level 3 within thirty months from enrollment into the early achievers program, the provider is no longer eligible to receive state subsidy. If the provider rates below a level 3 when the rating is released, the provider must complete remedial activities with the department, and rate or request to be rated at a level 3 or higher within ~~((six))~~ twelve months of beginning remedial activities.

(5) If a child care provider does not rate or request to be rated at a level 3 or higher following the remedial period, the provider is no longer eligible to receive state subsidy under this section. If a child care provider does not rate at a level 3 or higher when the rating is released following the remedial period, the provider is no longer eligible to receive state subsidy under this section.

(6) If a child care provider serving nonschool-age children and receiving state subsidy payments has successfully completed all level 2 activities and is waiting to be rated by the deadline provided in this section, the provider may continue to receive a state subsidy pending the successful completion of the level 3 rating activity.

(7) The department shall implement tiered reimbursement for early achievers program participants in

the working connections child care program rating at level 3, 4, or 5.

(8) The department shall account for a child care copayment collected by the provider from the family for each contracted slot and establish the copayment fee by rule.

(9)(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 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. The department of social and health services' involvement with the family referred for working connections child care ends when the family's child protective services, child welfare services, or family assessment response case is closed.

**Sec. 5.** RCW 43.216.087 and 2015 3rd sp.s. c 7 s 5 are each amended to read as follows:

(1)(a) The department shall, in collaboration with tribal governments and community and statewide partners, implement a protocol to maximize and encourage participation in the early achievers program for culturally diverse and low-income center and family home child care providers. Amounts appropriated for the encouragement of culturally diverse and low-income center and family home child care provider participation shall be appropriated separately from the other funds appropriated for the department, are the only funds that may be used for the protocol, and may not be used for any other purposes. Funds appropriated for the protocol shall be considered an ongoing program for purposes of future departmental budget requests.

(b) ~~((During the first thirty months of implementation of the early achievers program))~~ The department shall prioritize the resources authorized in this section to assist providers ~~((rating at a level 2))~~ in the early achievers program to help them reach a ~~((level 3))~~ rating of level 3 or higher wherever access to subsidized care is at risk.

(2) The protocol should address barriers to early achievers program participation and include at a minimum the following:

(a) The creation of a substitute pool;

(b) The development of needs-based grants for providers ~~((at level 2))~~ in the early achievers program ~~((to assist with))~~ who demonstrate a need for assistance to improve program quality. Needs-based grants may be used for environmental improvements of early learning facilities; purchasing curriculum development, instructional materials, supplies, and equipment ((to improve program quality)); and focused infant-toddler improvements. Priority for the needs-based grants shall be given to culturally diverse and low-income providers;

(c) The development of materials and assessments in a timely manner, and to the extent feasible, in the provider and family home languages; and

(d) The development of flexibility in technical assistance and coaching structures to provide differentiated types and amounts of support to providers based on individual need and cultural context.

**NEW SECTION. Sec. 6.** (1) Subject to the availability of amounts appropriated for this specific purpose, the department of children, youth, and families must deliver a progress report to the governor and the legislature by July 1, 2020, and a final report by July 1, 2021, that includes:

(a) An analysis of consumer income and copay requirements in the working connections child care program and recommendations for mitigating the "cliff effect" for child care subsidy consumers. Recommendations must consider:

(i) How to further develop and implement a sliding scale or tiered reimbursement and phase-out model that works for both consumers and providers and provides incentives for quality child care across communities;

(ii) Whether or not increasing or decreasing the eligibility threshold for working connections child care would allow parents to grow professionally without losing affordable child care;

(iii) Whether further graduation of the copay scale would help alleviate the cliff that occurs at subsidy cutoff; and

(iv) Capping family child care expenses at seven percent of a family's income;

(b) Recommendations related to differential slot rates for the early childhood education and assistance program based on variable factors that may contribute to costs for providers when working to achieve positive child outcomes. When developing the recommendations, the department must:

(i) Consider, at a minimum, variations by geographic region, contractor type, child risk factors, and teacher credentials;

(ii) Evaluate advantages and disadvantages of linking early childhood education and assistance program rates and other child care subsidy rates; and

(iii) Review the department-designated subsidy regions and adjust regional boundaries as necessary to reflect regional economic conditions; and

(c) A plan for blending child care development funds and early childhood education and assistance program funds to provide extended day slots in the early childhood education and assistance program. The plan must include consideration of administrative efficiencies gained resulting from fully transferring the working connections child care program into the department.

(2) This section expires January 1, 2020.

**Sec. 7.** RCW 43.216.655 and 2015 3rd sp.s. c 7 s 13 are each amended to read as follows:

(1) The education data center established in RCW 43.41.400 must collect longitudinal, student-level data on all children attending an early childhood education and assistance program. Upon completion of an electronic time and attendance record system, the education data center must collect longitudinal, student-level data on all children attending a working connections child care program. Data collected should capture at a minimum the following characteristics:

- (a) Daily program attendance;
- (b) Identification of classroom and teacher;
- (c) Early achievers program quality level rating;
- (d) Program hours;
- (e) Program duration;
- (f) Developmental results from the Washington kindergarten inventory of developing skills in RCW 28A.655.080; and

(g) To the extent data is available, the distinct ethnic categories within racial subgroups of children and providers that align with categories recognized by the education data center.

(2) The department shall provide early learning providers student-level data collected pursuant to this section that are specific to the early learning provider's program. Upon completion of an electronic time and attendance record system identified in subsection (1) of this section, the department shall provide child care providers student-level data that are specific to the child care provider's program.

(3)~~((+))~~) The department shall review available research and best practices literature on cultural competency in early learning settings. The department shall review the K-12 components for cultural competency developed by the professional educator standards board and identify components appropriate for early learning professional development.

~~((b) By July 31, 2016, the department shall provide recommendations to the appropriate committees of the legislature and the early learning advisory council on research based cultural competency standards for early learning professional training.))~~

(4)(a) The Washington state institute for public policy shall conduct a longitudinal analysis examining relationships between the early achievers program quality ratings levels and outcomes for children participating in subsidized early care and education programs.

(b) The institute shall submit the first report to the appropriate committees of the legislature and the early learning advisory council by December 31, 2019. The institute shall submit subsequent reports annually to the appropriate committees of the legislature and the early learning advisory council by December 31st, with the final report due December 31, 2022. The final report shall include a cost-benefit analysis.

~~(5)((a) By December 1, 2015, the department shall provide recommendations to the appropriate committees of the legislature on child attendance policies pertaining to the working connections child care program and the early childhood education and assistance program. The recommendations shall include the following:~~

~~(i) Allowable periods of child absences;~~

~~(ii) Required contact with parents or caregivers to discuss child absences and encourage regular program attendance; and~~

~~(iii) A de-enrollment procedure when allowable child absences are exceeded.~~

~~(b) The department shall develop recommendations on child absences and attendance within the department's appropriations.))~~ By December 31, 2021, and subject to the availability of amounts appropriated for this specific purpose, the Washington state institute for public policy shall update the outcome evaluation of the early childhood education and assistance program required by chapter 16, Laws of 2013 and report to the governor and the legislature on the outcomes of program participants. The evaluation must include the demographics of program participants including race, ethnicity, and socioeconomic status. The evaluation must examine short and long-term impacts on program participants, including high school graduation rates for up to two cohorts. When conducting the evaluation, the institute must consider, to the extent that data is available, the education levels and demographics, including race, ethnicity, and socioeconomic status, of early childhood education and assistance program staff and the effects of full-day programming and half-day programming on outcomes.

**NEW SECTION. Sec. 8.** A new section is added to chapter 43.216 RCW to read as follows:

The department must adopt administrative policies in the early achievers program, within the department's appropriations, to:

(1) Consider child care provider schedules and needs and allow flexibility when scheduling data collection and rating visits at a facility;

(2) Prioritize reratings for providers rated at a level 2;

(3) Prioritize reratings for providers rated at a level 3 who are seeking to become early childhood education and assistance program providers; and

(4) Provide continuous and robust post-rating feedback to providers.

**NEW SECTION. Sec. 9.** A new section is added to chapter 43.216 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the department must adopt administrative policies in the early achievers program to:

(1) Eliminate rating scale barriers, to the extent possible, within the assessment tools and data collection methodologies used in the early achievers program and weight early achievers points to incentivize providers to serve infants and toddlers;

(2) Remove barriers to timely approvals for one-on-one behavioral support assistants when requested by a provider; and

(3) Require trauma-informed care training for raters and coaches.

**NEW SECTION. Sec. 10.** (1) By December 1, 2019, and subject to the availability of amounts appropriated for this specific purpose, the department of children, youth, and families must submit to the governor and the legislature a plan to pay providers an enhanced rate, award additional early achievers points, and create a corresponding trauma-informed care designation for providers serving behaviorally challenged children.

(2) This section expires December 30, 2019.

**NEW SECTION. Sec. 11.** (1) By December 1, 2019, and within the department of children, youth, and families' appropriations, the department of children, youth, and families must evaluate options and propose recommendations to the governor and legislature related to paying child care subsidy providers a set monthly rate rather than a daily rate.

(2) This section expires December 30, 2019.

**NEW SECTION. Sec. 12.** A new section is added to chapter 43.216 RCW to read as follows:

(1) The cost of child care regulations work group is established to study: (a) The financial impacts of department licensing regulations on child care businesses and benefits of these regulations; (b) direct and indirect financial costs to child care providers that are associated with participation in

the early achievers quality rating system; and (c) benefits to providers associated with participation in the early achievers quality rating system. The work group must review available health, safety, and education outcome data for children and families engaged in early achievers programs when analyzing the costs and benefits associated with provider participation in the early achievers quality rating system. The work group must include an analysis of costs associated with licensing and early achievers requirements that may have a disproportionate economic impact on child care businesses located in rural areas of the state.

(2)(a) The secretary of the department or his or her designee shall convene the first meeting of the work group by August 1, 2019. The work group must meet at least six times between August 1, 2019, and January 31, 2020, and must convene at least two meetings of those meetings in locations east of the crest of the Cascade mountains.

(b) The work group must consist of the following twelve voting members:

(i) Three licensed family home child care providers selected by a statewide organization representing the interests of family child care providers. At least one family home child care provider must provide child care for children of agricultural workers, speak Spanish as a first language, or be located east of the crest of the Cascade mountains;

(ii) Three licensed child care center providers selected by a statewide organization representing the interests of licensed child care centers. At least one child care center provider must provide child care for children of agricultural workers, speak Spanish as a first language, or be located east of the crest of the Cascade mountains;

(iii) Two foster parents selected by a statewide organization solely focused on supporting foster parents. At least one foster parent must reside east of the crest of the Cascade mountains; and

(iv) Four legislators, consisting of two members of the house of representatives and two members of the senate. The speaker of the house of representatives shall appoint one member to the work group from each of the two largest caucuses in the house of representatives. The president of the senate shall appoint one member to the work group from each of the two largest caucuses in the senate.

(3) The work group shall elect its co-chairs, one from among the legislative members and one from among the citizen members.

(4) The work group may seek input or collaborate with other parties as it deems necessary. The work group may contract with additional persons who have specific technical expertise if such expertise is necessary to carry out the mandates of the study. The work group may enter into such a contract only if an appropriation is specifically provided for this purpose.

(5) Legislative members of the work group are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members must be reimbursed for travel expenses according to chapter 43.03 RCW.

(6) Staff support for the work group shall be provided by the department.

(7) By May 31, 2020, the work group must submit its findings and recommendations to the governor and the appropriate committees of the legislature.

(8) This section expires July 1, 2020.

**Sec. 13.** RCW 43.216.089 and 2015 3rd sp.s. c 7 s 18 are each amended to read as follows:

(1) Beginning December 15, 2015, and each December 15th thereafter, the department, in collaboration with the statewide child care resource and referral organization, and the early achievers review subcommittee of the early learning advisory council, shall submit, in compliance with RCW 43.01.036, a progress report to the governor and the legislature regarding providers' progress in the early achievers program. Each progress report must include the following elements:

(a) The number, and relative percentage, of family child care and center providers who have enrolled in the early achievers program and who have:

(i) Completed the level 2 activities;

(ii) Completed rating readiness consultation and are waiting to be rated;

(iii) Achieved the required rating level to remain eligible for state-funded support under the early childhood education and assistance program or a subsidy under the working connections child care program;

(iv) Not achieved the required rating level initially but qualified for and are working through intensive targeted support in preparation for a partial rerate outside the standard rating cycle;

(v) Not achieved the required rating level initially and engaged in remedial activities before successfully achieving the required rating level;

(vi) Not achieved the required rating level after completing remedial activities; or

(vii) Received an extension from the department based on exceptional circumstances pursuant to RCW ((43.215.100)) 43.216.085;

(b) A review of the services available to providers and children from diverse cultural backgrounds;

(c) An examination of the effectiveness of efforts to increase successful participation by providers serving children and families from diverse cultural and linguistic backgrounds and providers who serve children from low-income households;

(d) A description of the primary obstacles and challenges faced by providers who have not achieved the required rating level to remain eligible to receive:

(i) A subsidy under the working connections child care program; or

(ii) State-funded support under the early childhood education and assistance program;

(e) A summary of the types of exceptional circumstances for which the department has granted an extension pursuant to RCW ((43.215.100)) 43.216.085;

(f) The average amount of time required for providers to achieve local level milestones within each level of the early achievers program;

(g) To the extent data is available, an analysis of the distribution of early achievers program-rated facilities in relation to child and provider demographics, including but not limited to race and ethnicity, home language, and geographical location;

(h) Recommendations for improving access for children from diverse cultural backgrounds to providers rated at a level 3 or higher in the early achievers program;

(i) Recommendations for improving the early achievers program standards;

(j) An analysis of any impact from quality strengthening efforts on the availability and quality of infant and toddler care;

(k) The number of contracted slots that use both early childhood education and assistance program funding and working connections child care program funding; and

(l) A description of the early childhood education and assistance program implementation to include the following:

(i) Progress on early childhood education and assistance program implementation as required pursuant to RCW ((43.215.415, 43.215.425, and 43.215.455)) 43.216.515, 43.216.525, and 43.216.555;

(ii) An examination of the regional distribution of new preschool programming by zip code;

(iii) An analysis of the impact of preschool expansion on low-income neighborhoods and communities;

(iv) Recommendations to address any identified barriers to access to quality preschool for children living in low-income neighborhoods;

(v) An analysis of any impact of extended day early care and education opportunities directives;

(vi) An examination of any identified barriers for providers to offer extended day early care and education opportunities;

(vii) An analysis of the demand for full-day programming for early childhood education and assistance program providers required under RCW ((43.215.415)) 43.216.515; and

(viii) To the extent data is available, an analysis of the cultural diversity of early childhood education and assistance program providers and participants.

(2) The first annual report due under subsection (1) of this section also shall include a description of the early

achievers program extension protocol required under RCW ((43.215.100)) 43.216.085.

(3) The elements required to be reported under subsection (1)(a) of this section must be reported at the county level, and for those counties with a population of five hundred thousand and higher, the data must be reported at the zip code level.

(4) If, based on information in an annual report submitted in 2018 or later under this section, fifteen percent or more of the licensed or contracted providers who are participating in the early achievers program in a county or in a single zip code have not achieved the rating levels under RCW ((43.215.135)) 43.216.135 and ((43.215.415)) 43.216.515, the department must:

(a) Analyze the reasons providers in the affected counties or zip codes have not attained the required rating levels; and

(b) Develop a plan to mitigate the effect on the children and families served by these providers. The plan must be submitted to the legislature as part of the annual progress report along with any recommendations for legislative action to address the needs of the providers and the children and families they serve.

**Sec. 14.** RCW 43.216.100 and 2016 c 72 s 701 are each amended to read as follows:

The department, in collaboration with the office of the superintendent of public instruction, shall create a community information and involvement plan to inform home-based, tribal, and family early learning providers of the early achievers program under RCW ((43.215.100)) 43.216.085.

**NEW SECTION. Sec. 15.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, line 3 of the title, after "program;" strike the remainder of the title and insert "amending RCW 43.216.085, 43.216.515, 43.216.135, 43.216.087, 43.216.655, 43.216.089, and 43.216.100; adding new sections to chapter 43.216 RCW; creating new sections; and providing expiration dates."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1391 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL

#### AS SENATE AMENDED

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1391, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1391, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 93; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representative Kraft.

Excused: Representatives Appleton, Graham, Kirby and Steele.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1391, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 13, 2019

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1424 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 28A.230.010 and 2018 c 177 s 302 are each amended to read as follows:

(1) School district boards of directors shall identify and offer courses with content that meet or exceed: (a) The basic education skills identified in RCW 28A.150.210; (b) the graduation requirements under RCW 28A.230.090; (c) the courses required to meet the minimum college entrance requirements under RCW 28A.230.130; and (d) the course options for career development under RCW 28A.230.130.

Such courses may be applied or theoretical, academic, or vocational.

(2) Until September 1, 2021, school district boards of directors must provide high school students with the opportunity to access at least one career and technical education course that is considered ~~((equivalent to a mathematics course or at least one career and technical education course that is considered equivalent to a science course))~~ a statewide equivalency course as determined by the office of the superintendent of public instruction ~~((in))~~ under RCW 28A.700.070.

(3) On and after September 1, 2021, any statewide equivalency course offered by a school district or accessed at a skill center must be offered for academic credit.

(4) Students may access ((such)) statewide equivalency courses at high schools, interdistrict cooperatives, skill centers or branch or satellite skill centers, or through online learning or applicable running start vocational courses.

~~(((3)(a) Until January 1, 2019, school district boards of directors of school districts with fewer than two thousand students may apply to the state board of education for a waiver from the provisions of subsection (2) of this section.~~

~~(b))~~ (5) On and after January 1, 2019, school district boards of directors of school districts with fewer than two thousand students may apply to the superintendent of public instruction for a waiver from the provisions of subsections (2) and (3) of this section under RCW 28A.230.015.

**Sec. 2.** RCW 28A.230.097 and 2018 c 177 s 301 and 2018 c 73 s 1 are each reenacted and amended to read as follows:

(1) Each high school or school district board of directors shall adopt course equivalencies for career and technical high school courses offered to students in high schools and skill centers. A career and technical course equivalency may be for whole or partial credit. Each school district board of directors shall develop a course equivalency approval procedure. Boards of directors must approve AP computer science courses as equivalent to high school mathematics or science, and must denote on a student's transcript that AP computer science qualifies as a math-based quantitative course for students who take the course in their senior year. ~~((Beginning no later than the 2015-16 school year))~~

(2) Until September 1, 2021, a school district board of directors must, at a minimum, grant academic course equivalency ~~((in mathematics or science for a))~~ for at least one statewide equivalency high school career and technical course from the list of courses approved by the superintendent of public instruction under RCW 28A.700.070 ~~((, but is not limited to the courses on the list)).~~

(3)(a) If the list of courses is revised after the 2015-16 school year, the school district board of directors must grant academic course equivalency based on the revised list beginning with the school year immediately following the revision.

~~(((2)))~~ (b) Each high school or school district board of directors may additionally adopt local course equivalencies for career and technical education courses that are not on the list of courses approved by the superintendent of public instruction under RCW 28A.700.070 as local equivalency courses in support of RCW 28A.700.070.

(4) On and after September 1, 2021, any statewide equivalency course offered by a school district or accessed at a skill center must be offered for academic credit.

(5) Career and technical courses determined to be equivalent to academic core courses, in full or in part, by the high school or school district shall be accepted as meeting core requirements, including graduation requirements, if the courses are recorded on the student's transcript using the equivalent academic high school department designation and title. Full or partial credit shall be recorded as appropriate. The high school or school district shall also issue and keep record of course completion certificates that demonstrate that the career and technical courses were successfully completed as needed for industry certification, college credit, or preapprenticeship, as applicable. The certificate shall be part of the student's high school and beyond plan. The office of the superintendent of public instruction shall develop and make available electronic samples of certificates of course completion.

**NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "equivalencies;" strike the remainder of the title and insert "amending RCW 28A.230.010; reenacting and amending RCW 28A.230.097; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1424 and advanced the bill as amended by the Senate to final passage.

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

Representatives Santos and Rude spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1424, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1424, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Calder, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SECOND SUBSTITUTE HOUSE BILL NO. 1424, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 10, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1428 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** 2000 c 213 s 1 (uncodified) is amended to read as follows:

(1) Consumer disclosure ensures that retail electric consumers purchasing electric energy receive basic information about the characteristics associated with their electric product in a form that facilitates consumer understanding of retail electric energy service and the development of new products responsive to consumer preferences.

(2) The legislature finds and declares that there is a need for reliable, accurate, and timely information regarding fuel source(s) that is consistently collected, for all electricity products offered for retail sale in Washington.

(3) The desirability and feasibility of such disclosure has been clearly established in nutrition labeling, uniform food pricing, truth-in-lending, and other consumer information programs.

(4) The legislature intends to establish a consumer disclosure standard under which retail suppliers in Washington disclose information on the fuel mix of the electricity products they sell. Fundamental to disclosure is a

label that promotes consistency in content and format, that is accurate, reliable, and simple to understand, and that allows verification of the accuracy of information reported.

(5) To ensure that consumer information is verifiable and accurate, certain characteristics of electricity generation must be tracked and compared with information provided to consumers.

(6) The legislature recognizes that the generation, transmission, and delivery of electricity occurs through a complex network of interconnected facilities and contractual arrangements. As a result, the legislature intends that the fuel characteristics disclosed under this chapter represent reasonable approximations that are suitable only for informational or disclosure purposes.

(7) The disclosures required by this chapter reflect the characteristics of electricity products offered by retail suppliers to customers. Nothing in this chapter prohibits a retail supplier from communicating to its customers, owners, taxpayers, or the general public information regarding its investment in or ownership of renewable or nonrenewable generating facilities, its production of electricity, or its wholesale market activities, as long as the information is provided separately from the electricity product content label.

**Sec. 2.** RCW 19.29A.010 and 2015 c 285 s 1 are each reenacted and amended to read as follows:

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

(1) "Biomass generation" ~~((means electricity derived from burning solid organic fuels from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic))~~ has the same meaning as "biomass energy" defined in RCW 19.285.030.

(2) "Bonneville power administration system mix" means a generation mix sold by the Bonneville power administration that is net of any resource specific sales ~~((and that is net of any electricity sold to direct service industrial customers, as defined in section 3(8) of the Pacific Northwest electric power planning and conservation act (16 U.S.C. Sec. 839(a)(8)))).~~

(3) ~~("Coal generation" means the electricity produced by a generating facility that burns coal as the primary fuel source.~~

~~(4))~~ "Commission" means the utilities and transportation commission.

~~((5))~~ (4) "Conservation" means an increase in efficiency in the use of energy use that yields a decrease in energy consumption while providing the same or higher levels of service. Conservation includes low-income weatherization programs.

~~((6))~~ (5) "Consumer-owned utility" means a municipal electric utility formed under Title 35 RCW, a

public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual corporation or association formed under chapter 24.06 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

~~((7))~~ (6) "Declared resource" means an electricity source specifically identified by a retail supplier to serve retail electric customers. A declared resource includes a stated quantity of electricity tied directly to a specified generation facility or set of facilities either through ownership or contract purchase, or a contractual right to a stated quantity of electricity from a specified generation facility or set of facilities.

~~((8))~~ (7) "Department" means the department of commerce.

~~((9))~~ (8) "Electric meters in service" means those meters that record in at least nine of twelve calendar months in any calendar year not less than two hundred fifty kilowatt-hours per month.

~~((10))~~ (9) "Electric utility" means a consumer-owned or investor-owned utility as defined in this section.

~~((11))~~ (10) "Electricity" means electric energy measured in kilowatt-hours, or electric capacity measured in kilowatts, or both.

~~((12))~~ "Electricity information coordinator" means the organization selected by the department under RCW 19.29A.080 to: (a) Compile generation data in the Northwest power pool by generating project and by resource category; (b) compare the quantity of electricity from declared resources reported by retail suppliers with available generation from such resources; (c) calculate the net system power mix; and (d) coordinate with other comparable organizations in the western interconnection.

~~((13))~~ (11) "Electricity product" means the electrical energy produced by a generating facility or facilities that a retail supplier sells or offers to sell to retail electric customers in the state of Washington, provided that nothing in this title shall be construed to mean that electricity is a good or product for the purposes of Title 62A RCW, or any other purpose. It does not include electrical energy generated on-site at a retail electric customer's premises.

~~((14))~~ (12) "Electricity product content label" means information presented in a uniform format by a retail supplier to its retail customers and disclosing the information required in RCW 19.29A.060 about the characteristics of an electricity product.

(13) "Fuel attribute" means the characteristic of electricity determined by the fuel used in the generation of that electricity. For a renewable resource, the fuel attribute is included in its nonpower attributes.

(14) "Fuel mix" means the ~~((actual or imputed))~~ sources of electricity sold to retail electric customers, expressed in terms of percentage contribution by resource

category. The total fuel mix included in each disclosure shall total one hundred percent.

~~(15)~~ ("Geothermal generation" means electricity derived from thermal energy naturally produced within the earth.

~~((16))~~ "Governing body" means the council of a city or town, the commissioners of an irrigation district, municipal electric utility, or public utility district, or the board of directors of an electric cooperative or mutual association that has the authority to set and approve rates.

~~((17))~~ "High efficiency cogeneration" means electricity produced by equipment, such as heat or steam used for industrial, commercial, heating, or cooling purposes, that meets the federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978.

~~(18)~~ "Hydroelectric generation" means a power source created when water flows from a higher elevation to a lower elevation and the flow is converted to electricity in one or more generators at a single facility.

~~((19))~~ (16) "Investor-owned utility" means a company owned by investors that meets the definition of RCW 80.04.010 and is engaged in distributing electricity to ~~((more than))~~ one or more retail electric customers in the state.

~~((20))~~ "Landfill gas generation" means electricity produced by a generating facility that uses waste gases produced by the decomposition of organic materials in landfills.

~~(21)~~ "Natural gas generation" means electricity produced by a generating facility that burns natural gas as the primary fuel source.

~~((22))~~ "Net system power mix" means the fuel mix in the Northwest power pool, net of: (a) Any declared resources in the Northwest power pool identified by in state retail suppliers or out-of-state entities that offer electricity for sale to retail electric customers; (b) any electricity sold by the Bonneville power administration to direct service industrial customers; and (c) any resource specific sales made by the Bonneville power administration.

~~((23))~~ "Northwest power pool" means the generating resources included in the United States portion of the Northwest power pool area as defined by the western systems coordinating council.

~~((24))~~ "Oil generation" means electricity produced by a generating facility that burns oil as the primary fuel source.

~~((25))~~ (17) "Nonpower attributes" has the same meaning as defined in RCW 19.285.030.

(18) "Private customer information" includes a retail electric customer's name, address, telephone number, and other personally identifying information.

~~((26))~~ (19) "Proprietary customer information" means: (a) Information that relates to the source, technical configuration, destination, and amount of electricity used by a retail electric customer, a retail electric customer's payment

history, and household data that is made available by the customer solely by virtue of the utility-customer relationship; and (b) information contained in a retail electric customer's bill.

~~((27))~~ (20) "Renewable energy certificate" means a tradable certificate of proof of one megawatt-hour of electricity from a renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy certificate tracking system specified by the department.

~~(21) "Renewable resource((s))" ((means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; or (f) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic)) has the same meaning as defined in RCW 19.285.030.~~

~~((28))~~ (22) "Resale" means the purchase and subsequent sale of electricity for profit, but does not include the purchase and the subsequent sale of electricity at the same rate at which the electricity was purchased.

~~((29))~~ (23) "Retail electric customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

~~((30))~~ (24) "Retail supplier" means an electric utility that offers an electricity product for sale to retail electric customers in the state.

~~((31))~~ (25) "Small utility" means any consumer-owned utility with twenty-five thousand or fewer electric meters in service, or that has an average of seven or fewer customers per mile of distribution line.

~~((32) "Solar generation" means electricity derived from radiation from the sun that is directly or indirectly converted to electrical energy.~~

~~(33))~~ (26) "Source and disposition report" means the report required in section 5 of this act.

(27) "State" means the state of Washington.

~~((34) "Waste incineration generation" means electricity derived from burning solid or liquid wastes from businesses, households, municipalities, or waste treatment operations.~~

~~(35) "Wind generation" means electricity created by movement of air that is converted to electrical energy.)~~

(28) "Unspecified source" means an electricity source for which the fuel attribute is unknown or has been separated from the energy.

**Sec. 3.** RCW 19.29A.050 and 2000 c 213 s 3 are each amended to read as follows:

(1) ~~(Beginning in 2001,)~~ Each retail supplier shall provide to its existing and new retail electric customers its

annual fuel mix information by generation category as required in RCW 19.29A.060.

(2) Disclosures required under subsection (1) of this section shall be provided through ~~((a disclosure))~~ an electricity product content label presented in a ((standardized)) uniform format ((as required in RCW 19.29A.060(7))).

(3) Except as provided in subsection ~~((5))~~ (4) of this section, each retail supplier shall provide the ~~((disclosure))~~ electricity product content label:

(a) To each ~~((of its))~~ new retail electric customers at the time service is established;

(b) To ~~((all of its))~~ each existing retail electric customer~~((s))~~, ~~((as a bill insert or other))~~ delivered with the customer's billing statement or as a separately mailed publication, not less than ((semiannually)) annually; ((and))

(c) On the retail supplier's publicly accessible web site; and

(d) As part of any marketing material, in electronic, paper, written, or other media format, that is used primarily to promote the sale of any specific electricity product being advertised, contracted for, or offered for sale to current or prospective retail electric customers. For the purposes of this subsection, an electric product does not include conservation programs, equipment or materials, or equipment or materials related to transportation electrification.

~~(4) ((In addition to the disclosure requirements under subsection (3) of this section, each retail supplier shall provide to each electric customer it serves, at least two additional times per year, a publication that contains either:~~

~~(a) The disclosure label;~~

~~(b) A customer service phone number to request a disclosure label; or~~

~~(c) A reference to an electronic form of the disclosure label.~~

~~(5) Small utilities and mutual light and power companies shall provide the disclosure label not less than annually through a publication that is distributed to all their retail electric customers, and have disclosure label information available in their main business office)) Each small utility and mutual light and power company shall provide the electricity product content label not less than annually through a publication that is distributed to all its retail electric customers, publicly display the electricity product content label at its main business office, and provide the electricity product content label on its publicly accessible web site. If a small utility or mutual company engages in marketing a specific electric product new to that utility it shall provide the ((disclosure)) electricity product content label described in subsection (3)((c)) (d) of this section.~~

**Sec. 4.** RCW 19.29A.060 and 2000 c 213 s 4 are each amended to read as follows:

(1) Each retail supplier ~~((shall disclose the fuel mix of each electricity product it offers to retail electric customers as follows:~~

~~(a) For an electricity product comprised entirely of declared resources, a retail supplier shall disclose the fuel mix for the electricity product based on the quantity of electric generation from those declared resources for the previous calendar year and any adjustment, if taken, available under subsection (6) of this section.~~

~~(b) For an electricity product comprised of no declared resources, a retail supplier shall report the fuel mix for the electricity product as the fuel mix of net system power for the previous calendar year, as determined by the electricity information coordinator under RCW 19.29A.080.~~

~~(c) For an electricity product comprised of a combination of declared resources and the net system power, a retail supplier shall disclose the fuel mix for the electricity product as a weighted average of the megawatt hours from declared resources and the megawatt hours from the net system power mix for the previous calendar year according to the proportion of declared resources and net system power contained in the electricity product)) must disclose to its customers the fuel characteristics of each electricity product it offers to retail electric customers using information consistent with the retail supplier's source and disposition report.~~

(2) The fuel characteristics disclosures required by this section ~~((shall))~~ must identify for each electricity product the percentage of the total electricity product sold by a retail supplier during the previous calendar year from each of the following categories, using a uniform format:

- ~~(a) Coal ((generation));~~
- ~~(b) Hydroelectric ((generation));~~
- ~~(c) Natural gas ((generation));~~
- ~~(d) Nuclear ((generation)); ((and))~~
- ~~(e) Petroleum;~~
- ~~(f) Solar;~~
- ~~(g) Wind;~~

~~(h) Other generation, except that when a component of the other generation category meets or exceeds two percent of the total electricity product sold by a retail supplier during the previous calendar year, the retail supplier shall identify the component or components and display the fuel mix percentages for these component sources((which may include, but are not limited to: (i) Biomass generation; (ii) geothermal generation; (iii) landfill gas generation; (iv) oil generation; (v) solar generation; (vi) waste incineration; or (vii) wind generation)). A retail supplier may voluntarily identify any component or components within the other generation category that comprises two percent or less of annual sales; and~~

- ~~(i) Unspecified sources.~~

~~(3) ((Retail suppliers may separately report a subcategory of natural gas generation to identify high efficiency cogeneration.~~

~~(4) Except as provided in subsection (3) of this section,)) If the percentage amount of unspecified sources identified in subsection (2) of this section exceeds two percent for an electricity product, the retail supplier must include on the label a general description of unspecified sources and an explanation of why some power sources are unknown to the retail supplier.~~

~~(4) A retail supplier ((cannot)) may not include in the ~~((disclosure))~~ electricity product content label any environmental quality or environmental impact qualifier, other than those permitted or required by this chapter, related to any of the generation categories disclosed.~~

(5) For the portion of an electricity product purchased from the Bonneville power administration, a retail supplier(s) may ~~((disclose))~~ incorporate the Bonneville power administration system mix in its disclosure.

~~(6) ((A retail supplier may adjust its reported fuel mix for known changes in its declared resources for the current year based on any changes in its sources of electricity supply from either generation or contracts. If a retail supplier changes its fuel mix during a calendar year, it shall report those changes to the electricity information coordinator.~~

~~(7) Disclosure of the fuel mix information required in this section shall be made in the following uniform format: A tabular format with two columns, where the first column shall alphabetically list each category and the second column shall display the corresponding percentage of the total that each category represents. The percentage shall be reported as a numeric value rounded to the nearest one percent. The percentages listed for the categories identified must sum to one hundred percent with the table displaying such a total.)) A retail supplier may include with the electricity product content label additional information concerning the quantity of renewable energy certificates, if not otherwise included in the retail supplier's declared resources, that are retired for compliance with RCW 19.285.040(2) in the reporting year.~~

NEW SECTION. Sec. 5. (1) Each retail supplier must report to the department each year, based on actual and verified activity in the prior year, the following information on its sources and uses of electricity in Washington:

(a) Electricity delivered to retail electric customers;

(b) Purchases or receipts of electricity from declared resources used to serve retail electric customers, by generating facility and fuel type; and

(c) Purchases or receipts of electricity from unspecified sources used to serve retail electric customers.

(2) The following requirements and limitations apply to the reporting of declared resources:

(a) A retail supplier must report an electricity purchase or receipt as a declared resource if the retail supplier was the direct or indirect owner of the generating

facility or acquired the electricity in a transaction, supported by an auditable contract trail, in which the buyer and seller specified the source or set of sources of the electricity.

(b) A retail supplier may assign declared resources and unspecified resources to its retail service for purposes of this section using reasonable methods consistent with its business practices. A retail supplier must identify any change in method from the prior year in its report to the department.

(c) A retail supplier may not report a declared resource as a renewable resource if there exists a renewable energy certificate or other instrument representing the nonpower attributes of the electricity and the retail supplier does not own the renewable energy certificate or instrument.

(d) For an electricity product that is an optional product complying with RCW 19.29A.090, a retail supplier may report as a declared resource any combination of renewable energy certificates and electricity that meets the requirements of RCW 19.29A.090.

(3) Each retail supplier must report as an unspecified source any electricity source that was acquired in a transaction where the fuel attribute was not specified by the seller or provider or was not included in the transaction.

(4) A retail supplier that offers more than one electricity product must report the required source information separately for each product. Individual retail customer rate schedules do not constitute separate electricity products unless electricity sources are different.

(5) Each retail supplier must report the information required by this section as annual totals in megawatt-hours.

(6) The department must determine fuel mix percentages for each retail supplier based on the information provided in source and disposition reports. Each retail supplier's fuel mix percentages must reflect, to the extent possible, the declared resources reported by that retail supplier.

NEW SECTION. Sec. 6. (1) Any renewable energy certificate included in the source and disposition report must be created and retired within the certificate tracking system approved by the department and must represent renewable generation of a generating facility located in the region of the tracking system.

(2) A renewable energy certificate retired for any of the following purposes may not be included in the source and disposition report:

(a) Voluntary renewable energy programs, except where the electricity product is an optional product complying with RCW 19.29A.090;

(b) Compliance obligations not related to the provision of electricity service to retail customers in Washington; and

(c) Any other purpose established by rule by the department.

(3) A retail supplier must retire any renewable energy certificates included in its source and disposition report within one year after submitting its report.

NEW SECTION. Sec. 7. The department must develop and publish an estimate of the fuel characteristics of the generation sources reasonably available to serve Washington customers and not included as a declared resource of any retail supplier. The department may include or exclude any electricity source as it deems reasonable to accurately represent the characteristics of residual electricity supplies used by retail suppliers in Washington. The department must make available documentation of the inputs and calculations used in making the estimate.

Sec. 8. RCW 19.29A.080 and 2000 c 213 s 6 are each amended to read as follows:

(1) ~~((For the purpose of selecting the electricity information coordinator, the department shall form a work group of interested parties. The department shall invite interested parties, including, but not limited to, representatives from investor owned utilities, consumer owned utilities, the commission, the attorney general's office, consumer advocacy groups, and the environmental community to participate in the work group. In the event an appropriate regional entity is not selected by November 1, 2000, the department shall serve as the electricity information coordinator after notifying the committees of the senate and house of representatives with jurisdiction over energy matters))~~ The department may adopt administrative rules under chapter 34.05 RCW to implement the provisions of this chapter.

(2) The department may receive any lawful gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the department in implementing this section, and may spend such gifts, grants, or endowments for the purposes of implementing this section.

(3) ~~((As a condition for an appropriate regional entity to be selected under this section to serve as the electricity information coordinator, it must agree to compile the following information:~~

~~(a) Actual generation by fuel mix in the Northwest power pool for the prior calendar year, expressed in megawatt hours. This data will be compiled as it becomes available.~~

~~(b) Adjustments to the actual generation for the prior calendar year that are known and provided to the electricity information coordinator by the end of January of the current calendar year to reflect known changes in declared resources for the current year and changes due to interconnection of new generating resources or decommissioning or sale of existing resources or contracts. These adjustments shall include supporting documentation.~~

~~(c) The amount of electricity from declared resources that retail suppliers will identify in their fuel mix disclosures during the current calendar year. Retail suppliers~~

~~shall make this data available by the end of January each year.) The department must regularly seek input from retail providers, consumers, environmental advocates, the Bonneville power administration, other state disclosure programs, and other stakeholders regarding potential improvements to the disclosure program established by this act.~~

~~(4) ((Retail suppliers shall make available)) Each retail supplier must make available to the department upon request the following information to support the ownership or contractual rights to declared resources:~~

~~(a) Documentation of ownership of declared resources by retail suppliers; or~~

~~(b) Documentation of contractual rights by retail suppliers to a stated quantity of electricity from a specific generating facility.~~

~~((If the documentation referred to in either (a) or (b) of this subsection is not available, the retail supplier may not identify the electricity source as a declared resource and instead must report the net system power mix for the quantity of electric generation from that resource.~~

~~(5) If the documentation referred to in either subsection (4)(a) or (b) of this section is not available, the retail supplier may not identify the electricity source as a declared resource and instead must report the net system power mix for the quantity of electric generation from that resource.~~

~~(6) As a condition for an appropriate regional entity to be selected under this section to serve as the electricity information coordinator, it must agree to:~~

~~(a) Coordinate with comparable entities or organizations in the western interconnection;~~

~~(b) On or before May 1st of each year, or as soon thereafter as practicable once the data in subsection (3)(a) of this section is available, calculate and make available the net system power mix as follows:~~

~~(i) The actual Northwest power pool generation for the prior calendar year;~~

~~(ii) Plus any adjustments to the Northwest power pool generation as made available to the electricity information coordinator by the end of January of the current calendar year pursuant to RCW 19.29A.060(6);~~

~~(iii) Less the quantity of electricity associated with declared resources claimed by retail suppliers for the current calendar year;~~

~~(iv) Plus other adjustments necessary to ensure that the same resource output is not declared more than once;~~

~~(e) To the extent the information is available, verify that the quantity of electricity associated with the declared resources does not exceed the available generation from those resources.~~

~~(7) Subsections (3) and (6) of this section apply to the department in the event the department assumes the functions of the electricity information coordinator.)~~

NEW SECTION. Sec. 9. Sections 1 and 5 through 7 of this act are each added to chapter 19.29A RCW.

NEW SECTION. Sec. 10. RCW 19.29A.070 (Actions required of department—Convene work group—Report to legislature) and 2000 c 213 s 5 are each repealed."

On page 1, line 2 of the title, after "products;" strike the remainder of the title and insert "amending RCW 19.29A.050, 19.29A.060, and 19.29A.080; amending 2000 c 213 s 1 (uncodified); reenacting and amending RCW 19.29A.010; adding new sections to chapter 19.29A RCW; and repealing RCW 19.29A.070."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1428 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1428, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1428, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1428, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 15, 2019

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1444 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 19.260.010 and 2005 c 298 s 1 are each amended to read as follows:

The legislature finds that appliance standards and design requirements:

~~((1))~~ ~~((According to estimates of the department of community, trade, and economic development, the efficiency standards set forth in chapter 298, Laws of 2005 will save nine hundred thousand megawatt hours of electricity, thirteen million therms of natural gas, and one billion seven hundred million gallons of water in the year 2020, fourteen years after the standards have become effective, with a total net present value to buyers of four hundred ninety million dollars in 2020.~~

~~((2))~~ ~~Efficiency standards))~~ (2) Save energy and reduce pollution and other environmental impacts associated with the production, distribution, and use of electricity and natural gas.

~~((3))~~ ~~Efficiency standards))~~ (2) Save energy and reduce pollution and other environmental impacts associated with the production, distribution, and use of electricity and natural gas.

~~((4))~~ ~~Efficiency standards))~~ (3) Contribute to the economy of Washington by helping to better balance energy supply and demand, thus reducing pressure for higher natural gas and electricity prices. By saving consumers and businesses money on energy bills, efficiency standards help the state and local economy, since energy bill savings can be spent on local goods and services.

~~((5))~~ ~~Efficiency standards))~~ (4) Can make electricity systems more reliable by reducing the strain on the electricity grid during peak demand periods. Furthermore, improved energy efficiency can reduce or delay the need for new power plants, power transmission lines, and power distribution system upgrades.

(5) Help ensure renters have the same access to energy efficient appliances as homeowners.

**Sec. 2.** RCW 19.260.020 and 2009 c 565 s 18 and 2009 c 501 s 1 are each reenacted and amended to read as follows:

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

~~((1))~~ ~~("Automatic commercial ice cube machine" means a factory made assembly, not necessarily shipped in one package, consisting of a condensing unit and ice making section operating as an integrated unit with means for making and harvesting ice cubes. It may also include integrated components for storing or dispensing ice, or both.~~

~~((2))~~ (2)) "Bottle-type water dispenser" means a water dispenser that uses a bottle or reservoir as the source of potable water.

~~((3))~~ (2) "Commercial hot food holding cabinet" means a heated, fully enclosed compartment, with one or more solid or partial glass doors, that is designed to maintain the temperature of hot food that has been cooked in a separate appliance. "Commercial hot food holding cabinet" does not include heated glass merchandising cabinets, drawer warmers, or cook and hold appliances.

~~((4))~~ ~~(a) "Commercial refrigerators and freezers" means refrigerators, freezers, or refrigerator freezers designed for use by commercial or institutional facilities for the purpose of storing or merchandising food products, beverages, or ice at specified temperatures that: (i) Incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single cabinet; and (ii) may be configured with either solid or transparent doors as a reach in cabinet, pass through cabinet, roll in cabinet, or roll through cabinet.~~

~~(b) "Commercial refrigerators and freezers" does not include: (i) Products with 85 cubic feet or more of internal volume; (ii) walk-in refrigerators or freezers; (iii) consumer products that are federally regulated pursuant to 42 U.S.C. Sec. 6291 et seq.; (iv) products without doors; or (v) freezers specifically designed for ice cream.~~

~~((5))~~ (3) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

~~((6))~~ (4) "Cook and hold appliance" means a multiple mode appliance intended for cooking food that may be used to hold the temperature of the food that has been cooked in the same appliance.

~~((7))~~ (5) "Department" means the department of commerce.

~~((8))~~ (6) "Drawer warmer" means an appliance that consists of one or more heated drawers and that is designed to hold hot food that has been cooked in a separate appliance at a specified temperature.

~~((9))~~ (7) "Heated glass merchandising cabinet" means an appliance with a heated cabinet constructed of glass or clear plastic doors which, with seventy percent or more clear area, is designed to display and maintain the temperature of hot food that has been cooked in a separate appliance.

~~((10))~~ (8) "Hot water dispenser" means a small electric water heater that has a measured storage volume of no greater than one gallon.

~~((11))~~ (9) "Mini-tank electric water heater" means a small electric water heater that has a measured storage volume of more than one gallon and a rated storage volume of less than twenty gallons.

~~((12))~~ "Pass-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on both the front and rear of the unit.

(13)) (10) "Point-of-use water dispenser" means a water dispenser that uses a pressurized water utility connection as the source of potable water.

~~((14))~~ "Pool heater" means an appliance designed for heating nonpotable water contained at atmospheric pressure for swimming pools, spas, hot tubs, and similar applications.

(15)) (11) "Portable electric spa" means a factory-built electric spa or hot tub, ~~((supplied with equipment for heating and circulating water))~~ which may or may not include any combination of integral controls, water heating, or water circulating equipment.

~~((16))~~ "Reach-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors or lids, but does not include roll-in or roll-through cabinets or pass-through cabinets.

(17)) (12) "Residential pool pump" means a pump used to circulate and filter pool water in order to maintain clarity and sanitation.

~~((18(a))~~ "Roll-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors that allow wheeled racks of product to be rolled into the unit.

~~(b))~~ "Roll-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on two sides of the cabinet that allow wheeled racks of product to be rolled through the unit.

(19) "Showerhead" means a device through which water is discharged for a shower bath.

(20) "Showerhead tub spout diverter combination" means a group of plumbing fittings sold as a matched set and consisting of a control valve, a tub spout diverter, and a showerhead.

(21) "State regulated incandescent reflector lamp" means a lamp that is not colored or designed for rough or vibration service applications, has an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, a rated voltage or voltage range that lies at least partially within 115 to 130 volts, and falls into one of the following categories:

~~(a))~~ A bulged reflector or elliptical reflector bulb shape and which has a diameter which equals or exceeds 2.25 inches; or

~~(b))~~ A reflector, parabolic aluminized reflector, or similar bulb shape and which has a diameter of 2.25 to 2.75 inches.

(22) "Tub spout diverter" means a device designed to stop the flow of water into a bathtub and to divert it so that the water discharges through a showerhead.

~~(23))~~ "Wine chillers designed and sold for use by an individual" means refrigerators designed and sold for the cooling and storage of wine by an individual.

(13) "Commercial dishwasher" means a machine designed to clean and sanitize plates, pots, pans, glasses, cups, bowls, utensils, and trays by applying sprays of detergent solution, with or without blasting media granules, and a sanitizing rinse.

(14) "Commercial fryer" means an appliance, including a cooking vessel, in which oil is placed to such a depth that the cooking food is supported by displacement of the cooking fluid rather than by the bottom of the vessel. Heat is delivered to the cooking fluid by means of an immersed electric element of band-wrapped vessel (electric fryers) or by heat transfer from gas burners through either the walls of the fryer or through tubes passing through the cooking fluid (gas fryers).

(15) "Commercial steam cooker" means a device with one or more food-steaming compartments in which the energy in the steam is transferred to the food by direct contact. Models may include countertop models, wall-mounted models, and floor models mounted on a stand, pedestal, or cabinet-style base.

(16) "Air compressor" means a compressor designed to compress air that has an inlet open to the atmosphere or other source of air and is made up of a compression element (bare compressor), a driver or drivers, mechanical equipment to drive the compressor element, and any ancillary equipment.

(17) "Compressor" means a machine or apparatus that converts different types of energy into the potential energy of gas pressure for displacement and compression of gaseous media to any higher-pressure values above atmospheric pressure and has a pressure ratio at full-load operating pressure greater than 1.3.

(18) "General service lamp" has the same meaning as set forth in the action published at 82 Fed. Reg. 7276, 7321-22 (January 19, 2017) and modified by the action published at 82 Fed. Reg. 7322, 7333 (January 19, 2017).

(19) "High color rendering index fluorescent lamp" or "high CRI fluorescent lamp" means a fluorescent lamp with a color rendering index of eighty-seven or greater that is not a compact fluorescent lamp.

(20) "Portable air conditioner" means a portable encased assembly, other than a packaged terminal air conditioner, room air conditioner, or dehumidifier, that delivers cooled, conditioned air to an enclosed space, and is powered by single-phase electric current. It includes a source of refrigeration and may include additional means for air circulation and heating and may be a single-duct or a dual-duct portable air conditioner.

(21) "Residential ventilating fan" means a ceiling, wall-mounted, or remotely mounted in-line fan designed to be used in a bathroom or utility room whose purpose is to move objectionable air from inside the building to the outdoors.

(22) "Signage display" means an analog or digital device designed primarily for the display for computer-generated signals that is not marketed for use as a computer monitor or a television.

(23) "Spray sprinkler body" means the exterior case or shell of a sprinkler incorporating a means of connection to the piping system designed to convey water to a nozzle or orifice.

(24) "Uninterruptible power supply" means a battery charger consisting of a number of convertors, switches, and energy storage devices such as batteries, constituting a power system for maintaining continuity of load power in case of input power failure.

(25) "Water cooler" means a freestanding device that consumes energy to cool or heat potable water, including cold only units, hot and cold units, cook and cold units, storage-type units, and on-demand units.

(26) "Pressure regulator" means a device that maintains constant operating pressure immediately downstream from the device, given higher pressure upstream.

(27) "ANSI" means the American national standards institute.

(28) "CTA" means the consumer technology association.

(29) "Electric storage water heater" means a consumer product that uses electricity as the energy source to heat domestic potable water, has a nameplate input rating of twelve kilowatts or less, contains nominally forty gallons but no more than one hundred twenty gallons of rated hot water storage volume, and supplies a maximum hot water delivery temperature less than one hundred eighty degrees fahrenheit.

**Sec. 3.** RCW 19.260.030 and 2009 c 501 s 2 are each amended to read as follows:

(1) This chapter applies to the following types of new products sold, offered for sale, or installed in the state:

- ~~(a) Automatic commercial ice cube machines;~~
- ~~(b) Commercial refrigerators and freezers;~~
- ~~(c) State regulated incandescent reflector lamps;~~
- ~~(d) Wine chillers designed and sold for use by an individual;~~
- ~~(e)) Hot water dispensers and mini-tank electric water heaters;~~
- ~~((f)) (b) Bottle-type water dispensers and point-of-use water dispensers;~~
- ~~((g) Pool heaters,)) (c) Residential pool pumps((z)) and portable electric spas;~~
- ~~((h)) (d) Tub spout diverters; ((and~~
- ~~((i)) (e) Commercial hot food holding cabinets;~~

(f) Air compressors;

(g) Commercial fryers, commercial dishwashers, and commercial steam cookers;

(h) Computers and computer monitors;

(i) Faucets;

(j) High CRI fluorescent lamps;

(k) Portable air conditioners;

(l) Residential ventilating fans;

(m) Showerheads;

(n) Spray sprinkler bodies;

(o) Uninterruptible power supplies;

(p) Urinals and water closets;

(q) Water coolers;

(r) General service lamps; and

(s) Electric storage water heaters.

(2) This chapter applies equally to products whether they are sold, offered for sale, or installed as stand-alone products or as components of other products.

(3) This chapter does not apply to:

- (a) New products manufactured in the state and sold outside the state;
- (b) New products manufactured outside the state and sold at wholesale inside the state for final retail sale and installation outside the state;
- (c) Products installed in mobile manufactured homes at the time of construction; or
- (d) Products designed expressly for installation and use in recreational vehicles.

**Sec. 4.** RCW 19.260.040 and 2009 c 501 s 3 are each amended to read as follows:

Except as provided in subsection (1) of this section, the minimum efficiency standards specified in this section apply to the types of new products set forth in RCW 19.260.030 as of the effective dates set forth in RCW 19.260.050.

(1)((a) Automatic commercial ice cube machines must have daily energy use and daily water use no greater than the applicable values in the following table:

Equipment type	Type of cooling	Harvest rate (lbs. ice/24 hrs.)	Maximum energy use (kWh/100 lbs.)	Maximum condensate water use

(gallons/  
100 lbs.  
ice)

Ice-making head	water	<500	7.80 — .0055H	200 — .022H
		≥500 < 436	5.58 — .0011H	200 — .022H
		≥1436	4.0	200 — .022H
Ice-making head	air	450	10.26 — .0086H	Not applicable
		≥450	6.89 — .0011H	Not applicable
Remote condensing but not remote compressor	air	<1000	8.85 — .0038	Not applicable
		≥1000	5.10	Not applicable
Remote condensing and remote compressor	air	<934	8.85 — .0038H	Not applicable
		≥934	5.3	Not applicable
Self-contained models	water	<200	11.40 — .0190H	191 — .0315H
		≥200	7.60	191 — .0315H
Self-contained models	air	<175	18.0 — .0469H	Not applicable
		≥175	9.80	Not applicable

Where H= harvest rate in pounds per twenty four hours which must be reported within 5% of the tested value. "Maximum water use" applies only to water used for the condenser.

(b) For purposes of this section, automatic commercial ice cube machines shall be tested in accordance with the ARI 810-2003 test method as published by the air-conditioning and refrigeration institute. Ice making heads include all automatic commercial ice cube machines that are

not split system ice makers or self-contained models as defined in ARI 810-2003.

(2)(a) Commercial refrigerators and freezers must meet the applicable requirements listed in the following table:

Equipment Type	Doors	Maximum Daily Energy Consumption (kWh)
Reach in cabinets, pass-through cabinets, and roll in or roll through cabinets that are refrigerators	Solid	0.10V+2.04
	Transparent	0.12V+3.34
Reach in cabinets, pass-through cabinets, and roll in or roll through cabinets that are "pulldown" refrigerators	Transparent	.126V+3.51
Reach in cabinets, pass-through cabinets, and roll in or roll through cabinets that are freezers	Solid	0.40V+1.38
	Transparent	0.75V+4.10
Reach in cabinets that are refrigerator-freezers with an AV of 5.19 or higher	Solid	0.27AV — 0.71

kWh= kilowatt hours

V= total volume (ft<sup>3</sup>)

AV= adjusted volume = [1.63 x freezer volume (ft<sup>3</sup>)] + refrigerator volume (ft<sup>3</sup>)

(b) For purposes of this section, "pulldown" designates products designed to take a fully stocked refrigerator with beverages at 90 degrees Fahrenheit and cool those beverages to a stable temperature of 38 degrees Fahrenheit within 12 hours or less. Daily energy consumption shall be measured in accordance with the American national standards institute/American society of heating, refrigerating and air conditioning engineers test method 117-2002, except that the back-loading doors of pass-through and roll-through refrigerators and freezers

~~must remain closed throughout the test, and except that the controls of all appliances must be adjusted to obtain the following product temperatures:~~

<del>Product compartment type</del>	<del>Integrated average product temperature in degrees Fahrenheit</del>
Refrigerator	38±2
Freezer	0±2

~~(3)(a) The lamp electrical power input of state-regulated incandescent reflector lamps shall meet the minimum average lamp efficacy requirements for federally regulated incandescent reflector lamps specified in 42 U.S.C. Sec. 6295(i)(1)(A)-(B).~~

~~(b) The following types of incandescent lamps are exempt from these requirements:~~

~~(i) Lamps rated at fifty watts or less of the following types: BR 30, ER 30, BR 40, and ER 40;~~

~~(ii) Lamps rated at sixty five watts of the following types: BR 30, BR 40, and ER 40; and~~

~~(iii) R 20 lamps of forty five watts or less.~~

~~(4)(a) Wine chillers designed and sold for use by an individual must meet requirements specified in the California Code of Regulations, Title 20, section 1605.3 in effect as of July 26, 2009.~~

~~(b) Wine chillers designed and sold for use by an individual shall be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of July 26, 2009.~~

~~(5)) The department may adopt by rule a more recent version of any standard or test method established in this section, including any product definition associated with the standard or test method, in order to maintain or improve consistency with other comparable standards in other states.~~

(2)(a) The standby energy consumption of bottle-type water dispensers, and point-of-use water dispensers, dispensing both hot and cold water, manufactured on or after January 1, 2010, shall not exceed 1.2 kWh/day.

(b) The test method for water dispensers shall be the environmental protection agency energy star program requirements for bottled water coolers version 1.1.

~~((6)) (3)(a) The standby energy consumption of hot water dispensers and mini-tank electric water heaters manufactured on or after January 1, 2010, shall be not greater than 35 watts.~~

(b) This subsection does not apply to any water heater:

(i) That is within the scope of 42 U.S.C. Sec. 6292(a)(4) or 6311(1);

(ii) That has a rated storage volume of less than 20 gallons; and

(iii) For which there is no federal test method applicable to that type of water heater.

(c) Hot water dispensers shall be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of July 26, 2009.

(d) Mini-tank electric water heaters shall be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of July 26, 2009.

~~((7)) (4) The following standards are established for ((pool heaters,)) residential pool pumps((s)) and portable electric spas:~~

~~(a) ((Natural gas pool heaters shall not be equipped with constant burning pilots.~~

~~(b)) Residential pool pumps ((motors)) manufactured on or after January 1, 2010, and until July 18, 2021, must meet requirements specified in the California Code of Regulations, Title 20, section 1605.3 in effect as of July 26, 2009. Beginning July 19, 2021, residential pool pumps must meet requirements specified in the dedicated-purpose pool pump rule published by the United States department of energy on January 18, 2017, (82 Fed. Reg. 5650) and effective on May 18, 2017.~~

~~((e)) (b) Through December 31, 2019, portable electric spas manufactured on or after January 1, 2010, must meet requirements specified in the California Code of Regulations, Title 20, section 1605.3 in effect as of July 26, 2009. Beginning January 1, 2020, portable electric spas must meet the requirements of the American national standard for portable electric spa energy efficiency (ANSI/APSP/ICC-14 2014).~~

~~((d)) (c) Through December 31, 2019, portable electric spas must be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of July 26, 2009. Beginning January 1, 2020, portable electric spas must be tested in accordance with the method specified in the American national standard for portable electric spa energy efficiency (ANSI/APSP/ICC-14 2014).~~

~~((8)(a) The leakage rate of tub spout diverters shall be no greater than the applicable requirements shown in the following table:~~

Appliance	Testing Conditions	Maximum Leakage Rate
		Effective January 1, 2009
	When new	0.01 gpm
Tub spout diverters	After 15,000 eyeles of diverting	0.05 gpm

~~(b) Showerhead tub spout diverter combinations shall meet both the federal standard for showerheads established pursuant to 42 U.S.C. Sec. 6291 et seq. and the standard for tub spout diverters specified in this section.~~

~~(9))~~ (5)(a) The idle energy rate of commercial hot food holding cabinets manufactured on or after January 1, 2010, shall be no greater than 40 watts per cubic foot of measured interior volume.

(b) The idle energy rate of commercial hot food holding cabinets shall be determined using ANSI/ASTM ((F2140-04)) F2140-11 standard test method for the performance of hot food holding cabinets (test for idle energy rate dry test). Commercial hot food holding cabinet interior volume shall be calculated using straight line segments following the gross interior dimensions of the appliance and using the following equation: Interior height x interior width x interior depth. Interior volume shall not account for racks, air plenums, or other interior parts.

(6) Commercial dishwashers included in the scope of the environmental protection agency energy star program product specification for commercial dishwashers, version 2.0, must meet the qualification criteria of that specification.

(7) Commercial fryers included in the scope of the environmental protection agency energy star program product specification for commercial fryers, version 2.0, must meet the qualification criteria for that specification.

(8) Commercial steam cookers must meet the requirements of the environmental protection agency energy star program product specification for commercial steam cookers, version 1.2.

(9) Computers and computer monitors must meet the requirements in the California Code of Regulations, Title 20, section 1605.3(v) as adopted on May 10, 2017, and amended on November 8, 2017, as measured in accordance with test methods prescribed in section 1604(v) of those regulations.

(10) Air compressors that meet the twelve criteria listed on page 350 to 351 of the "energy conservation standards for air compressors" final rule issued by the United States department of energy on December 5, 2016, must meet the requirements in table 1 on page 352 following the instructions on page 353 and as measured in accordance with the "uniform test method for certain air compressors" under 10 C.F.R. Part 431 (Appendix A to Subpart T) as in effect on July 3, 2017.

(11) High CRI fluorescent lamps must meet the requirements in 10 C.F.R. Sec. 430.32(n)(4) in effect as of January 3, 2017, as measured in accordance with the test methods prescribed in 10 C.F.R. Sec. 430.23 (appendix R to subpart B of part 430) in effect as of January 3, 2017.

(12) Portable air conditioners must have a combined energy efficiency ratio, as measured in accordance with the test methods prescribed in 10 C.F.R. Sec. 430.23 (appendix CC to subpart B of part 430) in effect as of January 3, 2017, that is greater than or equal to:

$$1.04 \times \frac{\text{SACC}}{\text{SACC}}$$

$$(3.7117 \times \text{SACC})^{0.6384}$$

where "SACC" is seasonally adjusted cooling capacity in Btu/h.

(13) Residential ventilating fans must meet the qualification criteria of the environmental protection agency energy star program product specification for residential ventilating fans, version 3.2.

(14) Spray sprinkler bodies that are not specifically excluded from the scope of the environmental protection agency water sense program product specification for spray sprinkler bodies, version 1.0, must include an integral pressure regulator and must meet the water efficiency and performance criteria and other requirements of that specification.

(15) The following products that are within the scope and definition of the applicable regulation must meet the requirements in the California Code of Regulations, Title 20, section 1605.3 in effect as of January 1, 2018, as measured in accordance with the test methods prescribed in the California Code of Regulations, Title 20, section 1604 in effect as of January 1, 2018:

(a) Showerheads;

(b) Tub spout diverters;

(c) Showerhead tub spout diverter combinations;

(d) Lavatory faucets and replacement aerators;

(e) Kitchen faucets and replacement aerators;

(f) Public lavatory faucets and replacement aerators;

(g) Urinals; and

(h) Water closets.

(16) Uninterruptible power supplies that utilize a NEMA 1-15P or 5-15P input plug and have an AC output must have an average load adjusted efficiency that meets or exceeds the values shown on page 193 of the prepublication final rule "Energy Conservation Program: Energy Conservation Standards for Uninterruptible Power Supplies" issued by the United States department of energy on December 28, 2016, as measured in accordance with test procedures prescribed in Appendix Y to Subpart B of Part 430 of Title 10 of the Code of Federal Regulations "Uniform Test Method for Measuring the Energy Consumption of Battery Chargers" in effect as of January 11, 2017.

(17) Water coolers included in the scope of the environmental protection agency energy star program product specification for water coolers, version 2.0, must have an on mode with no water draw energy consumption less than or equal to the following values as measured in accordance with the test requirements of that program:

(a) 0.16 kilowatt-hours per day for cold-only units and cook and cold units;

(b) 0.87 kilowatt-hours per day for storage type hot and cold units; and

(c) 0.18 kilowatt-hours per day for on demand hot and cold units.

(18) General service lamps must meet or exceed a lamp efficacy of 45 lumens per watt, when tested in accordance with the applicable federal test procedures for general service lamps prescribed in 10 C.F.R. Sec. 430.23 in effect as of January 3, 2017.

NEW SECTION. Sec. 5. A new section is added to chapter 19.260 RCW to read as follows:

(1) An electric storage water heater, if manufactured on or after January 1, 2021, may not be installed, sold, or offered for sale, lease, or rent in the state unless it complies with the following design requirement:

(a) The product must have a modular demand response communications port compliant with: (i) The March 2018 version of the ANSI/CTA-2045-A communication interface standard, or equivalent and (ii) the March 2018 version of the ANSI/CTA-2045-A application layer requirements.

(b) The interface standard and application layer requirements required in this subsection are the versions established in March 2018, unless the department adopts by rule a later version.

(2) The department may by rule establish a later effective date or suspend enforcement of the requirements of subsection (1) of this section if the department determines that such a delay or suspension is in the public interest.

(3) Private customer information, and proprietary customer information, collected, stored, conveyed, transmitted, or retrieved by an electric storage water heater equipped with a modular demand response communications port required under this section or rules adopted under this chapter is subject to the provisions of RCW 19.29A.100 and 19.29A.110.

(4) An electric utility supplying electricity to a building in which an electric storage water heater that meets the design requirements established in this section has been installed may not, without first having obtained in writing the customer's affirmative consent to participating in a program that allows such alteration, alter, or require the utility customer to alter, the usage of electricity or water relating to the electric storage water heater on the basis of information collected by the electric storage water heater or any associated device.

**Sec. 6.** RCW 19.260.050 and 2009 c 501 s 4 are each amended to read as follows:

~~(1) ((No new commercial refrigerator or freezer or state regulated incandescent reflector lamp manufactured on or after January 1, 2007, may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040. No new automatic commercial ice cube machine manufactured on or after January 1, 2008, may be sold or offered for sale in the state unless the efficiency of~~

~~the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.~~

~~(2) On or after January 1, 2008, no new commercial refrigerator or freezer or state regulated incandescent reflector lamp manufactured on or after January 1, 2007, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040. On or after January 1, 2009, no new automatic commercial ice cube machine manufactured on or after January 1, 2008, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.~~

~~(3) Standards for state regulated incandescent reflector lamps are effective on the dates specified in subsections (1) and (2) of this section.~~

~~(4))~~ The following products, if manufactured on or after January 1, 2010, may not be sold or offered in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040:

~~(a) ((Wine chillers designed and sold for use by an individual;~~

~~(b))~~ Hot water dispensers and mini-tank electric water heaters;

~~((e))~~ ~~(b)~~ Bottle-type water dispensers and point-of-use water dispensers;

~~((d) Pool heaters,))~~ ~~(c)~~ Residential pool pumps~~((;))~~ and portable electric spas;

~~((e))~~ ~~(d)~~ Tub spout diverters; and

~~((f))~~ ~~(e)~~ Commercial hot food holding cabinets.

~~((5))~~ ~~(2)~~ The following products, if manufactured on or after January 1, 2010, may not be installed for compensation in the state on or after January 1, 2011, unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040:

~~(a) ((Wine chillers designed and sold for use by an individual;~~

~~(b))~~ Hot water dispensers and mini-tank electric water heaters;

~~((e))~~ ~~(b)~~ Bottle-type water dispensers and point-of-use water dispensers;

~~((d) Pool heaters,))~~ ~~(c)~~ Residential pool pumps~~((;))~~ and portable electric spas;

~~((e))~~ ~~(d)~~ Tub spout diverters; and

~~((f))~~ ~~(e)~~ Commercial hot food holding cabinets.

(3) The following products, if manufactured on or after January 1, 2021, may not be sold or offered for sale, lease, or rent in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040:

(a) Commercial dishwashers;

- (b) Commercial fryers;
- (c) Commercial steam cookers;
- (d) Computers or computer monitors;
- (e) Faucets;
- (f) Residential ventilating fans;
- (g) Spray sprinkler bodies;
- (h) Showerheads;
- (i) Uninterruptible power supplies;
- (j) Urinals and water closets; and
- (k) Water coolers.

(4) Standards for the following products expire January 1, 2020:

- (a) Hot water dispensers; and

(b) Bottle-type water dispensers and point-of-use water dispensers.

(5) A new air compressor manufactured on or after January 1, 2022, may not be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(6) A new portable air conditioner manufactured on or after February 1, 2022, may not be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(7) New general service lamps manufactured on or after January 1, 2020, may not be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(8) No new high CRI fluorescent lamps may be sold or offered for sale in the state after January 1, 2023, unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040. The department may establish by rule an earlier effective date, not before January 1, 2022, if the state of California adopts a comparable standard with an effective date before January 1, 2023.

**Sec. 7.** RCW 19.260.060 and 2005 c 298 s 6 are each amended to read as follows:

(1) The department may adopt rules that incorporate by reference federal efficiency standards for federally covered products only as the standards existed on January 1, 2018. The department, in consultation with the office of the attorney general, must regularly submit a report to the appropriate committees of the legislature on federal standards that preempt the state standards set forth in RCW 19.260.040. Any report on federal preemption must be transmitted at least thirty days before the start of any regular legislative session.

(2) The department may recommend updates to the energy efficiency standards and test methods for products listed in RCW 19.260.030. The department may also recommend establishing state standards for additional nonfederally covered products. In making its recommendations, the department shall use the following criteria: ~~((1))~~ (a) Multiple manufacturers produce products that meet the proposed standard at the time of recommendation~~((2))~~; (b) products meeting the proposed standard are available at the time of recommendation~~((3))~~; (c) the products are cost-effective to consumers on a life-cycle cost basis using average Washington resource rates~~((4))~~; (d) the utility of the energy efficient product meets or exceeds the utility of the comparable product available for purchase~~((5))~~; and ~~((5))~~ (e) the standard exists in at least two other states in the United States. For recommendations concerning commercial clothes washers, the department must also consider the fiscal effects on the low-income, elderly, and student populations. Any recommendations shall be transmitted to the appropriate committees of the legislature sixty days before the start of any regular legislative session.

**Sec. 8.** RCW 19.260.070 and 2005 c 298 s 7 are each amended to read as follows:

(1) The manufacturers of products covered by this chapter must test samples of their products in accordance with the test procedures under this chapter or those specified in the state building code.

(2) Manufacturers of new products covered by RCW 19.260.030~~((, except for single voltage external AC to DC power supplies,))~~ shall certify to the department that the products are in compliance with this chapter. This certification must be based on test results unless this chapter does not specify a test method. The department shall establish rules governing the certification of these products and may ~~((coordinate with))~~ rely on the certification programs of other states and federal agencies with similar standards.

(3) Manufacturers of new products covered by RCW 19.260.030 shall identify each product offered for sale or installation in the state as in compliance with this chapter by means of a mark, label, or tag on the product and packaging at the time of sale or installation. The department shall establish rules governing the identification of these products and packaging, which shall be coordinated to the greatest practical extent with the labeling programs of other states and federal agencies with equivalent efficiency standards. Manufacturers of general service lamps that meet the efficiency standards under RCW 19.260.040 are not required to label each individual lamp offered for sale or installation in the state.

(4) The department may test products covered by RCW 19.260.030 and may rely on the results of product testing performed by or on behalf of other governmental jurisdictions with comparable standards. If products so tested are found not to be in compliance with the minimum efficiency standards established under RCW 19.260.040, the department shall: (a) Charge the manufacturer of the product

for the cost of product purchase and testing; and (b) make information available to the public on products found not to be in compliance with the standards.

(5) The department shall obtain ~~((in paper form))~~ the test methods specified in RCW 19.260.040, which shall be available for public use at the department's energy policy offices.

(6) The department ~~((shall))~~ may investigate complaints received concerning violations of this chapter. Any manufacturer or distributor who violates this chapter shall be issued a warning by the director of the department for any first violation. Repeat violations are subject to a civil penalty of not more than two hundred fifty dollars a day. Penalties assessed under this subsection are in addition to costs assessed under subsection (4) of this section.

(7) The department may adopt rules as necessary to ensure the proper implementation and enforcement of this chapter.

(8) The proceedings relating to this chapter are governed by the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 9. RCW 19.27.170 (Water conservation performance standards—Testing and identifying fixtures that meet standards—Marking and labeling fixtures) and 1991 c 347 s 16 & 1989 c 348 s 8 are each repealed.

NEW SECTION. Sec. 10. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 1 of the title, after "standards;" strike the remainder of the title and insert "amending RCW 19.260.010, 19.260.030, 19.260.040, 19.260.050, 19.260.060, and 19.260.070; reenacting and amending RCW 19.260.020; adding a new section to chapter 19.260 RCW; creating a new section; and repealing RCW 19.27.170."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1444 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL

#### AS SENATE AMENDED

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

Representative Shea spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1444, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1444, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 55; Nays, 39; Absent, 0; Excused, 4.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Calder, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SECOND SUBSTITUTE HOUSE BILL NO. 1444, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 12, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1517 with the following amendment:

Strike everything after the enacting clause and insert the following:

#### "PART I - LEGISLATIVE FINDINGS

NEW SECTION. Sec. 101. The legislature recognizes that domestic violence treatment has been the most common, and sometimes only, legal response in domestic violence cases. There is a growing concern about

the "one size fits all" approach for domestic violence misdemeanors, felonies, and other cases. In 2012, the legislature directed the Washington state institute for public policy to update its analysis of the scientific literature on domestic violence treatment. The institute found traditional domestic violence treatment to be ineffective. Treatment needs to be differentiated and grounded in science, risk, and long-term evaluation. The institute's findings coincided with a wave of federal, state, and local reports highlighting concerns with the efficacy of traditional domestic violence treatment. A new approach was needed to reduce recidivism by domestic violence offenders, provide both victims and offenders with meaningful answers about what works, and close critical safety gaps. Subsequently, the legislature directed the gender and justice commission to establish work groups and make recommendations to improve domestic violence treatment and risk assessments. The work group recommended establishing sentencing alternatives for domestic violence offenders, integrated systems response, and domestic violence risk assessments. During this time, the department of social and health services repealed the administrative codes for domestic violence treatment, and issued new codes grounded in a differentiated approach and evidence-based practice. There is no easy answer to what works to reduce domestic violence recidivism, and offenders often present with co-occurring substance abuse and mental health issues, but new administrative codes and work group recommendations reflect the best available evidence in how best to respond and treat domestic violence criminal offenders.

Improving rehabilitation and treatment of domestic violence offenders, and those offenders with co-occurring substance and mental health issues, is critical, given how often practitioners and courts use treatment as the primary, and sometimes only, intervention for domestic violence. Given the pervasiveness of domestic violence and because of the link between domestic violence and many community issues including violent recidivism, victims and offenders are owed effective treatment and courts need better tools. State studies have found domestic violence crimes to be the most predictive of future violent crime.

The legislature intends to modify sentencing alternatives and other sentencing practices to require use of a validated risk assessment tool and domestic violence treatment certified under the Washington Administrative Code. These new practices should be consistently used when criminal conduct is based on domestic violence behavioral problems.

## **PART II - DEFINITION OF DOMESTIC VIOLENCE**

**NEW SECTION. Sec. 201.** The legislature intends to distinguish between intimate partner violence and other categories of domestic violence to facilitate discrete data analysis regarding domestic violence by judicial, criminal justice, and advocacy entities. The legislature does not intend for these modifications to definitions to substantively change the prosecution of, or penalties for, domestic

violence, or the remedies available to potential petitioners under the current statutory scheme.

**NEW SECTION. Sec. 202.** A new section is added to chapter 10.01 RCW to read as follows:

Whenever a prosecutor, or the attorney general or assistants acting pursuant to RCW 10.01.190, institutes or conducts a criminal proceeding involving domestic violence as defined in RCW 10.99.020, the prosecutor, or attorney general or assistants, shall specify whether the victim and defendant are intimate partners or family or household members within the meaning of RCW 26.50.010.

**Sec. 203.** RCW 10.99.020 and 2004 c 18 s 2 are each amended to read as follows:

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

(1) "Agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

(2) "Association" means the Washington association of sheriffs and police chiefs.

(3) "Family or household members" means ~~((spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren))~~ the same as in RCW 26.50.010.

(4) "Dating relationship" has the same meaning as in RCW 26.50.010.

(5) "Domestic violence" includes but is not limited to any of the following crimes when committed either by (a) one family or household member against another family or household member, or (b) one intimate partner against another intimate partner:

~~((a))~~ (i) Assault in the first degree (RCW 9A.36.011);

~~((b))~~ (ii) Assault in the second degree (RCW 9A.36.021);

~~((c))~~ (iii) Assault in the third degree (RCW 9A.36.031);

~~((d))~~ (iv) Assault in the fourth degree (RCW 9A.36.041);

~~((e))~~ (v) Drive-by shooting (RCW 9A.36.045);

~~((f))~~ (vi) Reckless endangerment (RCW 9A.36.050);

~~((g))~~ (vii) Coercion (RCW 9A.36.070);

~~((h))~~ (viii) Burglary in the first degree (RCW 9A.52.020);

~~((i))~~ (ix) Burglary in the second degree (RCW 9A.52.030);

~~((j))~~ (x) Criminal trespass in the first degree (RCW 9A.52.070);

~~((k))~~ (xi) Criminal trespass in the second degree (RCW 9A.52.080);

~~((l))~~ (xii) Malicious mischief in the first degree (RCW 9A.48.070);

~~((m))~~ (xiii) Malicious mischief in the second degree (RCW 9A.48.080);

~~((n))~~ (xiv) Malicious mischief in the third degree (RCW 9A.48.090);

~~((o))~~ (xv) Kidnapping in the first degree (RCW 9A.40.020);

~~((p))~~ (xvi) Kidnapping in the second degree (RCW 9A.40.030);

~~((q))~~ (xvii) Unlawful imprisonment (RCW 9A.40.040);

~~((r))~~ (xviii) Violation of the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, ~~((26.26.138))~~ 26.26B.050, 26.44.063, 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);

~~((s))~~ (xix) Rape in the first degree (RCW 9A.44.040);

~~((t))~~ (xx) Rape in the second degree (RCW 9A.44.050);

~~((u))~~ (xxi) Residential burglary (RCW 9A.52.025);

~~((v))~~ (xxii) Stalking (RCW 9A.46.110); and

~~((w))~~ (xxiii) Interference with the reporting of domestic violence (RCW 9A.36.150).

(6) "Employee" means any person currently employed with an agency.

(7) "Intimate partners" means the same as in RCW 26.50.010.

(8) "Sworn employee" means a general authority Washington peace officer as defined in RCW 10.93.020, any person appointed under RCW 35.21.333, and any person appointed or elected to carry out the duties of the sheriff under chapter 36.28 RCW.

~~((8))~~ (9) "Victim" means a family or household member or an intimate partner who has been subjected to domestic violence.

**Sec. 204.** RCW 26.50.010 and 2015 c 287 s 8 are each reenacted and amended to read as follows:

As used in this chapter, the following terms shall have the meanings given them:

(1) "Court" includes the superior, district, and municipal courts of the state of Washington.

(2) "Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.

(3) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, ~~((between family or household members; (b))~~ sexual assault ~~((of one family or household member by another;)),~~ or ~~((e))~~ stalking as defined in RCW 9A.46.110 of one intimate partner by another intimate partner; or (b) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, sexual assault, or stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

(4) "Electronic monitoring" has the same meaning as in RCW 9.94A.030.

(5) "Essential personal effects" means those items necessary for a person's immediate health, welfare, and livelihood. "Essential personal effects" includes but is not limited to clothing, cribs, bedding, documents, medications, and personal hygiene items.

(6) "Family or household members" means ~~((spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time;))~~; (a) Adult persons related by blood or marriage~~((;))~~; (b) adult persons who are presently residing together or who have resided together in the past~~((, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship;))~~; and (c) persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(7) "Intimate partner" means: (a) Spouses, or domestic partners; (b) former spouses, or former domestic partners; (c) persons who have a child in common regardless of whether they have been married or have lived together at any time; (d) adult persons presently or previously residing together who have or have had a dating relationship; (e) persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship; and (f) persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship.

(8) "Judicial day" does not include Saturdays, Sundays, or legal holidays.

**Sec. 205.** RCW 26.50.020 and 2010 c 274 s 302 are each amended to read as follows:

(1)(a) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

(b) Any person thirteen years of age or older may seek relief under this chapter by filing a petition with a court alleging that he or she has been the victim of violence in a dating relationship and the respondent is sixteen years of age or older.

(2)(a) A person under eighteen years of age who is sixteen years of age or older may seek relief under this chapter and is not required to seek relief by a guardian or next friend.

(b) A person under sixteen years of age who is seeking relief under subsection (1)(b) of this section is required to seek relief by a parent, guardian, guardian ad litem, or next friend.

(3) No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter who is under eighteen years of age if such respondent is sixteen years of age or older.

(4) The court may, if it deems necessary, appoint a guardian ad litem for a petitioner or respondent who is a party to an action under this chapter.

(5) Any petition filed under this chapter must specify whether the victim and respondent of the alleged domestic violence are intimate partners or family or household members within the meaning of RCW 26.50.010.

(6) The courts defined in RCW 26.50.010~~((4))~~ have jurisdiction over proceedings under this chapter. The jurisdiction of district and municipal courts under this chapter shall be limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents issues of residential schedule of and contact with children of the parties; or (c) the petition for relief under this chapter requests the court to exclude a party from the dwelling which the parties share. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

~~((6))~~ (7) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an action in the county or municipality of the previous or the new household or residence.

~~((7))~~ (8) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

~~((8))~~ (9) For the purposes of this section "next friend" means any competent individual, over eighteen years of age, chosen by the minor and who is capable of pursuing the minor's stated interest in the action.

### PART III - CRIMINAL NO-CONTACT ORDERS

**NEW SECTION. Sec. 301.** (1) The legislature believes the existing language of RCW 10.99.050 has always authorized courts to issue domestic violence no-contact orders in adult and juvenile cases that last up to the adult statutory maximum in felony cases and up to the maximum period for which an adult sentence can be suspended or deferred in nonfelony cases. However, in *State v. Granath*, 200 Wn. App. 26, 401 P.3d 405 (2017), aff'd, 190 Wn.2d 548, 415 P.3d 1179 (2018), the court of appeals and supreme court recently interpreted this provision to limit domestic violence no-contact orders in nonfelony sentences to the duration of the defendant's conditions of sentence. The legislature finds that this interpretation inadequately protects victims of domestic violence. The legislature intends to clarify the trial courts' authority to issue no-contact orders that remain in place in adult and juvenile nonfelony cases for the maximum period of time that an adult sentence could be suspended, and in adult and juvenile felony cases for the adult statutory maximum.

(2) The legislature further finds that there is a discrepancy in which sentences for nonfelony domestic violence offenses can be suspended for up to five years in district and municipal courts, but only for up to two years in superior courts in most cases, creating inconsistent protection for victims. The legislature intends to rectify this discrepancy to allow nonfelony domestic violence sentences to be suspended for up to five years in all courts.

**Sec. 302.** RCW 9.95.210 and 2012 1st sp.s. c 6 s 10 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection in granting probation, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

(b) For a defendant sentenced for a domestic violence offense, or under RCW 46.61.5055, the superior court may suspend the imposition or the execution of the

sentence and may direct that the suspension continue upon such conditions and for such time as the court shall designate, not to exceed five years. The court shall have continuing jurisdiction and authority to suspend the execution of all or any part of the sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. Any time before entering an order terminating probation, the court may modify or revoke its order suspending the imposition or execution of the sentence if the defendant violates or fails to carry out any of the conditions of the suspended sentence.

(2) In the order granting probation and as a condition thereof, the superior court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the superior court shall require the payment of the penalty assessment required by RCW 7.68.035. The superior court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement; (c) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required; (d) following consideration of the financial condition of the person subject to possible electronic monitoring, to pay for the costs of electronic monitoring if that monitoring was required by the court as a condition of release from custody or as a condition of probation; (e) to contribute to a county or interlocal drug fund; and (f) to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430, and may require bonds for the faithful observance of any and all conditions imposed in the probation.

(3) The superior court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the superior court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the superior court within one year of imposition of the sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the superior court shall hold a restitution hearing and shall enter a restitution order.

(4) In granting probation, the superior court may order the probationer to report to the secretary of corrections

or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary for up to twelve months. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanor probationers within its jurisdiction, the superior court misdemeanor probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanor probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(5) If the probationer has been ordered to make restitution and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If the superior court has ordered supervision and restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of probation. For defendants found guilty in district court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located.

(6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to sentences imposed under this section.

(7) For purposes of this section, "domestic violence" means the same as in RCW 10.99.020.

**Sec. 303.** RCW 10.99.050 and 2000 c 119 s 20 are each amended to read as follows:

(1) When a defendant is found guilty of a crime and a condition of the sentence restricts the defendant's ability to have contact with the victim, such condition shall be recorded and a written certified copy of that order shall be provided to the victim.

(2)(a) Willful violation of a court order issued under this section is punishable under RCW 26.50.110.

(b) The written order shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest; any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony.

(c) An order issued pursuant to this section in conjunction with a misdemeanor or gross misdemeanor sentence or juvenile disposition remains in effect for a fixed period of time determined by the court, which may not exceed five years from the date of sentencing or disposition.

(d) An order issued pursuant to this section in conjunction with a felony sentence or juvenile disposition remains in effect for a fixed period of time determined by the

court, which may not exceed the adult maximum sentence established in RCW 9A.20.021.

(3) Whenever an order prohibiting contact is issued pursuant to this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

(4) If an order prohibiting contact issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

#### **PART IV - RISK ASSESSMENT**

NEW SECTION. **Sec. 401.** A new section is added to chapter 9.94A RCW to read as follows:

(1) The Washington State University department of criminal justice shall develop a tool to be used in conjunction with the Washington one risk assessment that would specifically predict whether the offender will commit domestic violence in the future. The domestic violence tool may incorporate relevant court records into the prediction modeling, if practical within the resources allocated. The tool will be used by the department as part of the current risk, needs, and responsivity assessment process.

(2) The Washington State University department of criminal justice shall make the domestic violence risk assessment tool available for use by the department no later than July 1, 2020. Subject to funds appropriated for this specific purpose, the department shall start to implement the domestic violence risk assessment tool by July 1, 2020, and by July 1, 2021, the department shall use the domestic violence risk assessment tool when conducting a Washington one risk assessment for an offender with a current conviction where domestic violence was pleaded and proven.

(3) The harborview center for sexual assault and traumatic stress shall develop a training curriculum for domestic violence perpetrator treatment providers that incorporates evidence-based practices and treatment modalities consistent with the Washington Administrative Code provisions adopted by the department of social and health services. The harborview center for sexual assault and traumatic stress shall complete the training curriculum and make it available for provider training no later than June 30, 2020.

#### **PART V - SENTENCING**

**Sec. 501.** RCW 9.94A.500 and 2013 c 200 s 33 are each amended to read as follows:

(1) Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing.

Except in cases where the defendant shall be sentenced to a term of total confinement for life without the possibility of release or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, the court may order the department to complete a risk assessment report. If available before sentencing, the report shall be provided to the court.

Unless specifically waived by the court, the court shall order the department to complete a chemical dependency screening report before imposing a sentence upon a defendant who has been convicted of a violation of the uniform controlled substances act under chapter 69.50 RCW, a criminal solicitation to commit such a violation under chapter 9A.28 RCW, or any felony where the court finds that the offender has a chemical dependency that has contributed to his or her offense. In addition, the court shall, at the time of plea or conviction, order the department to complete a presentence report before imposing a sentence upon a defendant who has been convicted of a felony sexual offense. The department of corrections shall give priority to presentence investigations for sexual offenders. If the court determines that the defendant may be a mentally ill person as defined in RCW 71.24.025, although the defendant has not established that at the time of the crime he or she lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime, the court shall order the department to complete a presentence report before imposing a sentence.

Unless specifically waived by the court, the court shall order the department to complete a presentence investigation before imposing a drug offender sentencing alternative upon a defendant who has been convicted of a felony offense where domestic violence has been pleaded and proven.

The court shall consider the risk assessment report and presentence reports, if any, including any victim impact statement and criminal history, and allow arguments from the prosecutor, the defense counsel, the offender, the victim, the survivor of the victim, or a representative of the victim or survivor, and an investigative law enforcement officer as to the sentence to be imposed.

A criminal history summary relating to the defendant from the prosecuting authority or from a state, federal, or foreign governmental agency shall be prima facie evidence of the existence and validity of the convictions listed therein. If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All

of this information shall be part of the record. Copies of all risk assessment reports and presentence reports presented to the sentencing court and all written findings of facts and conclusions of law as to sentencing entered by the court shall be sent to the department by the clerk of the court at the conclusion of the sentencing and shall accompany the offender if the offender is committed to the custody of the department. Court clerks shall provide, without charge, certified copies of documents relating to criminal convictions requested by prosecuting attorneys.

(2) To prevent wrongful disclosure of information and records related to mental health services, as described in RCW 71.05.445 and 70.02.250, a court may take only those steps necessary during a sentencing hearing or any hearing in which the department presents information related to mental health services to the court. The steps may be taken on motion of the defendant, the prosecuting attorney, or on the court's own motion. The court may seal the portion of the record relating to information relating to mental health services, exclude the public from the hearing during presentation or discussion of information and records relating to mental health services, or grant other relief to achieve the result intended by this subsection, but nothing in this subsection shall be construed to prevent the subsequent release of information and records related to mental health services as authorized by RCW 71.05.445, 70.02.250, or 72.09.585. Any person who otherwise is permitted to attend any hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded from the hearing solely because the department intends to disclose or discloses information related to mental health services.

**Sec. 502.** RCW 9.94A.660 and 2016 sp.s. c 29 s 524 are each amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender is convicted of a felony that is not a felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6);

(c) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(d) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(e) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(f) The end of the standard sentence range for the current offense is greater than one year; and

(g) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a special drug offender sentencing alternative may be made by the court, the offender, or the state.

(3) If the sentencing court determines that the offender is eligible for an alternative sentence under this section and that the alternative sentence is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under RCW 9.94A.662 or a residential chemical dependency treatment-based alternative under RCW 9.94A.664. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(4)(a) To assist the court in making its determination, the court may order the department to complete either or both a risk assessment report and a chemical dependency screening report as provided in RCW 9.94A.500.

(b) To assist the court in making its determination in domestic violence cases, the court shall order the department to complete a presentence investigation and a chemical dependency screening report as provided in RCW 9.94A.500, unless otherwise specifically waived by the court.

(5)(a) If the court is considering imposing a sentence under the residential chemical dependency treatment-based alternative, the court may order an examination of the offender by the department. The examination shall, at a minimum, address the following issues:

(i) Whether the offender suffers from drug addiction;

(ii) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

(iii) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the department of ~~((social and health services))~~ health, and where applicable, whether effective domestic violence perpetrator treatment is available from a state-certified domestic violence treatment provider pursuant to chapter 26.50 RCW; and

(iv) Whether the offender and the community will benefit from the use of the alternative.

(b) The examination report must contain:

(i) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle

requirements, and monitoring by family members and others; and

(ii) Recommended crime-related prohibitions and affirmative conditions.

(6) When a court imposes a sentence of community custody under this section:

(a) The court may impose conditions as provided in RCW 9.94A.703 and may impose other affirmative conditions as the court considers appropriate. In addition, an offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring for alcohol or controlled substances, or in cases of domestic violence for monitoring with global positioning system technology for compliance with a no-contact order.

(b) The department may impose conditions and sanctions as authorized in RCW 9.94A.704 and 9.94A.737.

(7)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the conditions of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

(8) In serving a term of community custody imposed upon failure to complete, or administrative termination from, the special drug offender sentencing alternative program, the offender shall receive no credit for time served in community custody prior to termination of the offender's participation in the program.

(9) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.

(10) Costs of examinations and preparing treatment plans under a special drug offender sentencing alternative may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 71.24.580.

**Sec. 503.** RCW 9.94A.662 and 2009 c 389 s 4 are each amended to read as follows:

(1) A sentence for a prison-based special drug offender sentencing alternative shall include:

(a) A period of total confinement in a state facility for one-half the midpoint of the standard sentence range or twelve months, whichever is greater;

(b) One-half the midpoint of the standard sentence range as a term of community custody, which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services, and for co-occurring drug and domestic violence cases, must also include an appropriate domestic violence treatment program by a state-certified domestic violence treatment provider pursuant to chapter 26.50 RCW;

(c) Crime-related prohibitions, including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to RCW 9.94A.701 to be imposed upon the failure to complete or administrative termination from the special drug offender sentencing alternative program.

(2)(a) During incarceration in the state facility, offenders sentenced under this section shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The substance abuse treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections.

(b) When applicable for cases involving domestic violence, domestic violence treatment must be provided by a state-certified domestic violence treatment provider pursuant to chapter 26.50 RCW during the term of community custody.

(3) If the department finds that conditions of community custody have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court.

(4) If an offender sentenced to the prison-based alternative under this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

**Sec. 504.** RCW 9.94A.664 and 2009 c 389 s 5 are each amended to read as follows:

(1) A sentence for a residential chemical dependency treatment-based alternative shall include a term of community custody equal to one-half the midpoint of the standard sentence range or two years, whichever is greater,

conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months.

(2)(a) The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the examination report completed pursuant to RCW 9.94A.660.

(b) If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody, and within available resources, make domestic violence treatment services available to a domestic violence offender during the term of community custody.

(3)(a) If the court imposes a sentence under this section, the treatment provider must send the treatment plan to the court within thirty days of the offender's arrival to the residential chemical dependency treatment program and, when applicable, the domestic violence treatment program.

(b) Upon receipt of the plan, the court shall schedule a progress hearing during the period of (~~residential chemical dependency~~) treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody.

(c) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment.

(4) At a progress hearing or treatment termination hearing, the court may:

(a) Authorize the department to terminate the offender's community custody status on the expiration date determined under subsection (1) of this section;

(b) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(c) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701.

(5) If the court imposes a term of total confinement, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of total confinement and subsequent term of community custody.

## **PART VI - COMMUNITY CUSTODY AND REENTRY**

**Sec. 601.** RCW 9.94A.704 and 2016 c 108 s 1 are each amended to read as follows:

(1) Every person who is sentenced to a period of community custody shall report to and be placed under the supervision of the department, subject to RCW 9.94A.501.

(2)(a) The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of community custody based upon the risk to community safety.

(b) Within the funds available for community custody, the department shall determine conditions on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection (2)(b).

(3) If the offender is supervised by the department, the department shall at a minimum instruct the offender to:

(a) Report as directed to a community corrections officer;

(b) Remain within prescribed geographical boundaries;

(c) Notify the community corrections officer of any change in the offender's address or employment;

(d) Pay the supervision fee assessment; and

(e) Disclose the fact of supervision to any mental health (~~or~~) chemical dependency, or domestic violence treatment provider, as required by RCW 9.94A.722.

(4) The department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws.

(5) If the offender was sentenced pursuant to a conviction for a sex offense or domestic violence, the department may:

(a) Require the offender to refrain from direct or indirect contact with the victim of the crime or immediate family member of the victim of the crime. If a victim or an immediate family member of a victim has requested that the offender not contact him or her after notice as provided in RCW 72.09.340, the department shall require the offender to refrain from contact with the requestor. Where the victim is a minor, the parent or guardian of the victim may make a request on the victim's behalf. This subsection is not intended to reduce the preexisting authority of the department to impose no-contact conditions regardless of the offender's crime and regardless of who is protected by the no-contact condition, where such condition is based on risk to community safety.

(b) Impose electronic monitoring. Within the resources made available by the department for this purpose, the department shall carry out any electronic monitoring using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" has the same meaning as in RCW 9.94A.030.

(6) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court-imposed conditions.

(7)(a) The department shall notify the offender in writing of any additional conditions or modifications.

(b) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to the crime of conviction, the offender's risk of reoffending, or the safety of the community.

(8) The department shall notify the offender in writing upon community custody intake of the department's violation process.

(9) The department may require offenders to pay for special services rendered including electronic monitoring, day reporting, and telephone reporting, dependent on the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(10)(a) When an offender on community custody is under the authority of the board, the department shall assess the offender's risk of recidivism and shall recommend to the board any additional or modified conditions based upon the offender's risk to community safety and may recommend affirmative conduct or electronic monitoring consistent with subsections (4) through (6) of this section.

(b) The board may impose conditions in addition to court-ordered conditions. The board must consider and may impose department-recommended conditions. The board must impose a condition requiring the offender to refrain from contact with the victim or immediate family member of the victim as provided in subsection (5)(a) of this section.

(c) By the close of the next business day, after receiving notice of a condition imposed by the board or the department, an offender may request an administrative hearing under rules adopted by the board. The condition shall remain in effect unless the hearing examiner finds that it is not reasonably related to any of the following:

- (i) The crime of conviction;
- (ii) The offender's risk of reoffending;
- (iii) The safety of the community;
- (iv) The offender's risk of domestic violence reoffense.

(d) If the department finds that an emergency exists requiring the immediate imposition of additional conditions in order to prevent the offender from committing a crime, the department may impose such conditions. The department may not impose conditions that are contrary to those set by the board or the court and may not contravene or decrease court-imposed or board-imposed conditions. Conditions imposed under this subsection shall take effect immediately after notice to the offender by personal service, but shall not

remain in effect longer than seven working days unless approved by the board.

(11) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

**Sec. 602.** RCW 9.94A.722 and 2004 c 166 s 9 are each amended to read as follows:

When an offender receiving court-ordered mental health ~~((or))~~, chemical dependency, or domestic violence treatment or treatment ordered by the department of corrections presents for treatment from a mental health or chemical dependency treatment provider, the offender must disclose to the mental health ~~((or))~~, chemical dependency, or domestic violence treatment provider whether he or she is subject to supervision by the department of corrections. If an offender has received relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132, the offender must provide the mental health ~~((or))~~, chemical dependency, or domestic violence treatment provider with a copy of the order granting the relief.

## PART VII - DEFERRED PROSECUTIONS

**Sec. 701.** RCW 10.05.010 and 2008 c 282 s 15 are each amended to read as follows:

(1) In a court of limited jurisdiction a person charged with a misdemeanor or gross misdemeanor may petition the court to be considered for a deferred prosecution program. The petition shall be filed with the court at least seven days before the date set for trial but, upon a written motion and affidavit establishing good cause for the delay and failure to comply with this section, the court may waive this requirement subject to the defendant's reimbursement to the court of the witness fees and expenses due for subpoenaed witnesses who have appeared on the date set for trial.

(2) A person charged with a traffic infraction, misdemeanor, or gross misdemeanor under Title 46 RCW, or a misdemeanor or gross misdemeanor domestic violence offense, shall not be eligible for a deferred prosecution program unless the court makes specific findings pursuant to RCW 10.05.020 ~~((or section 18 of this act. Such person shall not be eligible for a deferred prosecution program more than once; and cannot receive a deferred prosecution under both RCW 10.05.020 and section 18 of this act)).~~ A person may not participate in a deferred prosecution program for a traffic infraction, misdemeanor, or gross misdemeanor under Title 46 RCW if he or she has participated in a deferred prosecution program for a prior traffic infraction, misdemeanor, or gross misdemeanor under Title 46 RCW, and a person may not participate in a deferred prosecution program for a misdemeanor or gross misdemeanor domestic violence offense if he or she has participated in a deferred prosecution program for a prior domestic violence offense. Separate offenses committed more than seven days apart may not be consolidated in a single program.

(3) A person charged with a misdemeanor or a gross misdemeanor under chapter 9A.42 RCW shall not be eligible for a deferred prosecution program unless the court makes specific findings pursuant to RCW 10.05.020. Such person shall not be eligible for a deferred prosecution program more than once.

(4) A person is not eligible for a deferred prosecution program if the misdemeanor or gross misdemeanor domestic violence offense was originally charged as a felony offense in superior court.

**Sec. 702.** RCW 10.05.015 and 1985 c 352 s 5 are each amended to read as follows:

At the time of arraignment a person charged with a violation of RCW 46.61.502 or 46.61.504 or a misdemeanor or gross misdemeanor domestic violence offense may be given a statement by the court that explains the availability, operation, and effects of the deferred prosecution program.

**Sec. 703.** RCW 10.05.020 and 2016 sp.s. c 29 s 525 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the petitioner shall allege under oath in the petition that the wrongful conduct charged is the result of or caused by substance use disorders or mental problems or domestic violence behavior problems for which the person is in need of treatment and unless treated the probability of future recurrence is great, along with a statement that the person agrees to pay the cost of a diagnosis and treatment of the alleged problem or problems if financially able to do so. The petition shall also contain a case history and written assessment prepared by an approved substance use disorder treatment program as designated in chapter 71.24 RCW if the petition alleges a substance use disorder ~~((or))~~, by an approved mental health center if the petition alleges a mental problem, or by a state-certified domestic violence treatment provider pursuant to chapter 26.50 RCW if the petition alleges a domestic violence behavior problem.

(2) In the case of a petitioner charged with a misdemeanor or gross misdemeanor under chapter 9A.42 RCW, the petitioner shall allege under oath in the petition that the petitioner is the natural or adoptive parent of the alleged victim; that the wrongful conduct charged is the result of parenting problems for which the petitioner is in need of services; that the petitioner is in need of child welfare services under chapter 74.13 RCW to improve his or her parenting skills in order to better provide his or her child or children with the basic necessities of life; that the petitioner wants to correct his or her conduct to reduce the likelihood of harm to his or her minor children; that in the absence of child welfare services the petitioner may be unable to reduce the likelihood of harm to his or her minor children; and that the petitioner has cooperated with the department of social and health services to develop a plan to receive appropriate child welfare services; along with a statement that the person agrees to pay the cost of the services if he or she is financially able to do so. The petition shall also contain a case history

and a written service plan from the department of social and health services.

(3) Before entry of an order deferring prosecution, a petitioner shall be advised of his or her rights as an accused and execute, as a condition of receiving treatment, a statement that contains: (a) An acknowledgment of his or her rights; (b) an acknowledgment and waiver of the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; (c) a stipulation to the admissibility and sufficiency of the facts contained in the written police report; and (d) an acknowledgment that the statement will be entered and used to support a finding of guilty if the court finds cause to revoke the order granting deferred prosecution. The petitioner shall also be advised that he or she may, if he or she proceeds to trial and is found guilty, be allowed to seek suspension of some or all of the fines and incarceration that may be ordered upon the condition that he or she seek treatment and, further, that he or she may seek treatment from public and private agencies at any time without regard to whether or not he or she is found guilty of the offense charged. He or she shall also be advised that the court will not accept a petition for deferred prosecution from a person who: (i) Sincerely believes that he or she is innocent of the charges; (ii) sincerely believes that he or she does not, in fact, suffer from alcoholism, drug addiction, ~~((or))~~ mental problems, or domestic violence behavior problems; or (iii) in the case of a petitioner charged under chapter 9A.42 RCW, sincerely believes that he or she does not need child welfare services.

(4) Before entering an order deferring prosecution, the court shall make specific findings that: (a) The petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the written police report; (b) the petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution; (c) the petitioner has acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; and (d) the petitioner's statements were made knowingly and voluntarily. Such findings shall be included in the order granting deferred prosecution.

**Sec. 704.** RCW 10.05.030 and 2016 sp.s. c 29 s 526 are each amended to read as follows:

The arraigning judge upon consideration of the petition and with the concurrence of the prosecuting attorney may continue the arraignment and refer such person for a diagnostic investigation and evaluation to:

(1) An approved substance use disorder treatment program as designated in chapter 71.24 RCW((;)) if the petition alleges a substance use disorder((;+or));

(2) An approved mental health center((;)) if the petition alleges a mental problem((;+or));

(3) The department of social and health services if the petition is brought under RCW 10.05.020(2); or

(4) An approved state-certified domestic violence treatment provider pursuant to chapter 26.50 RCW if the petition alleges a domestic violence behavior problem.

**Sec. 705.** RCW 10.05.120 and 2003 c 220 s 1 are each amended to read as follows:

(1) Three years after receiving proof of successful completion of the two-year treatment program, and following proof to the court that the petitioner has complied with the conditions imposed by the court following successful completion of the two-year treatment program, but not before five years following entry of the order of deferred prosecution pursuant to a petition brought under RCW 10.05.020(1), the court shall dismiss the charges pending against the petitioner.

(2) When a deferred prosecution is ordered pursuant to a petition brought under RCW 10.05.020(2) and the court has received proof that the petitioner has successfully completed the child welfare service plan, or the plan has been terminated because the alleged victim has reached his or her majority and there are no other minor children in the home, the court shall dismiss the charges pending against the petitioner: PROVIDED, That in any case where the petitioner's parental rights have been terminated with regard to the alleged victim due to abuse or neglect that occurred during the pendency of the deferred prosecution, the termination shall be per se evidence that the petitioner did not successfully complete the child welfare service plan.

(3) When a deferred prosecution is ordered for a petition brought under RCW 10.05.020(1) involving a domestic violence behavior problem and the court has received proof that the petitioner has successfully completed the domestic violence treatment plan, the court shall dismiss the charges pending against the petitioner.

**Sec. 706.** RCW 10.05.140 and 2016 c 203 s 11 are each amended to read as follows:

(1) As a condition of granting a deferred prosecution petition, the court shall order that the petitioner shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance. The amount of liability insurance shall be established by the court at not less than that established by RCW 46.29.490. As a condition of granting a deferred prosecution petition on any alcohol-dependency based case, the court shall also order the installation of an ignition interlock under RCW 46.20.720. The required periods of use of the interlock shall be not less than the periods provided for in RCW 46.20.720. As a condition of granting a deferred prosecution petition, the court may order the petitioner to make restitution and to pay costs as defined in RCW 10.01.160. To help ensure continued sobriety and reduce the likelihood of reoffense, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. The

court may terminate the deferred prosecution program upon violation of the deferred prosecution order.

(2) As a condition of granting a deferred prosecution petition for a case involving a domestic violence behavior problem:

(a) The court shall order the petitioner not to possess firearms and order the petitioner to surrender firearms under RCW 9.41.800; and

(b) The court may order the petitioner to make restitution and to pay costs as defined in RCW 10.01.160. In addition, to help ensure continued sobriety and reduce the likelihood of reoffense in co-occurring domestic violence and substance abuse or mental health cases, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. The court may terminate the deferred prosecution program upon violation of the deferred prosecution order.

**Sec. 707.** RCW 10.05.160 and 2010 c 269 s 11 are each amended to read as follows:

The prosecutor may appeal an order granting deferred prosecution on any or all of the following grounds:

(1) Prior deferred prosecution has been granted to the defendant;

(2) For a present petition alleging a domestic violence behavior problem, a prior stipulated order of continuance has been granted to the defendant;

(3) Failure of the court to obtain proof of insurance or a treatment plan conforming to the requirements of this chapter;

~~((3))~~ (4) Failure of the court to comply with the requirements of RCW 10.05.100;

~~((4))~~ (5) Failure of the evaluation facility to provide the information required in RCW 10.05.040 and 10.05.050, if the defendant has been referred to the facility for treatment. If an appeal on such basis is successful, the trial court may consider the use of another treatment program;

~~((5))~~ (6) Failure of the court to order the installation of an ignition interlock or other device under RCW 10.05.140.

**NEW SECTION. Sec. 708.** A new section is added to chapter 10.05 RCW to read as follows:

A deferred prosecution program for domestic violence behavior, or domestic violence co-occurring with substance abuse or mental health, must include, but is not limited to, the following requirements:

(1) Completion of a risk assessment;

(2) Participation in the level of treatment recommended by the program as outlined in the current treatment plan;

(3) Compliance with the contract for treatment;

(4) Participation in any ancillary or co-occurring treatments that are determined to be necessary for the successful completion of the domestic violence intervention treatment including, but not limited to, mental health or substance use treatment;

(5) Domestic violence intervention treatment within the purview of this section to be completed with a state-certified domestic violence intervention treatment program;

(6) Signature of the petitioner agreeing to the terms and conditions of the treatment program;

(7) Proof of compliance with any active order to surrender weapons issued in this program or related civil protection orders or no-contact orders.

#### **PART VIII - DOMESTIC VIOLENCE WORK GROUPS**

NEW SECTION. Sec. 801. In 2017 the legislature established two work groups managed by the Washington state supreme court gender and justice commission to study domestic violence treatment and domestic violence risk. The work groups successfully pulled together stakeholders from across the state and published two reports with groundbreaking recommendations. The legislature finds that there is a need to continue the work groups. The work groups shall review best practices for alternatives to mandatory arrest in cases of domestic violence, and the work groups shall monitor implementation of prior recommendations for the purpose of promoting effective strategies to reduce domestic violence homicides, serious injuries, and recidivism.

**Sec. 802.** 2017 c 272 s 7 (uncodified) is amended to read as follows:

(1) The administrative office of the courts shall, through the Washington state gender and justice commission of the supreme court, convene a work group to address the issue of domestic violence perpetrator treatment and the role of certified perpetrator treatment programs in holding domestic violence perpetrators accountable.

(2) The work group must include a representative for each of the following organizations or interests: Superior court judges, district court judges, municipal court judges, court probation officers, prosecuting attorneys, defense attorneys, civil legal aid attorneys, domestic violence victim advocates, domestic violence perpetrator treatment providers, the department of social and health services, the department of corrections, the Washington state institute for public policy, and the University of Washington evidence based practice institute. At least two domestic violence perpetrator treatment providers must be represented as members of the work group.

(3)(a) For its initial report in 2018, the work group shall: ~~((a))~~ (i) Review laws, regulations, and court and agency practices pertaining to domestic violence perpetrator treatment used in civil and criminal contexts, including criminal domestic violence felony and misdemeanor offenses, family law, child welfare, and protection orders; ~~((b))~~ (ii) consider the development of a universal diagnostic evaluation tool to be used by treatment providers and the department of corrections to assess the treatment needs of domestic violence perpetrators; and ~~((c))~~ (iii) develop recommendations on changes to existing laws, regulations, and court and agency practices to improve victim safety, decrease recidivism, advance treatment outcomes, and increase the courts' confidence in domestic violence perpetrator treatment.

~~((4))~~ (b) The work group shall report its recommendations to the affected entities and the appropriate committees of the legislature no later than June 30, 2018.

(4)(a) For its report in 2019, the work group shall:

(i) Provide guidance and additional recommendations with respect to how prior recommendations of the work group should be implemented for the purpose of promoting effective strategies to reduce domestic violence in Washington state;

(ii) Monitor, evaluate, and provide recommendations for the implementation of the newly established domestic violence treatment administrative codes;

(iii) Monitor, evaluate, and provide recommendations on the implementation and supervision of domestic violence sentencing alternatives in different counties to promote consistency; and

(iv) Provide recommendations on other items deemed appropriate by the work group.

(b) The work group shall report its recommendations to the affected entities and the appropriate committees of the legislature no later than June 30, 2020.

(5) The work group must operate within existing funds.

(6) This section expires June 30, ~~((2019))~~ 2021.

**Sec. 803.** 2017 c 272 s 8 (uncodified) is amended to read as follows:

(1) ~~((The legislature finds that Washington state has a serious problem with domestic violence offender recidivism and lethality. The Washington state institute for public policy studied domestic violence offenders finding not just high rates of domestic violence recidivism but among the highest rates of general criminal and violent recidivism. The Washington state coalition against domestic violence has issued fatality reviews of domestic violence homicides in Washington under chapter 43.235 RCW for over fifteen years. These fatality reviews demonstrate the significant impact of domestic violence on our communities as well as the barriers and high rates of lethality faced by~~

victims. The legislature further notes there have been several high profile domestic violence homicides with multiple prior domestic violence incidents not accounted for in the legal response. Many jurisdictions nationally have encountered the same challenges as Washington and now utilize risk assessment as a best practice to assist in the response to domestic violence.)

The Washington domestic violence risk assessment work group is established to study how and when risk assessment can best be used to improve the response to domestic violence offenders and victims and find effective strategies to reduce domestic violence homicides, serious injuries, and recidivism that are a result of domestic violence incidents in Washington state.

(2)(a) The Washington state gender and justice commission, in collaboration with the Washington state coalition against domestic violence and the Washington State University criminal justice program, shall coordinate the work group and provide staff support.

(b) The work group must include a representative from each of the following organizations:

- (i) The Washington state gender and justice commission;
  - (ii) The department of corrections;
  - (iii) The department of social and health services;
  - (iv) The Washington association of sheriffs and police chiefs;
  - (v) The superior court judges' association;
  - (vi) The district and municipal court judges' association;
  - (vii) The Washington state association of counties;
  - (viii) The Washington association of prosecuting attorneys;
  - (ix) The Washington defender association;
  - (x) The Washington association of criminal defense lawyers;
  - (xi) The Washington state association of cities;
  - (xii) The Washington state coalition against domestic violence;
  - (xiii) The Washington state office of civil legal aid; and
  - (xiv) The family law section of the Washington state bar association.
- (c) The work group must additionally include representation from:
- (i) Treatment providers;
  - (ii) City law enforcement;
  - (iii) County law enforcement;
  - (iv) Court administrators; and

(v) Domestic violence victims or family members of a victim.

(3) ~~((At a minimum,))~~ (a) For its initial report in 2018, the work group shall research, review, and make recommendations on the following:

~~((a))~~ (i) How to best develop and use risk assessment in domestic violence response utilizing available research and Washington state data;

~~((b))~~ (ii) Providing effective strategies for incorporating risk assessment in domestic violence response to reduce deaths, serious injuries, and recidivism due to domestic violence;

~~((c))~~ (iii) Promoting access to domestic violence risk assessment for advocates, police, prosecutors, corrections, and courts to improve domestic violence response;

~~((d))~~ (iv) Whether or how risk assessment could be used as an alternative to mandatory arrest in domestic violence;

~~((e))~~ (v) Whether or how risk assessment could be used in bail determinations in domestic violence cases, and in civil protection order hearings;

~~((f))~~ (vi) Whether or how offender risk, needs, and responsivity could be used in determining eligibility for diversion, sentencing alternatives, and treatment options;

~~((g))~~ (vii) Whether or how victim risk, needs, and responsivity could be used in improving domestic violence response;

~~((h))~~ (viii) Whether or how risk assessment can improve prosecution and encourage prosecutors to aggressively enforce domestic violence laws; and

~~((i))~~ (ix) Encouraging private sector collaboration.

~~((j))~~ (b) The work group shall compile its findings and recommendations into ~~((a final))~~ an initial report and provide its report to the appropriate committees of the legislature and governor by June 30, 2018.

(4)(a) For its report in 2019, the work group shall:

(i) Research, review, and make recommendations on whether laws mandating arrest in cases of domestic violence should be amended and whether alternative arrest statutes should incorporate domestic violence risk assessment in domestic violence response to improve the response to domestic violence, and what training for law enforcement would be needed to implement an alternative to mandatory arrest;

(ii) Research, review, and make recommendations on how prior recommendations of the work group should be implemented in order to promote effective strategies to reduce domestic violence in Washington state;

(iii) Monitor, evaluate, and provide recommendations on the development and use of the risk assessment tool under section 401 of this act; and

(iv) Provide recommendations on other items deemed appropriate by the work group.

(b) The work group shall compile its findings and recommendations into a final report and provide its report to the appropriate committees of the legislature and governor by June 30, 2020.

(5) The work group must operate within existing funds.

(6) This section expires June 30, (~~2019~~) 2021.

## **PART IX - UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC**

### **VIOLENCE PROTECTION ORDERS**

NEW SECTION. Sec. 901. SHORT TITLE. This chapter may be cited as the uniform recognition and enforcement of Canadian domestic violence protection orders act.

NEW SECTION. Sec. 902. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Canadian domestic violence protection order" means a judgment or part of a judgment or order issued in a civil proceeding by a court of Canada under law of the issuing jurisdiction which relates to domestic violence and prohibits a respondent from:

(a) Being in physical proximity to a protected individual or following a protected individual;

(b) Directly or indirectly contacting or communicating with a protected individual or other individual described in the order;

(c) Being within a certain distance of a specified place or location associated with a protected individual; or

(d) Molesting, annoying, harassing, or engaging in threatening conduct directed at a protected individual.

(2) "Domestic protection order" means an injunction or other order issued by a tribunal which relates to domestic or family violence laws to prevent an individual from engaging in violent or threatening acts against, harassment of, direct or indirect contact or communication with, or being in physical proximity to another individual.

(3) "Issuing court" means the court that issues a Canadian domestic violence protection order.

(4) "Law enforcement officer" means an individual authorized by law of this state other than this chapter to enforce a domestic protection order.

(5) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(6) "Protected individual" means an individual protected by a Canadian domestic violence protection order.

(7) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(8) "Respondent" means an individual against whom a Canadian domestic violence protection order is issued.

(9) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(10) "Tribunal" means a court, agency, or other entity authorized by law of this state other than this chapter to establish, enforce, or modify a domestic protection order.

### NEW SECTION. Sec. 903. ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER BY LAW ENFORCEMENT OFFICER.

(1) If a law enforcement officer determines under subsection (2) or (3) of this section that there is probable cause to believe a valid Canadian domestic violence protection order exists and the order has been violated, the officer shall enforce the terms of the Canadian domestic violence protection order as if the terms were in an order of a tribunal. Presentation to a law enforcement officer of a certified copy of a Canadian domestic violence protection order is not required for enforcement.

(2) Presentation to a law enforcement officer of a record of a Canadian domestic violence protection order that identifies both a protected individual and a respondent and on its face is in effect constitutes probable cause to believe that a valid order exists.

(3) If a record of a Canadian domestic violence protection order is not presented as provided in subsection (2) of this section, a law enforcement officer may consider other information in determining whether there is probable cause to believe that a valid Canadian domestic violence protection order exists.

(4) If a law enforcement officer determines that an otherwise valid Canadian domestic violence protection order cannot be enforced because the respondent has not been notified of or served with the order, the officer shall notify the protected individual that the officer will make reasonable efforts to contact the respondent, consistent with the safety of the protected individual. After notice to the protected individual and consistent with the safety of the individual, the officer shall make a reasonable effort to inform the respondent of the order, notify the respondent of the terms of the order, provide a record of the order, if available, to the respondent, and allow the respondent a reasonable opportunity to comply with the order before the officer enforces the order.

(5) If a law enforcement officer determines that an individual is a protected individual, the officer shall inform the individual of available local victim services.

**NEW SECTION. Sec. 904. ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER BY TRIBUNAL.** (1) A tribunal may issue an order enforcing or refusing to enforce a Canadian domestic violence protection order on application of:

(a) A person authorized by law of this state other than this chapter to seek enforcement of a domestic protection order; or

(b) A respondent.

(2) In a proceeding under subsection (1) of this section, the tribunal shall follow the procedures of this state for enforcement of a domestic protection order. An order entered under this section is limited to the enforcement of the terms of the Canadian domestic violence protection order as defined in section 902 of this act.

(3) A Canadian domestic violence protection order is enforceable under this section if:

(a) The order identifies a protected individual and a respondent;

(b) The order is valid and in effect;

(c) The issuing court had jurisdiction over the parties and the subject matter under law applicable in the issuing court; and

(d) The order was issued after:

(i) The respondent was given reasonable notice and had an opportunity to be heard before the court issued the order; or

(ii) In the case of an ex parte order, the respondent was given reasonable notice and had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the right of the respondent to due process.

(4) A Canadian domestic violence protection order valid on its face is prima facie evidence of its enforceability under this section.

(5) A claim that a Canadian domestic violence protection order does not comply with subsection (3) of this section is an affirmative defense in a proceeding seeking enforcement of the order. If the tribunal determines that the order is not enforceable, the tribunal shall issue an order that the Canadian domestic violence protection order is not enforceable under this section and section 903 of this act and may not be registered under section 905 of this act.

**NEW SECTION. Sec. 905. REGISTRATION OF CANADIAN DOMESTIC VIOLENCE PROTECTION ORDER.** (1) A person entitled to protection who has a valid Canadian domestic violence protection order may file that order by presenting a certified, authenticated, or exemplified copy of the Canadian domestic violence protection order to a clerk of the court of a Washington court in which the person entitled to protection resides or to a clerk of the court of a Washington court where the person entitled to protection believes enforcement may be necessary. Any out-

of-state department, agency, or court responsible for maintaining protection order records, may by facsimile or electronic transmission send a reproduction of the foreign protection order to the clerk of the court of Washington as long as it contains a facsimile or digital signature by any person authorized to make such transmission.

(2) On receipt of a certified copy of a Canadian domestic violence protection order, the clerk of the court shall register the order in accordance with this section.

(3) An individual registering a Canadian domestic violence protection order under this section shall file an affidavit stating that, to the best of the individual's knowledge, the order is valid and in effect.

(4) After a Canadian domestic violence protection order is registered under this section, the clerk of the court shall provide the individual registering the order a certified copy of the registered order.

(5) A Canadian domestic violence protection order registered under this section may be entered in a state or federal registry of protection orders in accordance with law.

(6) An inaccurate, expired, or unenforceable Canadian domestic violence protection order may be corrected or removed from the registry of protection orders maintained in this state in accordance with law of this state other than this chapter.

(7) A fee may not be charged for the registration of a Canadian domestic violence protection order under this section.

(8) Registration in this state or filing under law of this state other than this chapter of a Canadian domestic violence protection order is not required for its enforcement under this chapter.

**NEW SECTION. Sec. 906. IMMUNITY.** The state, state agency, local governmental agency, law enforcement officer, prosecuting attorney, clerk of court, and state or local governmental official acting in an official capacity are immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a Canadian domestic violence protection order or the detention or arrest of an alleged violator of a Canadian domestic violence protection order if the act or omission was a good faith effort to comply with this chapter.

**NEW SECTION. Sec. 907. OTHER REMEDIES.** An individual who seeks a remedy under this chapter may seek other legal or equitable remedies.

**NEW SECTION. Sec. 908. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. **Sec. 909.** RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

NEW SECTION. **Sec. 910.** TRANSITION. This chapter applies to a Canadian domestic violence protection order issued before, on, or after the effective date of this section and to a continuing action for enforcement of a Canadian domestic violence protection order commenced before, on, or after the effective date of this section. A request for enforcement of a Canadian domestic violence protection order made on or after the effective date of this section for a violation of the order occurring before, on, or after the effective date of this section is governed by this chapter.

**Sec. 911.** RCW 10.31.100 and 2017 c 336 s 3 and 2017 c 223 s 1 are each reenacted and amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of an officer, except as provided in subsections (1) through (11) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26A, 26.26B, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an

order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, or a Canadian domestic violence protection order, as defined in section 902 of this act, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order or the Canadian domestic violence protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order or the Canadian domestic violence protection order specifically indicates that a violation will be a crime; or

(c) The person is eighteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (A) The intent to protect victims of domestic violence under RCW 10.99.010; (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;

(f) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(g) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

(6) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(7) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(8) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(9) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(10) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(11) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(12) A law enforcement officer having probable cause to believe that a person has committed a violation

under RCW 77.15.160(~~((4))~~) (5) may issue a citation for an infraction to the person in connection with the violation.

(13) A law enforcement officer having probable cause to believe that a person has committed a criminal violation under RCW 77.15.809 or 77.15.811 may arrest the person in connection with the violation.

(14) Except as specifically provided in subsections (2), (3), (4), and (7) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(15) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or (9) of this section if the police officer acts in good faith and without malice.

(16)(a) Except as provided in (b) of this subsection, a police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer: (i) Has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years; or (ii) has knowledge, based on a review of the information available to the officer at the time of arrest, that the person is charged with or is awaiting arraignment for an offense that would qualify as a prior offense as defined in RCW 46.61.5055 if it were a conviction.

(b) A police officer is not required to keep in custody a person under (a) of this subsection if the person requires immediate medical attention and is admitted to a hospital.

**Sec. 912.** RCW 26.50.035 and 2005 c 282 s 40 are each amended to read as follows:

(1) The administrative office of the courts shall develop and prepare instructions and informational brochures required under RCW 26.50.030(4), standard petition and order for protection forms, and a court staff handbook on domestic violence and the protection order process. The standard petition and order for protection forms must be used after September 1, 1994, for all petitions filed and orders issued under this chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation with interested persons, including a representative of the state domestic violence coalition, judges, and law enforcement personnel.

(a) The instructions shall be designed to assist petitioners in completing the petition, and shall include a sample of standard petition and order for protection forms.

(b) The informational brochure shall describe the use of and the process for obtaining, modifying, and terminating a domestic violence protection order as provided under this chapter, an antiharassment no-contact order as provided under chapter 9A.46 RCW, a domestic violence no-contact order as provided under chapter 10.99 RCW, a restraining order as provided under chapters 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, and 26.44 RCW, an antiharassment protection order as provided by chapter

10.14 RCW, ~~((and))~~ a foreign protection order as defined in chapter 26.52 RCW, and a Canadian domestic violence protection order as defined in section 902 of this act.

(c) The order for protection form shall include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, and the following statement: "You can be arrested even if the person or persons who obtained the order invite or allow you to violate the order's prohibitions. The respondent has the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application."

(d) The court staff handbook shall allow for the addition of a community resource list by the court clerk.

(2) All court clerks shall obtain a community resource list from a domestic violence program, defined in RCW 70.123.020, serving the county in which the court is located. The community resource list shall include the names and telephone numbers of domestic violence programs serving the community in which the court is located, including law enforcement agencies, domestic violence agencies, sexual assault agencies, legal assistance programs, interpreters, multicultural programs, and batterers' treatment programs. The court shall make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.

(3) The administrative office of the courts shall distribute a master copy of the petition and order forms, instructions, and informational brochures to all court clerks and shall distribute a master copy of the petition and order forms to all superior, district, and municipal courts.

(4) For purposes of this section, "court clerks" means court administrators in courts of limited jurisdiction and elected court clerks.

(5) The administrative office of the courts shall determine the significant non-English-speaking or limited English-speaking populations in the state. The administrator shall then arrange for translation of the instructions and informational brochures required by this section, which shall contain a sample of the standard petition and order for protection forms, into the languages spoken by those significant non-English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to all court clerks by January 1, 1997.

(6) The administrative office of the courts shall update the instructions, brochures, standard petition and order for protection forms, and court staff handbook when changes in the law make an update necessary.

**Sec. 913.** RCW 26.50.110 and 2017 c 230 s 9 are each amended to read as follows:

(1)(a) Whenever an order is granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26A, 26.26B, or 74.34 RCW, any temporary order for protection is granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, ~~((or))~~ there is a valid foreign protection order as defined in RCW

26.52.020, or there is a valid Canadian domestic violence protection order as defined in section 902 of this act, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

(i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;

(ii) A provision excluding the person from a residence, workplace, school, or day care;

(iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location;

(iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or the respondent; or

(v) A provision of a foreign protection order or a Canadian domestic violence protection order specifically indicating that a violation will be a crime.

(b) Upon conviction, and in addition to any other penalties provided by law, the court:

(i) May require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(ii) Shall impose a fine of fifteen dollars, in addition to any penalty or fine imposed, for a violation of a domestic violence protection order issued under this chapter. Revenue from the fifteen dollar fine must be remitted monthly to the state treasury for deposit in the domestic violence prevention account.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26A, 26.26B, or 74.34 RCW, any temporary order for protection granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, ~~((or))~~ a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in section 902 of this act, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99,

26.09, 26.10, ~~((26.26))~~ 26.26A, 26.26B, or 74.34 RCW, ~~((or ef))~~ a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in section 902 of this act, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26A, 26.26B, or 74.34 RCW, ~~((or ef))~~ a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in section 902 of this act, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26A, 26.26B, or 74.34 RCW, ~~((or ef))~~ a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in section 902 of this act, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26A, 26.26B, or 74.34 RCW, ~~((or ef))~~ a valid foreign protection order as defined in RCW 26.52.020 or a valid Canadian domestic violence protection order as defined in section 902 of this act. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26A, 26.26B, or 74.34 RCW, ~~((or ef))~~ a valid foreign protection order as defined in RCW 26.52.020, or a valid Canadian domestic violence protection order as defined in section 902 of this act, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

**Sec. 914.** RCW 26.50.160 and 2017 3rd sp.s. c 6 s 335 are each amended to read as follows:

To prevent the issuance of competing protection orders in different courts and to give courts needed information for issuance of orders, the judicial information system shall be available in each district, municipal, and superior court by July 1, 1997, and shall include a database containing the following information:

(1) The names of the parties and the cause number for every order of protection issued under this title, every sexual assault protection order issued under chapter 7.90 RCW, every criminal no-contact order issued under chapters 9A.46 and 10.99 RCW, every antiharassment order issued under chapter 10.14 RCW, every dissolution action under chapter 26.09 RCW, every third-party custody action under chapter 26.10 RCW, every parentage action under chapter ~~((26.26))~~ 26.26A or 26.26B RCW, every restraining order issued on behalf of an abused child or adult dependent person under chapter 26.44 RCW, every foreign protection order filed under chapter 26.52 RCW, every Canadian domestic violence protection order filed under chapter 26.-- RCW (the new chapter created in section 1001 of this act), and every order for protection of a vulnerable adult under chapter 74.34 RCW. When a guardian or the department of social and health services or department of children, youth, and families has petitioned for relief on behalf of an abused child, adult dependent person, or vulnerable adult, the name of the person on whose behalf relief was sought shall be included in the database as a party rather than the guardian or appropriate department;

(2) A criminal history of the parties; and

(3) Other relevant information necessary to assist courts in issuing orders under this chapter as determined by the judicial information system committee.

**Sec. 915.** RCW 36.28A.410 and 2017 c 261 s 5 are each amended to read as follows:

(1)(a) Subject to the availability of amounts appropriated for this specific purpose, the Washington association of sheriffs and police chiefs shall create and operate a statewide automated protected person notification system to automatically notify a registered person via the registered person's choice of telephone or email when a respondent subject to a court order specified in (b) of this subsection has attempted to purchase or acquire a firearm and been denied based on a background check or completed and submitted firearm purchase or transfer application that indicates the respondent is ineligible to possess a firearm under state or federal law. The system must permit a person to register for notification, or a registered person to update the person's registration information, for the statewide automated protected person notification system by calling a toll-free telephone number or by accessing a public web site.

(b) The notification requirements of this section apply to any court order issued under chapter 7.92 RCW and RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, ~~((26.26.130, 26.26.590))~~ 26.26B.020, 26.50.060, or 26.50.070, ~~((and))~~ any foreign protection order filed with a Washington court pursuant to chapter 26.52 RCW, and any Canadian domestic violence protection order filed with a Washington court pursuant to chapter 26.-- RCW (the new chapter created in section 1001 of this act), where the order prohibits the respondent from possessing firearms or where by operation of law the respondent is ineligible to possess firearms during the term of the order. The notification requirements of this section apply even if the respondent has

notified the Washington state patrol that he or she has appealed a background check denial under RCW 43.43.823.

(2) An appointed or elected official, public employee, or public agency as defined in RCW 4.24.470, or combination of units of government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any release of information or the failure to release information related to the statewide automated protected person notification system in this section, so long as the release or failure to release was without gross negligence. The immunity provided under this subsection applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

(3) Information and records prepared, owned, used, or retained by the Washington association of sheriffs and police chiefs pursuant to chapter 261, Laws of 2017, including information a person submits to register and participate in the statewide automated protected person notification system, are exempt from public inspection and copying under chapter 42.56 RCW.

#### **PART X - MISCELLANEOUS**

NEW SECTION. Sec. 1001. Sections 901 through 910 of this act constitute a new chapter in Title 26 RCW.

NEW SECTION. Sec. 1002. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 1003. Sections 901 through 915, 1001, and 1002 of this act take effect January 1, 2020.

NEW SECTION. Sec. 1004. Sections 501 through 504, 601, 602, and 701 through 708 of this act take effect January 1, 2021.

NEW SECTION. Sec. 1005. Sections 801 through 803 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 June 30, 2019.

NEW SECTION. Sec. 1006. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, line 1 of the title, after "violence;" strike the remainder of the title and insert "amending RCW 10.99.020, 26.50.020, 9.95.210, 10.99.050, 9.94A.500, 9.94A.660, 9.94A.662, 9.94A.664, 9.94A.704, 9.94A.722, 10.05.010, 10.05.015, 10.05.020, 10.05.030, 10.05.120, 10.05.140, 10.05.160, 26.50.035, 26.50.110, 26.50.160, and

36.28A.410; amending 2017 c 272 ss 7 and 8 (uncodified); reenacting and amending RCW 26.50.010 and 10.31.100; adding a new section to chapter 10.01 RCW; adding a new section to chapter 9.94A RCW; adding a new section to chapter 10.05 RCW; adding a new chapter to Title 26 RCW; creating new sections; prescribing penalties; providing effective dates; providing expiration dates; and declaring an emergency."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

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

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1517 and advanced the bill as amended by the Senate to final passage.

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

Representatives Goodman and Klippert spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1517, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1517, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1517, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

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

April 16, 2019

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1528 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that substance use disorder is a disease impacting the whole family and the whole society and requires a system of care that includes prevention, treatment, and recovery services that support and strengthen impacted individuals, families, and the community at large.

(2) The legislature further finds that access to quality recovery housing is crucial for helping individuals remain in recovery from substance use disorder beyond treatment. Furthermore, recovery housing serves to preserve the state's financial investment in a person's treatment. Without access to quality recovery housing, individuals are much less likely to recover from substance use disorder and more likely to face continued issues that impact their well-being, their families, and their communities. These issues include death by overdose or other substance use disorder-related medical complications; higher health care costs; high use of emergency departments and public health care systems; higher risk for involvement with law enforcement and incarceration; and an inability to obtain and maintain employment. These challenges are compounded by an overall lack of affordable housing nationwide.

(3) The legislature recognizes that recovery is a long-term process and requires a comprehensive approach. Recognizing the potential for fraudulent and unethical recovery housing operators, this act is designed to address the quality of recovery housing in the state of Washington.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

(1) The authority shall establish and maintain a registry of approved recovery residences. The authority may contract with a nationally recognized recovery residence certification organization based in Washington to establish and maintain the registry.

(2) The authority or the contracted entity described in subsection (1) of this section shall determine that a recovery residence is approved for inclusion in the registry if the recovery residence has been certified by a nationally recognized recovery residence certification organization based in Washington that is approved by the authority or if the recovery residence is a chapter of a national recovery residence organization with peer-run homes that is approved by the authority as meeting the following standards in its certification process:

(a) Peers are required to be involved in the governance of the recovery residence;

(b) Recovery support is integrated into the daily activities;

(c) The recovery residence must be maintained as a home-like environment that promotes healthy recovery;

(d) Resident activities are promoted within the recovery residence and in the community through work, education, community engagement, or other activities; and

(e) The recovery residence maintains an environment free from alcohol and illicit drugs.

(3) Nothing in this section requires that a recovery residence become certified by the certifying organization approved by the authority in subsection (2) of this section or be included in the registry, unless the recovery residence decides to participate in the recovery residence program activities established in this chapter.

(4) For the purposes of this section, "recovery residence" means a home-like environment that promotes healthy recovery from a substance use disorder and supports persons recovering from a substance use disorder through the use of peer recovery support.

**NEW SECTION. Sec. 3.** A new section is added to chapter 41.05 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the authority shall contract with the nationally recognized recovery residence organization based in Washington that is approved by the authority in section 2 of this act to provide technical assistance to recovery residences actively seeking certification. The technical assistance shall include, but not be limited to:

(a) New manager training;

(b) Assistance preparing facility operations documents and policies; and

(c) Support for working with residents on medication-assisted treatment.

(2) This section expires July 1, 2025.

**NEW SECTION. Sec. 4.** A new section is added to chapter 41.05 RCW to read as follows:

(1) The authority shall establish a revolving fund for loans to operators of new recovery residences or existing recovery residences actively seeking certification and registration under section 2 of this act. Approved uses of the funds include, but are not limited to:

(a) Facility modifications necessary to achieve certification; and

(b) Operating start-up costs, including rent or mortgage payments, security deposits, salaries for on-site staff, and minimal maintenance costs.

(2) This section expires July 1, 2025.

NEW SECTION. **Sec. 5.** A new section is added to chapter 71.24 RCW to read as follows:

Beginning January 1, 2023, a licensed or certified service provider may not refer a client who is appropriate for housing in a recovery residence, to support the client's recovery from a substance use disorder, to a recovery residence that is not included in the registry of approved recovery residences maintained by the authority under section 2 of this act. This section does not otherwise limit the discharge or referral options available for a person in recovery from a substance use disorder to any other appropriate placements or services.

**Sec. 6.** RCW 71.24.385 and 2018 c 201 s 4023 and 2018 c 175 s 6 are each reenacted and amended to read as follows:

(1) Within funds appropriated by the legislature for this purpose, behavioral health organizations shall develop the means to serve the needs of people:

(a) With mental disorders residing within the boundaries of their regional service area. Elements of the program may include:

- (i) Crisis diversion services;
- (ii) Evaluation and treatment and community hospital beds;
- (iii) Residential treatment;
- (iv) Programs for intensive community treatment;
- (v) Outpatient services, including family support;
- (vi) Peer support services;
- (vii) Community support services;
- (viii) Resource management services; and
- (ix) Supported housing and supported employment services.

(b) With substance use disorders and their families, people incapacitated by alcohol or other psychoactive chemicals, and intoxicated people.

(i) Elements of the program shall include, but not necessarily be limited to, a continuum of substance use disorder treatment services that includes:

- (A) Withdrawal management;
- (B) Residential treatment; and
- (C) Outpatient treatment.

(ii) The program may include peer support, supported housing, supported employment, crisis diversion, ~~((☞)) recovery support services, or technology-based recovery supports.~~

(iii) The authority may contract for the use of an approved substance use disorder treatment program or other individual or organization if the director considers this to be an effective and economical course to follow.

(2)(a) The behavioral health organization shall have the flexibility, within the funds appropriated by the legislature for this purpose and the terms of their contract, to design the mix of services that will be most effective within their service area of meeting the needs of people with behavioral health disorders and avoiding placement of such individuals at the state mental hospital. Behavioral health organizations are encouraged to maximize the use of evidence-based practices and alternative resources with the goal of substantially reducing and potentially eliminating the use of institutions for mental diseases.

(b) The behavioral health organization may allow reimbursement to providers for services delivered through a partial hospitalization or intensive outpatient program. Such payment and services are distinct from the state's delivery of wraparound with intensive services under the *T.R. v. Strange and McDermott*, formerly the *T.R. v. Dreyfus and Porter*, settlement agreement.

(3)(a) Treatment provided under this chapter must be purchased primarily through managed care contracts.

(b) Consistent with RCW 71.24.580, services and funding provided through the criminal justice treatment account are intended to be exempted from managed care contracting.

NEW SECTION. **Sec. 7.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, line 1 of the title, after "services;" strike the remainder of the title and insert "reenacting and amending RCW 71.24.385; adding new sections to chapter 41.05 RCW; adding a new section to chapter 71.24 RCW; creating new sections; and providing expiration dates."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1528 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1528, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1528, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Calder, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SECOND SUBSTITUTE HOUSE BILL NO. 1528, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 15, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1543 with the following amendment:

Strike everything after the enacting clause and insert the following:

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

(a) Recycling reduces greenhouse gas emissions, conserves energy and landfill space, provides jobs and valuable feedstock materials to industry, promotes health, and protects the environment;

(b) Washington has long been a leader in sound management of recyclable materials and solid waste;

(c) Waste import restrictions worldwide are having huge implications for state and local recycling programs and operations in Washington state, requiring immediate action by the legislature;

(d) In order to maintain our leadership in recycling and create regional domestic markets, Washington must be innovative and implement best practices for recycling and waste reduction;

(e) Washington's environment and economy will benefit from expanding the number of industries that process

recycled materials and use recycled feedstocks in their manufacturing;

(f) Washington recognizes the value of manufacturing incentives to encourage recycling industries to locate and operate in Washington and provide manufacturer incentives to improve the recyclability of their products;

(g) Many local governments and private entities cumulatively affect, and are affected by, the market for recycled commodities but have limited jurisdiction and cannot adequately address the problems of market development that are complex, wide-ranging, and regional in nature;

(h) A sustainable recycling system is one that is economically sustainable, in addition to environmentally sustainable;

(i) The private sector has the greatest capacity for creating and expanding markets for recycled commodities and the development of private markets for recycled commodities is in the public interest; and

(j) Washington must create a center to facilitate business assistance, provide basic and applied research and development, as well as policy analysis, to further the development of domestic processing and markets for recycled commodities.

(2) Therefore, it is the policy of the state to create the recycling development center to research, incentivize, and develop new markets and expand existing markets for recycled commodities and recycling facilities.

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

(1) "Center" means recycling development center.

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

(3) "Director" means the director of the department of ecology.

(4) "Local government" means a city, town, or county.

(5) "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan.

(6) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.

(7) "Secondary materials" means any materials that are not the primary products from manufacturing and other industrial sectors. These materials may include scrap and residuals from production processes and products that have been recovered at the end of their useful life.

(8) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but

not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

**NEW SECTION. Sec. 3.** (1) The recycling development center is created within the department of ecology.

(2) The purpose of the center is to provide or facilitate basic and applied research and development, marketing, and policy analysis in furthering the development of markets and processing for recycled commodities and products. As used in this chapter, market development consists of public and private activities that are used to overcome impediments preventing full and productive use of secondary materials diverted from the waste stream, and that encourage and expand use of those materials and subsequent products. In fulfilling this mission, the center must initially direct its services to businesses that transform or remanufacture waste materials into usable or marketable materials or products for use rather than disposal.

(3) The center must perform the following activities:

(a) Develop an annual work plan. The work plan must describe actions and recommendations for developing markets for commodities comprising a significant percentage of the waste stream and having potential for use as an industrial or commercial feedstock, with initial focus on mixed waste paper and plastics;

(b) Evaluate, analyze, and make recommendations on state policies that may affect markets for recyclable materials. Such recommendations must include explicit consideration of the costs and benefits of the market-affecting policies, including estimates of the anticipated: Rate impacts on solid waste utility ratepayers; impacts on the prices of consumer goods affected by the recommended policies; and impacts on rates of recycling or utilization of postconsumer materials;

(c) Work with manufacturers and producers of packaging and other potentially recyclable materials on their work to increase the ability of their products to be recycled or reduced in Washington;

(d) Initiate, conduct, or contract for studies relating to market development for recyclable materials, including but not limited to applied research, technology transfer, life-cycle analysis, and pilot demonstration projects;

(e) Obtain and disseminate information relating to market development for recyclable materials from other state and local agencies and other sources;

(f) Contract with individuals, corporations, trade associations, and research institutions for the purposes of this chapter;

(g) Provide grants or contracts to local governments, state agencies, or other public institutions to further the development or revitalization of recycling markets in accordance with applicable rules and regulations;

(h) Provide business and marketing assistance to public and private sector entities within the state;

(i) Represent the state in regional and national market development issues and work to create a regional recycling development council that will work across either state or provincial borders, or both;

(j) Wherever necessary, the center must work with: Material recovery facility operators; public and private sector recycling and solid waste industries; packaging manufacturers and retailers; local governments; environmental organizations; interested colleges and universities; and state agencies, including the department of commerce and the utilities and transportation commission; and

(k) Report to the legislature and the governor each even-numbered year on the progress of achieving the center's purpose and performing the center's activities, including any effects on state recycling rates or rates of utilization of postconsumer materials in manufactured products that can reasonably be attributed, at least in part, to the activities of the center.

(4) In order to carry out its responsibilities under this chapter, the department must enter into an interagency agreement with the department of commerce to perform or contract for the following activities:

(a) Provide targeted business assistance to recycling businesses, including:

(i) Development of business plans;

(ii) Market research and planning information;

(iii) Referral and information on market conditions; and

(iv) Information on new technology and product development;

(b) Conduct outreach to negotiate voluntary agreements with manufacturers to increase the use of recycled materials in products and product development;

(c) Support, promote, and identify research and development to stimulate new technologies and products using recycled materials;

(d) Actively promote manufacturing with recycled commodities, as well as purchasing of recycled products by state agencies consistent with and in addition to the requirements of chapter 43.19A RCW and RCW 39.26.255, local governments, and the private sector;

(e) Undertake studies on the unmet capital and other needs of reprocessing and manufacturing firms using recycled materials, such as financing and incentive programs; and

(f) Conduct research to understand the waste stream supply chain and incentive strategies for retention, expansion, and attraction of innovative recycling technology businesses.

(5) The department may adopt any rules necessary to implement and enforce this chapter including, but not limited to, measures for the center's performance.

NEW SECTION. **Sec. 4.** (1) The center's activities must be guided by an advisory board.

(2) The duties of the advisory board are to:

(a) Provide advice and guidance on the annual work plan of the center; and

(b) Evaluate, analyze, and make recommendations on state policies that may affect markets for recyclable materials to the director and the department of commerce.

(3) Except as otherwise provided, advisory board members must be appointed by the director in consultation with the department of commerce as follows:

(a) One member to represent cities;

(b) One member appointed by the Washington association of county solid waste managers to represent counties east of the crest of the Cascade mountains;

(c) One member appointed by the Washington association of county solid waste managers to represent counties west of the crest of the Cascade mountains;

(d) One member to represent public interest groups;

(e) Three members from universities or state and federal research institutions;

(f) Up to seven private sector members to represent all aspects of the recycling materials system, including but not limited to manufacturing and packaging, solid waste management, and at least one not-for-profit organization familiar with innovative recycling solutions that are being used internationally in Scandinavia, China, and other countries;

(g) The chair of the utilities and transportation commission or the chair's designee as a nonvoting member; and

(h) Nonvoting, temporary appointments to the board may be made by the chair of the advisory board where specific expertise is needed.

(4) The initial appointments of the seven private sector members are as follows: Three members with three-year terms and four members with two-year terms. Thereafter, members serve two-year renewable terms.

(5) The advisory board must meet at least quarterly.

(6) The chair of the advisory board must be elected from among the members by a simple majority vote.

(7) The advisory board may adopt bylaws and a charter for the operation of its business for the purposes of this chapter.

(8) The department shall provide staff support to the advisory board.

**Sec. 5.** RCW 70.93.180 and 2015 c 15 s 3 are each amended to read as follows:

(1) There is hereby created an account within the state treasury to be known as the waste reduction, recycling, and litter control account. Moneys in the account may be spent only after appropriation. Expenditures from the waste reduction, recycling, and litter control account shall be used as follows:

(a) ~~((Fifty))~~ Forty percent to the department of ecology, primarily for use by the departments of ecology, natural resources, revenue, transportation, and corrections, and the parks and recreation commission, for ~~((use in))~~ litter collection programs ~~((to be distributed))~~ under RCW 70.93.220. The amount to the department of ecology shall also be used for a central coordination function for litter control efforts statewide; to support employment of youth in litter cleanup as intended in RCW 70.93.020, and for litter pick up using other authorized agencies; and for statewide public awareness programs under RCW 70.93.200(7) ~~((and to support employment of youth in litter cleanup as intended in RCW 70.93.020, and for litter pick up using other authorized agencies))~~. The amount to the department shall also be used to defray the costs of administering the funding, coordination, and oversight of local government programs for waste reduction, litter control, recycling, and composting so that local governments can apply one hundred percent of their funding to achieving program goals. The amount to the department of revenue shall be used to enforce compliance with the litter tax imposed in chapter 82.19 RCW;

(b)(i) Twenty percent to the department for local government funding programs for waste reduction, litter control, recycling activities, and composting activities by cities and counties under RCW 70.93.250, to be administered by the department of ecology; (ii) any unspent funds under (b)(i) of this subsection may be used to create and pay for a matching fund competitive grant program to be used by local governments for the development and implementation of contamination reduction and outreach plans for inclusion in comprehensive solid waste management plans or by local governments and nonprofit organizations for local or statewide education programs designed to help the public with litter control, waste reduction, recycling, and composting of primarily the products taxed under chapter 82.19 RCW. Grants must adhere to the following requirements: (A) No grant may exceed sixty thousand dollars; (B) grant recipients shall match the grant funding allocated by the department by an amount equal to twenty-five percent of eligible expenses. A local government's share of these costs may be met by cash or contributed services; (C) the obligation of the department to make grant payments is contingent upon the availability of the amount of money appropriated for this subsection (1)(b); and (D) grants are managed under the guidelines for existing grant programs; and

(c) ~~((Thirty))~~ Forty percent to the department of ecology to: (i) Implement activities under RCW 70.93.200 for waste reduction, recycling, and composting efforts; (ii) provide technical assistance to local governments ~~((for))~~ and commercial ~~((business and residential))~~ businesses to increase recycling markets and recycling and composting

programs primarily for the products taxed under chapter 82.19 RCW designed to educate citizens about waste reduction, litter control, and recyclable and compostable products and programs; and (iii) increase access to waste reduction, composting, and recycling programs, particularly for food packaging and plastic bags and appropriate composting techniques.

(2) All taxes imposed in RCW 82.19.010 and fines and bail forfeitures collected or received pursuant to this chapter shall be deposited in the waste reduction, recycling, and litter control account and used for the programs under subsection (1) of this section.

(3) Not less than five percent and no more than ten percent of the amount appropriated into the waste reduction, recycling, and litter control account every biennium shall be reserved for capital needs, including the purchase of vehicles for transporting crews and for collecting litter and solid waste. Capital funds shall be distributed among state agencies and local governments according to the same criteria provided in RCW 70.93.220 for the remainder of the funds, so that the most effective waste reduction, litter control, recycling, and composting programs receive the most funding. The intent of this subsection is to provide funds for the purchase of equipment that will enable the department to account for the greatest return on investment in terms of reaching a zero litter goal.

(4) Funds in the waste reduction, recycling, and litter control account, collected under chapter 82.19 RCW, must be prioritized for the products identified under RCW 82.19.020 solely for the purposes of recycling, composting, and litter collection, reduction, and control programs.

**Sec. 6.** RCW 70.95.090 and 1991 c 298 s 3 are each amended to read as follows:

Each county and city comprehensive solid waste management plan shall include the following:

(1) A detailed inventory and description of all existing solid waste handling facilities including an inventory of any deficiencies in meeting current solid waste handling needs.

(2) The estimated long-range needs for solid waste handling facilities projected twenty years into the future.

(3) A program for the orderly development of solid waste handling facilities in a manner consistent with the plans for the entire county which shall:

(a) Meet the minimum functional standards for solid waste handling adopted by the department and all laws and regulations relating to air and water pollution, fire prevention, flood control, and protection of public health;

(b) Take into account the comprehensive land use plan of each jurisdiction;

(c) Contain a six year construction and capital acquisition program for solid waste handling facilities; and

(d) Contain a plan for financing both capital costs and operational expenditures of the proposed solid waste management system.

(4) A program for surveillance and control.

(5) A current inventory and description of solid waste collection needs and operations within each respective jurisdiction which shall include:

(a) Any franchise for solid waste collection granted by the utilities and transportation commission in the respective jurisdictions including the name of the holder of the franchise and the address of his or her place of business and the area covered by the franchise;

(b) Any city solid waste operation within the county and the boundaries of such operation;

(c) The population density of each area serviced by a city operation or by a franchised operation within the respective jurisdictions;

(d) The projected solid waste collection needs for the respective jurisdictions for the next six years.

(6) A comprehensive waste reduction and recycling element that, in accordance with the priorities established in RCW 70.95.010, provides programs that (a) reduce the amount of waste generated, (b) provide incentives and mechanisms for source separation, and (c) establish recycling opportunities for the source separated waste.

(7) The waste reduction and recycling element shall include the following:

(a) Waste reduction strategies;

(b) Source separation strategies, including:

(i) Programs for the collection of source separated materials from residences in urban and rural areas. In urban areas, these programs shall include collection of source separated recyclable materials from single and multiple-family residences, unless the department approves an alternative program, according to the criteria in the planning guidelines. Such criteria shall include: Anticipated recovery rates and levels of public participation, availability of environmentally sound disposal capacity, access to markets for recyclable materials, unreasonable cost impacts on the ratepayer over the six-year planning period, utilization of environmentally sound waste reduction and recycling technologies, and other factors as appropriate. In rural areas, these programs shall include but not be limited to drop-off boxes, buy-back centers, or a combination of both, at each solid waste transfer, processing, or disposal site, or at locations convenient to the residents of the county. The drop-off boxes and buy-back centers may be owned or operated by public, nonprofit, or private persons;

(ii) Programs to monitor the collection of source separated waste at nonresidential sites where there is sufficient density to sustain a program;

(iii) Programs to collect yard waste, if the county or city submitting the plan finds that there are adequate markets or capacity for composted yard waste within or near the

service area to consume the majority of the material collected; and

(iv) Programs to educate and promote the concepts of waste reduction and recycling;

(c) Recycling strategies, including a description of markets for recyclables, a review of waste generation trends, a description of waste composition, a discussion and description of existing programs and any additional programs needed to assist public and private sector recycling, and an implementation schedule for the designation of specific materials to be collected for recycling, and for the provision of recycling collection services;

(d) Other information the county or city submitting the plan determines is necessary.

(8) An assessment of the plan's impact on the costs of solid waste collection. The assessment shall be prepared in conformance with guidelines established by the utilities and transportation commission. The commission shall cooperate with the Washington state association of counties and the association of Washington cities in establishing such guidelines.

(9) A review of potential areas that meet the criteria as outlined in RCW 70.95.165.

(10) A contamination reduction and outreach plan. The contamination reduction and outreach plan must address reducing contamination in recycling. Except for counties with a population of twenty-five thousand or fewer, by July 1, 2021, a contamination reduction and outreach plan must be included in each solid waste management plan by a plan amendment or included when revising or updating a solid waste management plan developed under this chapter. Jurisdictions may adopt the state's contamination reduction and outreach plan as developed under RCW 70.95.100 in lieu of creating their own plan. A recycling contamination reduction and outreach plan must include the following:

(a) A list of actions for reducing contamination in recycling programs for single-family and multiple-family residences, commercial locations, and drop boxes depending on the jurisdictions system components;

(b) A list of key contaminants identified by the jurisdiction or identified by the department;

(c) A discussion of problem contaminants and the contaminants' impact on the collection system;

(d) An analysis of the costs and other impacts associated with contaminants to the recycling system; and

(e) An implementation schedule and details of how outreach is to be conducted. Contamination reduction education methods may include sharing community-wide messaging through newsletters, articles, mailers, social media, web sites, or community events, informing recycling drop box customers about contamination, and improving signage.

**Sec. 7.** RCW 70.95.100 and 1989 c 431 s 6 are each amended to read as follows:

(1) The department or the commission, as appropriate, shall provide to counties and cities technical assistance including, but not limited to, planning guidelines, in the preparation, review, and revision of solid waste management plans required by this chapter. Guidelines prepared under this section shall be consistent with the provisions of this chapter. Guidelines for the preparation of the waste reduction and recycling element of the comprehensive solid waste management plan shall be completed by the department by March 15, 1990. These guidelines shall provide recommendations to local government on materials to be considered for designation as recyclable materials. The state solid waste management plan prepared pursuant to RCW 70.95.260 shall be consistent with these guidelines.

(2) The department shall be responsible for development and implementation of a comprehensive statewide public information program designed to encourage waste reduction, source separation, and recycling by the public. The department shall operate a toll free hotline to provide the public information on waste reduction and recycling.

(3) The department shall provide technical assistance to local governments in the development and dissemination of informational materials and related activities to assure recognition of unique local waste reduction and recycling programs.

(4)(a) The department must create and implement a statewide recycling contamination reduction and outreach plan based on best management practices for recycling, developed with stakeholder input by July 1, 2020. Jurisdictions may use the statewide plan in lieu of developing their own plan.

(b) The department must provide technical assistance and create guidance to help local jurisdictions determine the extent of contamination in their regional recycling and to develop contamination reduction and outreach plans. Contamination means any material not included on the local jurisdiction's acceptance list.

(c) Contamination reduction education methods may include sharing community-wide messaging through newsletters, articles, mailers, social media, web sites, or community events, informing recycling drop box customers about contamination, and improving signage.

(d) The department must cite the sources of information that it relied upon, including any peer-reviewed science, in the development of the best management practices for recycling under (a) of this subsection and the guidance developed under (b) of this subsection.

(5) Local governments shall make all materials and information developed with the assistance grants provided under RCW 70.95.130 available to the department for potential use in other areas of the state.

**Sec. 8.** RCW 70.95.130 and 1969 ex.s. c 134 s 13 are each amended to read as follows:

Any county may apply to the department on a form prescribed thereby for financial aid for the preparation and implementation of the comprehensive county plan for solid waste management required by RCW 70.95.080, including contamination reduction and outreach plans. Any city electing to prepare an independent city plan, a joint city plan, or a joint county-city plan for solid waste management for inclusion in the county comprehensive plan may apply for financial aid for such purpose through the county. Every city application for financial aid for planning shall be filed with the county auditor and shall be included as a part of the county's application for financial aid. Any city preparing an independent plan shall provide for disposal sites wholly within its jurisdiction.

The department shall allocate to the counties and cities applying for financial aid for planning and implementation, including contamination reduction and outreach plan development and implementation, such funds as may be available pursuant to legislative appropriations or from any federal grants for such purpose.

The department shall determine priorities and allocate available funds among the counties and cities applying for aid according to criteria established by regulations of the department considering population, urban development, environmental effects of waste disposal, existing waste handling practices, and the local justification of their proposed expenditures.

NEW SECTION. **Sec. 9.** Sections 1 through 4 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 10.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

NEW SECTION. **Sec. 11.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, line 1 of the title, after "recycling;" strike the remainder of the title and insert "amending RCW 70.93.180, 70.95.090, 70.95.100, and 70.95.130; adding a new chapter to Title 70 RCW; creating a new section; providing an effective date; and declaring an emergency."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

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

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND

SUBSTITUTE HOUSE BILL NO. 1543 and advanced the bill as amended by the Senate to final passage.

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

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

Representative Shea spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1543, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1543, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 61; Nays, 33; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Caldier, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Harris, Hudgins, Jinkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen, Wylie and Young.

Voting nay: Representatives Boehnke, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Schmick, Shea, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox and Ybarra.

Excused: Representatives Appleton, Graham, Kirby and Steele.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1543, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

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

April 10, 2019

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1561 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.216.015 and 2018 c 58 s 76 and 2018 c 51 s 1 are each reenacted and amended to read as follows:

(1)(a) The department of children, youth, and families is created as an executive branch agency. The department is vested with all powers and duties transferred to it under chapter 6, Laws of 2017 3rd sp. sess. and such other powers and duties as may be authorized by law. The vision for the department is that Washington state's children and youth grow up safe and healthy—thriving physically, emotionally, and academically, nurtured by family and community.

(b) The department, in partnership with state and local agencies, tribes, and communities, shall protect children and youth from harm and promote healthy development with effective, high quality prevention, intervention, and early education services delivered in an equitable manner. An important role for the department shall be to provide preventative services to help secure and preserve families in crisis. The department shall partner with the federally recognized Indian tribes to develop effective services for youth and families while respecting the sovereignty of those tribes and the government-to-government relationship. Nothing in chapter 6, Laws of 2017 3rd sp. sess. alters the duties, requirements, and policies of the federal Indian child welfare act, 25 U.S.C. Secs. 1901 through 1963, as amended, or the Indian child welfare act, chapter 13.38 RCW.

(2) Beginning July 1, 2018, the department must develop definitions for, work plans to address, and metrics to measure the outcomes for children, youth, and families served by the department and must work with state agencies to ensure services for children, youth, and families are science-based, outcome-driven, data-informed, and collaborative.

(3)(a) Beginning July 1, 2018, the department must establish short and long-term population level outcome measure goals, including metrics regarding reducing disparities by family income, race, and ethnicity in each outcome.

(b) The department must report to the legislature on outcome measures, actions taken, progress toward these goals, and plans for the future year, no less than annually, beginning December 1, 2018.

(c) The outcome measures must include, but are not limited to:

(i) Improving child development and school readiness through voluntary, high quality early learning opportunities as measured by: (A) Increasing the number and proportion of children kindergarten-ready as measured by the Washington kindergarten inventory of developing skills (WAKids) assessment including mathematics; (B) increasing the proportion of children in early learning programs that have achieved the level 3 or higher early achievers quality standard; and (C) increasing the available supply of licensed child care in both child care centers and family homes, including providers not receiving state subsidy;

(ii) Preventing child abuse and neglect;

(iii) Improving child and youth safety, permanency, and well-being as measured by: (A) Reducing the number of children entering out-of-home care; (B) reducing a child's length of stay in out-of-home care; (C) reducing maltreatment of youth while in out-of-home care; (D) licensing more foster homes than there are children in foster care; (E) reducing the number of children that reenter out-of-home care within twelve months; (F) increasing the stability of placements for children in out-of-home care; and (G) developing strategies to demonstrate to foster families that their service and involvement is highly valued by the department, as demonstrated by the development of strategies to consult with foster families regarding future placement of a foster child currently placed with a foster family;

(iv) Improving reconciliation of children and youth with their families as measured by: (A) Increasing family reunification; and (B) increasing the number of youth who are reunified with their family of origin;

(v) In collaboration with county juvenile justice programs, improving adolescent outcomes including reducing multisystem involvement and homelessness; and increasing school graduation rates and successful transitions to adulthood for youth involved in the child welfare and juvenile justice systems;

(vi) Reducing future demand for mental health and substance use disorder treatment for youth involved in the child welfare and juvenile justice systems;

(vii) In collaboration with county juvenile justice programs, reducing criminal justice involvement and recidivism as measured by: (A) An increase in the number of youth who successfully complete the terms of diversion or alternative sentencing options; (B) a decrease in the number of youth who commit subsequent crimes; and (C) eliminating the discharge of youth from institutional settings into homelessness; and

(viii) Reducing racial and ethnic disproportionality and disparities in system involvement and across child and youth outcomes in collaboration with other state agencies.

(4) Beginning July 1, 2018, the department must:

(a) Lead ongoing collaborative work to minimize or eliminate systemic barriers to effective, integrated services in collaboration with state agencies serving children, youth, and families;

(b) Identify necessary improvements and updates to statutes relevant to their responsibilities and proposing legislative changes to the governor no less than biennially;

(c) Help create a data-focused environment in which there are aligned outcomes and shared accountability for achieving those outcomes, with shared, real-time data that is accessible to authorized persons interacting with the family, child, or youth to identify what is needed and which services would be effective;

(d) Lead the provision of state services to adolescents, focusing on key transition points for youth,

including exiting foster care and institutions, and coordinating with the office of homeless youth prevention and protection programs to address the unique needs of homeless youth; and

(e) Create and annually update a list of the rights and responsibilities of foster parents in partnership with foster parent representatives. The list of foster parent rights and responsibilities must be posted on the department's web site, provided to individuals participating in a foster parent orientation before licensure, provided to foster parents in writing at the time of licensure, and provided to foster parents applying for license renewal.

(5) The department is accountable to the public. To ensure transparency, beginning December 30, 2018, agency performance data for the services provided by the department, including outcome data for contracted services, must be available to the public, consistent with confidentiality laws, federal protections, and individual rights to privacy. Publicly available data must include budget and funding decisions, performance-based contracting data, including data for contracted services, and performance data on metrics identified in this section. The ~~((oversight)) board ((for children, youth, and families))~~ must work with the secretary and director to develop the most effective and cost-efficient ways to make department data available to the public, including making this data readily available on the department's web site.

(6) The department shall ensure that all new and renewed contracts for services are performance-based.

~~(7) ((As used in this section, "performance based contract" means results oriented contracting that focuses on the quality or outcomes that tie at least a portion of the contractor's payment, contract extensions, or contract renewals to the achievement of specific measurable performance standards and requirements.~~

~~(8))~~ The department must execute all new and renewed contracts for services in accordance with this section and consistent with RCW 74.13B.020. When contracted services are managed through a network administrator or other third party, the department must execute data-sharing agreements with the entities managing the contracts to track provider performance measures. Contracts with network administrators or other third parties must provide the contract administrator the ability to shift resources from one provider to another, to evaluate individual provider performance, to add or delete services in consultation with the department, and to reinvest savings from increased efficiencies into new or improved services in their catchment area. Whenever possible, contractor performance data must be made available to the public, consistent with confidentiality laws and individual rights to privacy.

~~((9))~~ (8)(a) The ~~((oversight)) board ((for children, youth, and families))~~ shall begin its work and call the first meeting of the board on or after July 1, 2018. The ~~((oversight)) board~~ shall immediately assume the duties of the legislative children's oversight committee, as provided for in RCW 74.13.570 and assume the full functions of the board as provided for in this section by July 1, 2019. The

office of innovation, alignment, and accountability shall provide quarterly updates regarding the implementation of the department ~~((of children, youth, and families))~~ to the board between July 1, 2018, and July 1, 2019.

(b) The office of the family and children's ombuds shall establish the ~~((oversight)) board ((for children, youth, and families))~~. The board is authorized for the purpose of monitoring and ensuring that the department ~~((of children, youth, and families))~~ achieves the stated outcomes of chapter 6, Laws of 2017 3rd sp. sess., and complies with administrative acts, relevant statutes, rules, and policies pertaining to early learning, juvenile rehabilitation, juvenile justice, and children and family services.

~~((10))~~ (9)(a) The ~~((oversight)) board ((for children, youth, and families))~~ shall consist of the following members:

(i) Two senators and two representatives from the legislature with one member from each major caucus~~((:));~~

(ii) One nonvoting representative from the governor's office~~((:));~~

(iii) One subject matter expert in early learning~~((:));~~

(iv) One subject matter expert in child welfare~~((:));~~

(v) One subject matter expert in juvenile rehabilitation and justice~~((:));~~

(vi) One subject matter expert in reducing disparities in child outcomes by family income and race and ethnicity~~((:));~~

(vii) One tribal representative from ((the)) west of the crest of the Cascade mountains~~((:));~~

(viii) One tribal representative from ((the)) east of the crest of the Cascade mountains~~((:));~~

(ix) One current or former foster parent representative~~((:));~~

(x) One representative of an organization that advocates for the best interest of the child~~((:));~~

(xi) One parent stakeholder group representative~~((:));~~

(xii) One law enforcement representative~~((:));~~

(xiii) One child welfare caseworker representative~~((:));~~

(xiv) One early childhood learning program implementation practitioner~~((:));~~

(xv) One current or former foster youth under age twenty-five;

(xvi) One individual under age twenty-five with current or previous experience with the juvenile justice system;

(xvii) One physician with experience working with children or youth; and

(xviii) One judicial representative presiding over child welfare court proceedings or other children's matters.

(b) The senate members of the board shall be appointed by the leaders of the two major caucuses of the senate. The house of representatives members of the board shall be appointed by the leaders of the two major caucuses of the house of representatives. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year.

(c) The remaining board members shall be nominated by the governor, subject to the approval of the appointed legislators by majority vote, and serve four-year terms. When nominating and approving members after the effective date of this section, the governor and appointed legislators must ensure that at least five of the board members reside east of the crest of the Cascade mountains.

~~((11))~~ (10) The ~~((oversight))~~ board ~~((for children, youth, and families))~~ has the following powers, which may be exercised by majority vote of the board:

(a) To receive reports of the office of the family and children's ombuds;

(b) To obtain access to all relevant records in the possession of the office of the family and children's ombuds, except as prohibited by law;

(c) To select its officers and adoption of rules for orderly procedure;

(d) To request investigations by the office of the family and children's ombuds of administrative acts;

(e) To request and receive information, outcome data, documents, materials, and records from the department ~~((of children, youth, and families))~~ relating to children and family welfare, juvenile rehabilitation, juvenile justice, and early learning;

(f) To determine whether the department ~~((of children, youth, and families))~~ is achieving the performance measures;

(g) If final review is requested by a licensee, to review whether department ~~((of children, youth, and families'))~~ licensors appropriately and consistently applied agency rules in child care facility licensing compliance agreements as defined in RCW 43.216.395 that do not involve a violation of health and safety standards as defined in RCW 43.216.395 in cases that have already been reviewed by the internal review process described in RCW 43.216.395 with the authority to overturn, change, or uphold such decisions;

(h) To conduct annual reviews of a sample of department ~~((of children, youth, and families))~~ contracts for services from a variety of program and service areas to ensure that those contracts are performance-based and to assess the measures included in each contract; and

(i) Upon receipt of records or data from the office of the family and children's ombuds or the department ~~((of children, youth, and families))~~, the ~~((oversight))~~ board ~~((for children, youth, and families))~~ is subject to the same confidentiality restrictions as the office of the family and children's ombuds is under RCW 43.06A.050. The

provisions of RCW 43.06A.060 also apply to the ~~((oversight))~~ board ~~((for children, youth, and families))~~.

~~((12))~~ (11) The ~~((oversight))~~ board ~~((for children, youth, and families))~~ has general oversight over the performance and policies of the department and shall provide advice and input to the department and the governor.

~~((13))~~ (12) The ~~((oversight))~~ board ~~((for children, youth, and families))~~ must no less than twice per year convene stakeholder meetings to allow feedback to the board regarding contracting with the department ~~((of children, youth, and families))~~, departmental use of local, state, private, and federal funds, and other matters as relating to carrying out the duties of the department.

~~((14))~~ (13) The ~~((oversight))~~ board ~~((for children, youth, and families))~~ shall review existing surveys of providers, customers, parent groups, and external services to assess whether the department ~~((of children, youth, and families))~~ is effectively delivering services, and shall conduct additional surveys as needed to assess whether the department is effectively delivering services.

~~((15))~~ (14) The ~~((oversight))~~ board ~~((for children, youth, and families))~~ is subject to the open public meetings act, chapter 42.30 RCW, except to the extent disclosure of records or information is otherwise confidential under state or federal law.

~~((16))~~ (15) Records or information received by the ~~((oversight))~~ board ~~((for children, youth, and families))~~ is confidential to the extent permitted by state or federal law. This subsection does not create an exception for records covered by RCW 13.50.100.

~~((17))~~ (16) The ~~((oversight))~~ board ~~((for children, youth, and families))~~ members shall receive no compensation for their service on the board, but shall be reimbursed for travel expenses incurred while ~~((attending meetings))~~ conducting business of the board when authorized by the board and within resources allocated for this purpose, except appointed legislators who shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

~~((18))~~ (17) The ~~((oversight))~~ board ~~((for children, youth, and families))~~ shall select, by majority vote, an executive director who shall be the chief administrative officer of the board and shall be responsible for carrying out the policies adopted by the board. The executive director is exempt from the provisions of the state civil service law, chapter 41.06 RCW, and shall serve at the pleasure of the board established in this section.

~~((19))~~ (18) The ~~((oversight))~~ board ~~((for children, youth, and families))~~ shall maintain a staff not to exceed one full-time equivalent employee. The board-selected executive director of the board is responsible for coordinating staff appointments.

~~((20))~~ (19) The ~~((oversight))~~ board ~~((for children, youth, and families))~~ shall issue an annual report to the governor and legislature by December 1st of each year with an initial report delivered by December 1, 2019. The report must review the ~~((department of children, youth, and~~

families')) department's progress towards meeting stated performance measures and desired performance outcomes, and must also include a review of the department's strategic plan, policies, and rules.

~~((21) As used in this section, "department" means the department of children, youth, and families;))~~ (20) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Board" means the oversight board for children, youth, and families established in subsection (8) of this section.

(b) "Director" means the director of the office of innovation, alignment, and accountability~~((and "secretary" means the secretary of the department))~~.

(c) "Performance-based contract" means results-oriented contracting that focuses on the quality or outcomes that tie at least a portion of the contractor's payment, contract extensions, or contract renewals to the achievement of specific measurable performance standards and requirements.

~~((22) The governor must appoint the secretary of the department within thirty days of July 6, 2017.))"~~

On page 1, line 5 of the title, after "range;" strike the remainder of the title and insert "and reenacting and amending RCW 43.216.015."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1561 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of House Bill No. 1561, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1561, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff,

Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

HOUSE BILL NO. 1561, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 12, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1575 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 4.24 RCW to read as follows:

(1) The legislature finds and declares application of this section to pending claims and actions clarifies existing state law rather than changes it. Public employees who paid agency or fair share fees as a condition of public employment in accordance with state law and supreme court precedent before June 27, 2018, had no legitimate expectation of receiving that money under any available cause of action. Public employers and employee organizations who relied on, and abided by, state law and supreme court precedent in deducting and accepting those fees were not liable to refund them. Agency or fair share fees paid for collective bargaining representation that employee organizations were obligated by state law to provide to public employees. Application of this section to pending claims will preserve, rather than interfere with, important reliance interests.

(2) Public employers and an employee organization, or any of their employees or agents, are not liable for, and have a complete defense to, any claims or actions under the law of this state for requiring, deducting, receiving, or retaining agency or fair share fees from public employees, and current or former public employees do not have standing to pursue these claims or actions, if the fees were permitted at the time under the laws of this state then in force and paid, through payroll deduction or otherwise, before June 27, 2018.

(a) This section applies to all claims and actions pending on the effective date of this section, and to claims and actions filed on or after the effective date of this section.

(b) This section may not be interpreted to infer that any relief made unavailable by this section would otherwise be available.

(3) This section is necessary to provide certainty to public employers and employee organizations that relied on state law, and to avoid disruption of public employee labor relations, after the supreme court's decision in *Janus v. American Federation of State, County, and Municipal Employees, Council 31* (2018) 138 S.Ct. 2448.

(4) For purposes of this section:

(a) "Employee organization" means any organization that functioned as an exclusive collective bargaining representative for public employees under any statute, ordinance, regulation, or other state or local law, and any labor organization with which it was affiliated.

(b) "Public employer" means any public employer including, but not limited to, the state, a court, a city, a county, a city and county, a school district, a community college district, an institution of higher education and its board or regents, a transit district, any public authority, any public agency, any other political subdivision or public corporation, or any other entity considered a public employer for purposes of the labor relations statutes of Washington.

**Sec. 2.** RCW 28B.52.020 and 1991 c 238 s 146 are each amended to read as follows:

As used in this chapter:

(1) "Employee organization" means any organization which includes as members the academic employees of a college district and which has as one of its purposes the representation of the employees in their employment relations with the college district.

(2) "Academic employee" means any teacher, counselor, librarian, or department head, who is employed by any college district, whether full or part time, with the exception of the chief administrative officer of, and any administrator in, each college district.

(3) "Administrator" means any person employed either full or part time by the college district and who performs administrative functions as at least fifty percent or more of his or her assignments, and has responsibilities to hire, dismiss, or discipline other employees. Administrators shall not be members of the bargaining unit unless a majority of such administrators and a majority of the bargaining unit elect by secret ballot for such inclusion pursuant to rules as adopted in accordance with RCW 28B.52.080.

(4) "Commission" means the public employment relations commission.

(5) "Unfair labor practice" means any unfair labor practice listed in RCW 28B.52.073.

(6) ("~~Union security provision" means a provision in a collective bargaining agreement under which some or all employees in the bargaining unit may be required, as a condition of continued employment on or after the thirtieth~~

~~day following the beginning of such employment or the effective date of the provision, whichever is later, to become a member of the exclusive bargaining representative or pay an agency fee equal to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative.~~

~~(7))~~ "Exclusive bargaining representative" means any employee organization which has:

(a) Been certified or recognized under this chapter as the representative of the employees in an appropriate collective bargaining unit; or

(b) Before July 26, 1987, been certified or recognized under a predecessor statute as the representative of the employees in a bargaining unit which continues to be appropriate under this chapter.

~~((8))~~ (7) "Collective bargaining" and "bargaining" mean the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times to bargain in good faith in an effort to reach agreement with respect to wages, hours, and other terms and conditions of employment, such as procedures related to nonretention, dismissal, denial of tenure, and reduction in force. Prior law, practice, or interpretation shall be neither restrictive, expansive, nor determinative with respect to the scope of bargaining. A written contract incorporating any agreements reached shall be executed if requested by either party. The obligation to bargain does not compel either party to agree to a proposal or to make a concession.

In the event of a dispute between an employer and an exclusive bargaining representative over the matters that are terms and conditions of employment, the commission shall decide which items are mandatory subjects for bargaining.

**Sec. 3.** RCW 28B.52.030 and 1991 c 238 s 147 are each amended to read as follows:

Representatives of an employee organization, which organization shall by secret ballot have won a majority in an election to represent the academic employees within its college district, shall have the right to bargain (~~as defined in RCW 28B.52.020(8)~~).

**Sec. 4.** RCW 28B.52.025 and 1987 c 314 s 5 are each amended to read as follows:

Employees have the right to self-organization, to form, join, or assist employee organizations, to bargain collectively through representatives of their own choosing, and also have the right to refrain from any or all of these activities (~~except to the extent that employees may be required to make payments to an exclusive bargaining representative or charitable organization under a union security provision authorized in this chapter~~).

NEW SECTION. Sec. 5. A new section is added to chapter 28B.52 RCW to read as follows:

(1)(a) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(b) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(c) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(2)(a) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(b) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(3) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

**Sec. 6.** RCW 28B.52.045 and 2018 c 247 s 1 are each amended to read as follows:

~~(1)((a) A collective bargaining agreement may include union security provisions, but not a closed shop.~~

~~(b)) Upon ((written)) authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer must deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and must transmit the same to the treasurer of the exclusive bargaining representative.~~

~~((e)) (2) If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that((:~~

~~(i) Includes a union security provision authorized under (a) of this subsection, the employer must enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~(ii)) includes requirements for deductions of other payments ((other than the deduction under (e)(i) of this~~

~~subsection)), the employer must make such deductions upon ((written)) authorization of the employee.~~

~~((2) An employee who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall pay to a nonreligious charity or other charitable organization an amount of money equivalent to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. The charity shall be agreed upon by the employee and the employee organization to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payments have been made. If the employee and the employee organization do not reach agreement on such matter, the commission shall designate the charitable organization.))~~

**Sec. 7.** RCW 41.56.060 and 2005 c 232 s 1 are each amended to read as follows:

(1) The commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose of collective bargaining. In determining, modifying, or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees. The commission shall determine the bargaining representative by: (a) Examination of organization membership rolls; (b) comparison of signatures on organization bargaining authorization cards, as provided under section 8 of this act; or (c) conducting an election specifically therefor.

(2) For classified employees of school districts and educational service districts:

(a) Appropriate bargaining units existing on July 24, 2005, may not be divided into more than one unit without the agreement of the public employer and the certified bargaining representative of the unit; and

(b) In making bargaining unit determinations under this section, the commission must consider, in addition to the factors listed in subsection (1) of this section, the avoidance of excessive fragmentation.

NEW SECTION. Sec. 8. A new section is added to chapter 41.56 RCW to read as follows:

(1) Except as provided under subsection (2) of this section, if only one employee organization is seeking certification as the exclusive bargaining representative of a bargaining unit for which there is no incumbent exclusive bargaining representative, the commission may determine the question concerning representation by conducting a cross-check comparing the employee organization's membership records or bargaining authorization cards against the employment records of the employer. A

determination through a cross-check process may be made upon a showing of interest submitted in support of the exclusive bargaining representative by more than fifty percent of the employees. The commission may adopt rules to implement this section.

(2) This section does not apply to those employees under RCW 41.56.026, 41.56.028, 41.56.029, and 41.56.510.

**Sec. 9.** RCW 41.56.110 and 2018 c 247 s 2 are each amended to read as follows:

(1) Upon the ~~((written))~~ authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer shall deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative.

(2)(a) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(b) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(c) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(3)(a) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(b) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(4) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

(5) If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that(±

~~(a) Includes a union security provision authorized under RCW 41.56.122, the employer must enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the~~

~~exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~(b))) includes requirements for deductions of other payments ((other than the deduction under (a) of this subsection)), the employer must make such deductions upon ((written)) authorization of the employee.~~

**Sec. 10.** RCW 41.56.113 and 2018 c 278 s 29 are each amended to read as follows:

(1) This subsection (1) applies only if the state makes the payments directly to a provider.

(a) Upon the ~~((written))~~ authorization of an individual provider who contracts with the department of social and health services, a family child care provider, an adult family home provider, or a language access provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state as payor, but not as the employer, shall, subject to (c) of this subsection, deduct from the payments to an individual provider who contracts with the department of social and health services, a family child care provider, an adult family home provider, or a language access provider the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative.

(b)(i) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(ii) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(iii) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(iv) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(v) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(vi) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

(vii) If the governor and the exclusive bargaining representative of a bargaining unit of individual providers who contract with the department of social and health services, family child care providers, adult family home providers, or language access providers enter into a collective bargaining agreement that

~~(i) Includes a union security provision authorized in RCW 41.56.122, the state as payor, but not as the employer, shall, subject to (c) of this subsection, enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~(ii)) includes requirements for deductions of other payments ((other than the deduction under (b)(i) of this subsection)), the state, as payor, but not as the employer, shall, subject to (c) of this subsection, make such deductions upon ((written)) authorization of the individual provider, family child care provider, adult family home provider, or language access provider.~~

(c)(i) The initial additional costs to the state in making deductions from the payments to individual providers, family child care providers, adult family home providers, and language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

(ii) The allocation of ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, adult family home providers, or language access providers under this section shall be an appropriate subject of collective bargaining between the exclusive bargaining representative and the governor unless prohibited by another statute. If no collective bargaining agreement containing a provision allocating the ongoing additional cost is entered into between the exclusive bargaining representative and the governor, or if the legislature does not approve funding for the collective bargaining agreement as provided in RCW 74.39A.300, 41.56.028, 41.56.029, or 41.56.510, as applicable, the ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, adult family home providers, or language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

~~((d) The governor and the exclusive bargaining representative of a bargaining unit of family child care providers may not enter into a collective bargaining agreement that contains a union security provision unless the agreement contains a process, to be administered by the exclusive bargaining representative of a bargaining unit of family child care providers, for hardship dispensation for license exempt family child care providers who are also temporary assistance for needy families recipients or WorkFirst participants.))~~

(2) This subsection (2) applies only if the state does not make the payments directly to a language access provider. ((a)) Upon the ((written)) authorization of a language access provider within the bargaining unit and after

the certification or recognition of the bargaining unit's exclusive bargaining representative, the state shall require through its contracts with third parties that:

~~((a)) (a) The monthly amount of dues as certified by the secretary of the exclusive bargaining representative be deducted from the payments to the language access provider and transmitted to the treasurer of the exclusive bargaining representative; and~~

~~((b)) (b) A record showing that dues have been deducted as specified in (a)((a)) of this subsection be provided to the state.~~

~~((b) If the governor and the exclusive bargaining representative of the bargaining unit of language access providers enter into a collective bargaining agreement that includes a union security provision authorized in RCW 41.56.122, the state shall enforce the agreement by requiring through its contracts with third parties that:~~

~~(i) The monthly amount of dues required for membership in the exclusive bargaining representative as certified by the secretary of the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues, be deducted from the payments to the language access provider and transmitted to the treasurer of the exclusive bargaining representative; and~~

~~(ii) A record showing that dues or fees have been deducted as specified in (a)(i) of this subsection be provided to the state.))~~

(3) This subsection (3) applies only to individual providers who contract with the department of social and health services. ~~((If the governor and the exclusive bargaining representative of a bargaining unit of individual providers enter into a collective bargaining agreement that meets the requirements in subsection (1)(b)(i) or (ii) of this section, and the state as payor, but not as the employer, contracts with a third party entity to perform its obligations as set forth in those subsections, and that third party contracts with the exclusive bargaining representative to perform voluntary deductions for individual providers, the exclusive bargaining representative may direct the third party to make the deductions required by the collective bargaining agreement, at the expense of the exclusive bargaining representative, so long as such deductions by the exclusive bargaining representative do not conflict with any federal or state law.))~~ The exclusive bargaining representative of individual providers may designate a third-party entity to act as the individual provider's agent in receiving payments from the state to the individual provider, so long as the individual provider has entered into an agency agreement with a third-party entity for the purposes of deducting and remitting voluntary payments to the exclusive bargaining representative. A third-party entity that receives such payments is responsible for making and remitting deductions authorized by the individual provider. The costs of such deductions must be paid by the exclusive bargaining representative.

**Sec. 11.** RCW 41.56.122 and 1975 1st ex.s. c 296 s 22 are each amended to read as follows:

A collective bargaining agreement may((:

~~(1) Contain union security provisions: PROVIDED, That nothing in this section shall authorize a closed shop provision: PROVIDED FURTHER, That agreements involving union security provisions must safeguard the right of nonassociation of public employees based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member. Such public employee shall pay an amount of money equivalent to regular union dues and initiation fee to a nonreligious charity or to another charitable organization mutually agreed upon by the public employee affected and the bargaining representative to which such public employee would otherwise pay the dues and initiation fee. The public employee shall furnish written proof that such payment has been made. If the public employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. When there is a conflict between any collective bargaining agreement reached by a public employer and a bargaining representative on a union security provision and any charter, ordinance, rule, or regulation adopted by the public employer or its agents, including but not limited to, a civil service commission, the terms of the collective bargaining agreement shall prevail.~~

~~(2)) provide for binding arbitration of a labor dispute arising from the application or the interpretation of the matters contained in a collective bargaining agreement.~~

**Sec. 12.** RCW 41.59.060 and 2018 c 247 s 3 are each amended to read as follows:

(1) Employees shall have the right to self-organization, to form, join, or assist employee organizations, to bargain collectively through representatives of their own choosing, and shall also have the right to refrain from any or all of such activities ~~((except to the extent that employees may be required to pay a fee to any employee organization under an agency shop agreement authorized in this chapter)).~~

(2)(a) Upon ~~((written))~~ authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer must deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and must transmit the same to the treasurer of the exclusive bargaining representative.

(b) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(c) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the employee's salary

membership dues and remit the amounts to the exclusive bargaining representative.

(d) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(e) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(f) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(g) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

(3) If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that((:

~~(i) Includes a union security provision authorized under RCW 41.59.100, the employer must enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~((ii)) includes requirements for deductions of other payments ~~((other than the deduction under (b)(i) of this subsection)), the employer must make such deductions upon ~~((written))~~ authorization of the employee.~~~~

**Sec. 13.** RCW 41.76.020 and 2002 c 356 s 7 are each amended to read as follows:

The commission shall certify exclusive bargaining representatives in accordance with the procedures specified in this section.

(1) No question concerning representation may be raised within one year following issuance of a certification under this section.

(2) If there is a valid collective bargaining agreement in effect, no question concerning representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement: PROVIDED, That in the event a valid collective bargaining agreement, together with any renewals or extensions thereof, has been or will be in existence for more than three years, then a question concerning representation may be raised not more than ninety nor less than sixty days prior to the third anniversary date or any subsequent anniversary date of the agreement; and if the exclusive bargaining representative is removed as the result of such procedure, the collective bargaining agreement shall be deemed to be terminated as of the date of the certification or the anniversary date following the filing of the petition, whichever is later.

(3) An employee organization seeking certification as exclusive bargaining representative of a bargaining unit, or faculty members seeking decertification of their exclusive bargaining representative, must make a confidential showing to the commission of credible evidence demonstrating that at least thirty percent of the faculty in the bargaining unit are in support of the petition. The petition must indicate the name, address, and telephone number of any employee organization known to claim an interest in the bargaining unit.

(4) A petition filed by an employer must be supported by credible evidence demonstrating the good faith basis on which the employer claims the existence of a question concerning the representation of its faculty.

(5) Any employee organization which makes a confidential showing to the commission of credible evidence demonstrating that it has the support of at least ten percent of the faculty in the bargaining unit involved is entitled to intervene in proceedings under this section and to have its name listed as a choice on the ballot in an election conducted by the commission.

(6) The commission shall determine any question concerning representation by conducting a secret ballot election among the faculty members in the bargaining unit, except under the following circumstances:

(a) If only one employee organization is seeking certification as exclusive bargaining representative of a bargaining unit for which there is no incumbent exclusive bargaining representative, the commission may ~~((, upon the concurrence of the employer and the employee organization,))~~ determine the question concerning representation by conducting a cross-check comparing the employee organization's membership records or bargaining authorization cards against the employment records of the employer. A determination through a cross-check process may be made upon a showing of interest submitted in support of the exclusive bargaining representative by more than fifty percent of the employees; or

(b) If the commission determines that a serious unfair labor practice has been committed which interfered with the election process and precludes the holding of a fair election, the commission may determine the question concerning representation by conducting a cross-check comparing the employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(c) The commission may adopt rules to implement this subsection (6).

(7) The representation election ballot must contain a choice for each employee organization qualifying under subsection (3) or (5) of this section, together with a choice for no representation. The representation election shall be determined by the majority of the valid ballots cast. If there are three or more choices on the ballot and none of the three or more choices receives a majority of the valid ballots cast, a runoff election shall be conducted between the two choices receiving the highest and second highest numbers of votes.

(8) The commission shall certify as the exclusive bargaining representative the employee organization that has been determined to represent a majority of faculty members in a bargaining unit.

**Sec. 14.** RCW 41.76.045 and 2018 c 247 s 4 are each amended to read as follows:

~~(1)(a) ((A collective bargaining agreement may include union security provisions, but not a closed shop.~~

~~(b))~~ Upon ~~((written))~~ authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer must deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and must transmit the same to the treasurer of the exclusive bargaining representative.

~~((e))~~ (b) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(c) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(d) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(e) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(f) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(g) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

(2) If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that~~((:~~

~~(i) Includes a union security provision authorized under (a) of this subsection, the employer must enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

(ii)) includes requirements for deductions of other payments (~~(other than the deduction under (c)(i) of this subsection)~~), the employer must make such deductions upon (~~written~~) authorization of the employee.

~~((2) A faculty member who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such faculty member is a member shall pay to a nonreligious charity or other charitable organization an amount of money equivalent to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. The charity shall be agreed upon by the faculty member and the employee organization to which such faculty member would otherwise pay the dues and fees. The faculty member shall furnish written proof that such payments have been made. If the faculty member and the employee organization do not reach agreement on such matter, the dispute shall be submitted to the commission for determination.))~~

**Sec. 15.** RCW 41.80.050 and 2002 c 354 s 306 are each amended to read as follows:

Except as may be specifically limited by this chapter, employees shall have the right to self-organization, to form, join, or assist employee organizations, and to bargain collectively through representatives of their own choosing for the purpose of collective bargaining free from interference, restraint, or coercion. Employees shall also have the right to refrain from any or all such activities (~~(except to the extent that they may be required to pay a fee to an exclusive bargaining representative under a union security provision authorized by this chapter)~~).

**NEW SECTION. Sec. 16.** A new section is added to chapter 41.80 RCW to read as follows:

If only one employee organization is seeking certification as exclusive bargaining representative of a bargaining unit for which there is no incumbent exclusive bargaining representative, the commission may determine the question concerning representation by conducting a cross-check comparing the employee organization's membership records or bargaining authorization cards against the employment records of the employer. A determination through a cross-check process may be made upon a showing of interest submitted in support of the exclusive bargaining representative by more than fifty percent of the employees. The commission may adopt rules to implement this section.

**Sec. 17.** RCW 41.80.080 and 2002 c 354 s 309 are each amended to read as follows:

(1) The commission shall determine all questions pertaining to representation and shall administer all elections and cross-check procedures, and be responsible for the processing and adjudication of all disputes that arise as a consequence of elections and cross-check procedures. The

commission shall adopt rules that provide for at least the following:

- (a) Secret balloting;
- (b) Consulting with employee organizations;
- (c) Access to lists of employees, job classification, work locations, and home mailing addresses;
- (d) Absentee voting;
- (e) Procedures for the greatest possible participation in voting;
- (f) Campaigning on the employer's property during working hours; and
- (g) Election observers.

(2)(a) If an employee organization has been certified as the exclusive bargaining representative of the employees of a bargaining unit, the employee organization may act for and negotiate master collective bargaining agreements that will include within the coverage of the agreement all employees in the bargaining unit as provided in RCW 41.80.010(2)(a). However, if a master collective bargaining agreement is in effect for the exclusive bargaining representative, it shall apply to the bargaining unit for which the certification has been issued. Nothing in this section requires the parties to engage in new negotiations during the term of that agreement.

(b) This subsection (2) does not apply to exclusive bargaining representatives who represent employees of institutions of higher education.

(3) The certified exclusive bargaining representative shall be responsible for representing the interests of all the employees in the bargaining unit. This section shall not be construed to limit an exclusive representative's right to exercise its discretion to refuse to process grievances of employees that are unmeritorious.

(4) No question concerning representation may be raised if:

- (a) Fewer than twelve months have elapsed since the last certification or election; or
- (b) A valid collective bargaining agreement exists covering the unit, except for that period of no more than one hundred twenty calendar days nor less than ninety calendar days before the expiration of the contract.

**Sec. 18.** RCW 41.80.100 and 2018 c 247 s 5 are each amended to read as follows:

(1) ~~((A collective bargaining agreement may contain a union security provision requiring as a condition of employment the payment, no later than the thirtieth day following the beginning of employment or July 1, 2004, whichever is later, of an agency shop fee to the employee organization that is the exclusive bargaining representative for the bargaining unit in which the employee is employed. The amount of the fee shall be equal to the amount required to become a member in good standing of the employee~~

~~organization. Each employee organization shall establish a procedure by which any employee so requesting may pay a representation fee no greater than the part of the membership fee that represents a pro rata share of expenditures for purposes germane to the collective bargaining process, to contract administration, or to pursuing matters affecting wages, hours, and other conditions of employment.~~

~~(2) An employee who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets, or teachings of a church or religious body of which the employee is a member, shall, as a condition of employment, make payments to the employee organization, for purposes within the program of the employee organization as designated by the employee that would be in harmony with his or her individual conscience. The amount of the payments shall be equal to the periodic dues and fees uniformly required as a condition of acquiring or retaining membership in the employee organization minus any included monthly premiums for insurance programs sponsored by the employee organization. The employee shall not be a member of the employee organization but is entitled to all the representation rights of a member of the employee organization.~~

~~(3)(a)) Upon ((written)) authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer must deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and must transmit the same to the treasurer of the exclusive bargaining representative.~~

~~((b)) (2)(a) If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that((:~~

~~(i) Includes a union security provision authorized under subsection (1) of this section, the employer must enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~((ii)) includes requirements for deductions of other payments ((other than the deduction under (b)(i) of this subsection)), the employer must make such deductions upon ((written)) authorization of the employee.~~

~~((4) Employee organizations that before July 1, 2004, were entitled to the benefits of this section shall continue to be entitled to these benefits.)) (b) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.~~

~~(c) Upon receiving notice of the employee's authorization, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.~~

(d) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(e) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(f) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(g) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

**Sec. 19.** RCW 47.64.090 and 2011 1st sp.s. c 16 s 25 are each amended to read as follows:

(1) Except as provided in RCW 47.60.656 and subsections (2) and (4) of this section, or as provided in RCW 36.54.130 and subsection (3) of this section, if any party assumes the operation and maintenance of any ferry or ferry system by rent, lease, or charter from the department of transportation, such party shall assume and be bound by all the provisions herein and any agreement or contract for such operation of any ferry or ferry system entered into by the department shall provide that the wages to be paid, hours of employment, working conditions, and seniority rights of employees will be established by the commission in accordance with the terms and provisions of this chapter and it shall further provide that all labor disputes shall be adjudicated in accordance with chapter 47.64 RCW.

(2) If a public transportation benefit area meeting the requirements of RCW 36.57A.200 has voter approval to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase passenger-only vessels, related equipment, or terminal space for purposes of loading and unloading the passenger-only ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A benefit area or subcontractor of that benefit area that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer. A determination through a cross-check process may be made upon a showing of interest submitted in support of the exclusive bargaining representative by more than fifty percent of the employees.

(3) If a ferry district is formed under RCW 36.54.110 to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase vessels, related equipment, or terminal space for purposes of loading and unloading the ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A ferry district or subcontractor of that district that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the national labor relations act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(4) The department of transportation shall make its terminal, dock, and pier space available to private operators of passenger-only ferries if the space can be made available without limiting the operation of car ferries operated by the department. These private operators are not bound by the provisions of subsection (1) of this section. Charges for the equipment and space must be fair market value taking into account the public benefit derived from the passenger-only ferry service.

**Sec. 20.** RCW 47.64.160 and 1983 c 15 s 7 are each amended to read as follows:

(1) A collective bargaining agreement may include ((union security provisions including an agency shop, but not a union or closed shop. If an agency shop provision is agreed to,)) a provision for members of the bargaining unit to authorize the deduction of membership dues from their

salary, and the employer shall enforce it by deducting from the salary payments to members of the bargaining unit the dues required of membership ((in the bargaining representative, or, for nonmembers thereof, a fee equivalent to such dues. All union security provisions shall safeguard the right of nonassociation of employees based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee shall pay an amount of money equivalent to regular dues and fees to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the bargaining representative to which such employee would otherwise pay the dues and fees. The employee shall furnish written proof that such payment has been made. If the employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization)). An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(2)(a) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(b) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(c) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(d) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(e) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

**NEW SECTION. Sec. 21.** A new section is added to chapter 49.39 RCW to read as follows:

If only one employee organization is seeking certification as exclusive bargaining representative of a bargaining unit for which there is no incumbent exclusive bargaining representative, the commission may determine the question concerning representation by conducting a cross-check comparing the employee organization's membership records or bargaining authorization cards against the employment records of the employer. A determination through a cross-check process may be made upon a showing of interest submitted in support of the

exclusive bargaining representative by more than fifty percent of the employees. The commission may adopt rules to implement this section.

**Sec. 22.** RCW 49.39.080 and 2018 c 247 s 6 are each amended to read as follows:

(1) Upon the ~~((written))~~ authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer must deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and must transmit the same to the treasurer of the exclusive bargaining representative.

(2)(a) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(b) Upon receiving notice of the employee's authorization from the exclusive bargaining representative, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(c) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(d) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(e) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(f) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions.

(3) If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that(~~(~~

~~(a) Includes a union security provision authorized under RCW 49.39.090, the employer must enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~(b))~~ includes requirements for deductions of other payments ~~((other than the deduction under (a) of this~~

~~subsection))~~, the employer must make such deductions upon ~~((written))~~ authorization of the employee.

**Sec. 23.** RCW 49.39.090 and 2010 c 6 s 10 are each amended to read as follows:

A collective bargaining agreement may(~~(~~

~~(1) Contain union security provisions. However, nothing in this section authorizes a closed shop provision. Agreements involving union security provisions must safeguard the right of nonassociation of employees based on bona fide religious tenets or teachings of a church or religious body of which the symphony musician is a member. The symphony musician must pay an amount of money equivalent to regular union dues and initiation fee to a nonreligious charity or to another charitable organization mutually agreed upon by the symphony musician affected and the bargaining representative to which the symphony musician would otherwise pay the dues and initiation fee. The symphony musician must furnish written proof that the payment has been made. If the symphony musician and the bargaining representative do not reach agreement on this matter, the commission must designate the charitable organization;~~

~~(2))~~ provide for binding arbitration of a labor dispute arising from the application or the interpretation of the matters contained in a collective bargaining agreement.

**Sec. 24.** RCW 53.18.050 and 1967 c 101 s 5 are each amended to read as follows:

A labor agreement signed by a port district may contain:

(1) Provisions that the employee organization chosen by a majority of the employees in a grouping or unit will be recognized as the representative of all employees in the classification included in such grouping or unit;

(2) Maintenance of membership provisions including dues ~~((check-off))~~ cross-check arrangements as provided in section 8 of this act; and

(3) Provisions providing for binding arbitration, the expenses being equally borne by the parties, in matters of contract interpretation and the settlement of jurisdictional disputes.

**NEW SECTION. Sec. 25.** RCW 41.59.100 (Union security provisions—Scope—Agency shop provision, collection of dues or fees) and 1975 1st ex.s. c 288 s 11 are each repealed.

**NEW SECTION. Sec. 26.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 4 of the title, after "fees;" strike the remainder of the title and insert "amending RCW

28B.52.020, 28B.52.030, 28B.52.025, 28B.52.045, 41.56.060, 41.56.110, 41.56.113, 41.56.122, 41.59.060, 41.76.020, 41.76.045, 41.80.050, 41.80.080, 41.80.100, 47.64.090, 47.64.160, 49.39.080, 49.39.090, and 53.18.050; adding a new section to chapter 4.24 RCW; adding a new section to chapter 28B.52 RCW; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.80 RCW; adding a new section to chapter 49.39 RCW; and repealing RCW 41.59.100."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1575 and advanced the bill as amended by the Senate to final passage.

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

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

Representative Mosbrucker spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1575, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1575, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 56; Nays, 38; Absent, 0; Excused, 4.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Irwin, Jinkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Harris, Hoff, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SUBSTITUTE HOUSE BILL NO. 1575, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 12, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1578 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that a variety of existing policies designed to reduce the risk of oil spills have helped contribute to a relatively strong safety record for oil moved by water, pipeline, and train in recent years in Washington state. Nevertheless, gaps exist in our safety regimen, especially deriving from shifts in the modes of overwater transportation of oil and the increased transport of oils that may submerge or sink, contributing to an unacceptable threat to Washington waters, where a catastrophic spill would inflict potentially irreversible damage on the endangered southern resident killer whales. In addition to the unique marine and cultural resources in Puget Sound that would be damaged by an oil spill, the geographic, bathometric, and other environmental peculiarities of Puget Sound present navigational challenges that heighten the risk of an oil spill incident occurring. Therefore, it is the intent of the legislature to enact certain new safety requirements designed to reduce the current, acute risk from existing infrastructure and activities of an oil spill that could eradicate our whales, violate the treaty interests and fishing rights of potentially affected federally recognized Indian tribes, damage commercial fishing prospects, undercut many aspects of the economy that depend on the Salish Sea, and otherwise harm the health and well-being of Washington residents. In enacting such measures, however, it is not the intent of the legislature to mitigate, offset, or otherwise encourage additional projects or activities that would increase the frequency or severity of oil spills in the Salish Sea. Furthermore, it is the intent of the legislature for this act to assist in coordinating enhanced international discussions among federal, state, provincial, first nation, federally recognized Indian tribe, and industry leaders in the United States and Canada to develop an agreement for an additional emergency rescue tug available to vessels in distress in the narrow Straits of the San Juan Islands and other boundary waters, which would lessen oil spill risks to the marine environment in both the United States and Canada.

**Sec. 2.** RCW 88.16.190 and 1994 c 52 s 1 are each amended to read as follows:

(1) Any oil tanker, whether enrolled or registered, of greater than one hundred ((and)) twenty-five thousand deadweight tons shall be prohibited from proceeding beyond

a point east of a line extending from Discovery Island light south to New Dungeness light, unless authorized by the United States coast guard, pursuant to 33 C.F.R. Sec. 165.1303.

~~(2) ((An oil tanker, whether enrolled or registered, of forty to one hundred and twenty five thousand deadweight tons may proceed beyond the points enumerated in subsection (1) if such tanker possesses all of the following standard safety features:~~

~~(a) Shaft horsepower in the ratio of one horsepower to each two and one half deadweight tons; and~~

~~(b) Twin screws; and~~

~~(c) Double bottoms, underneath all oil and liquid cargo compartments; and~~

~~(d) Two radars in working order and operating, one of which must be collision avoidance radar; and~~

~~(e) Such other navigational position location systems as may be prescribed from time to time by the board of pilotage commissioners:~~

~~PROVIDED, That, if such forty to one hundred and twenty five thousand deadweight ton tanker is in ballast or is under escort of a tug or tugs with an aggregate shaft horsepower equivalent to five percent of the deadweight tons of that tanker, subsection (2) of this section shall not apply: PROVIDED FURTHER, That additional tug shaft horsepower equivalencies may be required under certain conditions as established by rule and regulation of the Washington utilities and transportation commission pursuant to chapter 34.05 RCW: PROVIDED FURTHER, That) (a)(i) An oil tanker of forty to one hundred twenty-five thousand deadweight tons may operate in the waters east of a line extending from Discovery Island light south to New Dungeness light and all points in the Puget Sound area, including but not limited to the San Juan Islands and connected waterways and the waters south of Admiralty Inlet, to the extent that these waters are within the territorial boundaries of Washington, only if the oil tanker is under the escort of a tug or tugs that have an aggregate shaft horsepower equivalent to at least five percent of the deadweight tons of the escorted oil tanker.~~

~~(ii) Effective September 1, 2020, the following may operate in Rosario Strait and connected waterways to the east only if under the escort of a tug or tugs that have an aggregate shaft horsepower equivalent to at least five percent of the deadweight tons of a forty thousand deadweight ton oil tanker: (A) Oil tankers of between five thousand and forty thousand deadweight tons; and (B) both articulated tug barges and towed waterborne vessels or barges that are: (I) Designed to transport oil in bulk internal to the hull; and (II) greater than five thousand deadweight tons.~~

~~(iii) The requirements of (a)(ii) of this subsection: (A) Do not apply to vessels providing bunkering or refueling services; (B) do not apply to a towed general cargo deck barge; and (C) may be adjusted or suspended by rule by the board of pilotage commissioners, consistent with section 3(1)(c) of this act.~~

(b) An oil tanker, articulated tug barge, or towed waterborne vessel or barge in ballast or when unladen is not required to be under the escort of a tug.

(c) A tanker assigned a deadweight of less than forty thousand deadweight tons at the time of construction or reconstruction as reported in Lloyd's Register of Ships is not subject to the provisions of RCW 88.16.170 ((through 88.16.190)) and 88.16.180.

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

(a) "Articulated tug barge" means a tank barge and a towing vessel joined by hinged or articulated fixed mechanical equipment affixed or connecting to the stern of the tank barge.

(b) "Oil tanker" means a self-propelled deep draft tank vessel designed to transport oil in bulk. "Oil tanker" does not include an articulated tug barge tank vessel.

(c) "Towed general cargo deck barge" means a waterborne vessel or barge designed to carry cargo on deck.

(d) "Waterborne vessel or barge" means any ship, barge, or other watercraft capable of traveling on the navigable waters of this state and capable of transporting any crude oil or petroleum product in quantities of ten thousand gallons or more for purposes other than providing fuel for its motor or engine.

NEW SECTION. Sec. 3. A new section is added to chapter 88.16 RCW to read as follows:

(1)(a) By December 31, 2025, the board of pilotage commissioners, in consultation with the department of ecology, must adopt rules regarding tug escorts to address the peculiarities of Puget Sound for the following:

(i) Oil tankers of between five thousand and forty thousand deadweight tons; and

(ii) Both articulated tug barges and towed waterborne vessels or barges that are: (A) Designed to transport oil in bulk internal to the hull; and (B) greater than five thousand deadweight tons.

(b) The requirements of this section do not apply to:

(i) A towed general cargo deck barge; or

(ii) A vessel providing bunkering or refueling services.

(c) The rule making pursuant to (a) of this subsection must be for operating in the waters east of the line extending from Discovery Island light south to New Dungeness light and all points in the Puget Sound area. This rule making must address the tug escort requirements applicable to Rosario Strait and connected waterways to the east established in RCW 88.16.190(2)(a)(ii), and may adjust or suspend those requirements based on expertise developed under subsection (5) of this section.

(d) To achieve the rule adoption deadline in (a) of this subsection, the board of pilotage commissioners must adhere to the following interim milestones:

(i) By September 1, 2020, identify and define the zones, specified in subsection (3)(a) of this section, to inform the analysis required under subsection (5) of this section;

(ii) By December 31, 2021, complete a synopsis of changing vessel traffic trends; and

(iii) By September 1, 2023, consult with potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, and stakeholders as required under subsection (6) of this section and complete the analysis required under subsection (5) of this section. By September 1, 2023, the department of ecology must submit a summary of the results of the analysis required under subsection (5) of this section to the legislature consistent with RCW 43.01.036.

(2) When developing rules, the board of pilotage commissioners must consider recommendations from potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, and:

(a) The results of the most recently completed vessel traffic risk assessments;

(b) The report developed by the department of ecology as required under section 206, chapter 262, Laws of 2018;

(c) The recommendations included in the southern resident orca task force report, November 2018, and any subsequent research or reports on related topics;

(d) Changing vessel traffic trends, including the synopsis required under subsection (1)(d)(ii) of this section; and

(e) For any formally proposed draft rules or adopted rules, identified estimates of expected costs and benefits of the rule to:

(i) State government agencies to administer and enforce the rule; and

(ii) Private persons or businesses, by category of type of person or business affected.

(3) In the rules adopted under this section, the board of pilotage commissioners must:

(a) Base decisions for risk protection on geographic zones in the waters specified in subsection (1)(c) of this section. As the initial foci of the rules, the board of pilotage commissioners must equally prioritize geographic zones encompassing: (i) Rosario Strait and connected waterways to the east; and (ii) Haro Strait and Boundary Pass;

(b) Specify operational requirements, such as tethering, for tug escorts;

(c) Include functionality requirements for tug escorts, such as aggregate shaft horsepower for tethered tug escorts;

(d) Be designed to achieve best achievable protection, as defined in RCW 88.46.010, as informed by consideration of:

(i) Accident records in British Columbia and Washington waters;

(ii) Existing propulsion and design standards for covered tank vessels; and

(iii) The characteristics of the waterways; and

(e) Publish a document that identifies the sources of information that it relied upon in developing the rules, including any sources of peer-reviewed science and information submitted by tribes.

(4) The rules adopted under this section may not require oil tankers, articulated tug barges, or towed waterborne vessels or barges to be under the escort of a tug when these vessels are in ballast or are unladen.

(5) To inform rule making, the board of pilotage commissioners must conduct an analysis of tug escorts using the model developed by the department of ecology under section 4 of this act. The board of pilotage commissioners may:

(a) Develop scenarios and subsets of oil tankers, articulated tug barges, and towed waterborne vessels or barges that could preclude requirements from being imposed under the rule making for a given zone or vessel;

(b) Consider the benefits of vessel safety measures that are newly in effect on or after July 1, 2019, and prior to the adoption of rules under this section; and

(c) Enter into an interagency agreement with the department of ecology to assist with conducting the analysis and developing the rules, subject to each of the requirements of this section.

(6) The board of pilotage commissioners must consult with the United States coast guard, the Puget Sound harbor safety committee, potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, ports, local governments, state agencies, and other appropriate entities before adopting tug escort rules applicable to any portion of Puget Sound. Considering relevant information elicited during the consultations required under this subsection, the board of pilotage commissioners must also design the rules with a goal of avoiding or minimizing additional underwater noise from vessels in the Salish Sea, focusing vessel traffic into established shipping lanes, protecting and minimizing vessel traffic impacts to established treaty fishing areas, and respecting and preserving the treaty-protected interests and fishing rights of potentially affected federally recognized Indian tribes.

(7) Rules adopted under this section must be periodically updated consistent with section 5 of this act.

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

(a) "Articulated tug barge" means a tank barge and a towing vessel joined by hinged or articulated fixed mechanical equipment affixed or connecting to the stern of the tank barge.

(b) "Oil tanker" means a self-propelled deep draft tank vessel designed to transport oil in bulk. "Oil tanker" does not include an articulated tug barge tank vessel.

(c) "Towed general cargo deck barge" means a waterborne vessel or barge designed to carry cargo on deck.

(d) "Waterborne vessels or barges" means any ship, barge, or other watercraft capable of traveling on the navigable waters of this state and capable of transporting any crude oil or petroleum product in quantities of ten thousand gallons or more for purposes other than providing fuel for its motor or engine.

NEW SECTION. **Sec. 4.** A new section is added to chapter 88.46 RCW to read as follows:

(1) The department must develop and maintain a model to quantitatively assess current and potential future risks of oil spills from covered vessels in Washington waters, as it conducts ongoing oil spill risk assessments. The department must consult with the United States coast guard, potentially affected federally recognized Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, and stakeholders to: Determine model assumptions; develop scenarios to show the likely impacts of changes to model assumptions, including potential changes in vessel traffic, commodities transported, and vessel safety and risk reduction measures; and update the model periodically.

(2) Utilizing the model pursuant to subsection (1) of this section, the department must quantitatively assess whether an emergency response towing vessel serving Haro Strait, Boundary Pass, Rosario Strait, and connected navigable waterways will reduce oil spill risk. The department must report its findings to the legislature by September 1, 2023.

NEW SECTION. **Sec. 5.** A new section is added to chapter 88.46 RCW to read as follows:

(1) By October 1, 2028, and no less often than every ten years thereafter, the board of pilotage commissioners and the department must together consider:

(a) The effects of rules established under RCW 88.16.190 and section 3 of this act on vessel traffic patterns and oil spill risks in the Salish Sea. Factors considered must include modeling developed by the department under section 4 of this act and may include: (i) Vessel traffic data; (ii) vessel accident and incident data, such as incidents where tug escorts or an emergency response towing vessel acted to reduce spill risks; and (iii) consultation with the United States coast guard, potentially affected federally recognized

Indian treaty fishing tribes, other federally recognized treaty tribes with potentially affected interests, and stakeholders; and

(b) Whether experienced or forecasted changes to vessel traffic patterns or oil spill risk in the Salish Sea necessitate an update to the tug escort rules adopted under section 3 of this act.

(2) In the event that the board of pilotage commissioners determines that updates are merited to the rules, the board must notify the appropriate standing committees of the house of representatives and the senate, and must thereafter adopt rules consistent with the requirements of section 3 of this act, including the consultation process outlined in section 3(6) of this act.

**Sec. 6.** RCW 88.46.240 and 2018 c 262 s 204 are each amended to read as follows:

(1) The department must establish the Salish Sea shared waters forum to address common issues in the cross-boundary waterways between Washington state and British Columbia such as: Enhancing efforts to reduce oil spill risk; addressing navigational safety; and promoting data sharing.

(2) The department must:

(a) Coordinate with provincial and federal Canadian agencies when establishing the Salish Sea shared waters forum; and

(b) Seek participation from each potentially affected federally recognized Indian treaty fishing tribe, other federally recognized treaty tribes with potentially affected interests, first nations, and stakeholders that, at minimum, includes representatives of the following: State, provincial, and federal governmental entities, regulated entities, and environmental organizations(~~(, tribes, and first nations)~~).

(3) The Salish Sea shared waters forum must meet at least once per year to consider the following:

(a) Gaps and conflicts in oil spill policies, regulations, and laws;

(b) Opportunities to reduce oil spill risk, including requiring tug escorts for oil tankers, articulated tug barges, and ~~((other))~~ towed waterborne vessels or barges;

(c) Enhancing oil spill prevention, preparedness, and response capacity; ~~((and))~~

(d) Beginning in 2019, whether an emergency response system in Haro Strait, Boundary Pass, and Rosario Strait~~((, similar to the system implemented by the maritime industry pursuant to RCW 88.46.130,))~~ will decrease oil spill risk ~~((and how to fund such a shared system))~~. In advance of the 2019 meeting, the department must discuss the options of an emergency response system with all potentially affected federally recognized Indian treaty tribes and, as relevant, with organizations such as, but not limited to, the coast Salish gathering, which provides a transboundary natural resource policy dialogue of elected officials representing federal, state, provincial, first nations, and tribal governments within the Salish Sea; and

(e) The impacts of vessel traffic on treaty-protected fishing.

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

(a) "Articulated tug barge" means a tank barge and a towing vessel joined by hinged or articulated fixed mechanical equipment affixed or connecting to the stern of the tank barge.

(b) "Waterborne vessel or barge" means any ship, barge, or other watercraft capable of traveling on the navigable waters of this state and capable of transporting any crude oil or petroleum product in quantities of ten thousand gallons or more for purposes other than providing fuel for its motor or engine.

(5) This section expires July 1, 2021.

**Sec. 7.** RCW 90.56.565 and 2015 c 274 s 8 are each amended to read as follows:

(1)(a) A facility that receives crude oil from a railroad car must provide advance notice to the department that the facility will receive crude oil from a railroad car, as provided in this section. The advance notice must include the route taken to the facility within the state, if known, and the scheduled time, location, volume, region per bill of lading, type, and gravity as measured by standards developed by the American petroleum institute, of crude oil received. Each week, a facility that provides advance notice under this section must provide the required information regarding the scheduled arrival of railroad cars carrying crude oil to be received by the facility in the succeeding seven-day period. A facility is not required to provide advance notice when there is no receipt of crude oil from a railroad car scheduled for a seven-day period.

(b) Twice per year, pipelines that transport crude oil must report to the department the following information about the crude oil transported by the pipeline through the state: The volume of crude oil, gravity of the crude oil as measured by standards developed by the American petroleum institute, type of crude oil, and the state or province of origin of the crude oil. This report must be submitted each year by July 31st for the period January 1st through June 30th and by January 31st for the period July 1st through December 31st.

(2) The department may share information provided by a facility through the advance notice system established in this section with the state emergency management division and any county, city, tribal, port, or local government emergency response agency upon request.

(3) The department must publish information collected under this section on a quarterly basis on the department's internet web site. With respect to the information reported under subsection (1)(a) of this section, the information published by the department must be aggregated on a statewide basis by route through the state, by week, and by type of crude oil. The report may also include other information available to the department

including, but not limited to, place of origin, modes of transport, number of railroad cars delivering crude oil, and number and volume of spills during transport and delivery.

(4) A facility providing advance notice under this section is not responsible for meeting advance notice time frame requirements under subsection (1) of this section in the event that the schedule of arrivals of railroad cars carrying crude oil changes during a seven-day period.

(5) Consistent with the requirements of chapter 42.56 RCW, the department and any state, local, tribal, or public agency that receives information provided under this section may not disclose any such information to the public or to nongovernmental entities that contains proprietary, commercial, or financial information unless that information is aggregated. The requirement for aggregating information does not apply when information is shared by the department with emergency response agencies as provided in subsection (2) of this section.

(6) The department shall adopt rules to implement this section. The advance notice system required in this section must be consistent with the oil transfer reporting system adopted by the department pursuant to RCW 88.46.165.

**Sec. 8.** RCW 88.46.165 and 2006 c 316 s 1 are each amended to read as follows:

(1) The department's rules authorized under RCW 88.46.160 and this section shall be scaled to the risk posed to people and to the environment, and be categorized by type of transfer, volume of oil, frequency of transfers, and such other risk factors as identified by the department.

(2) The rules may require prior notice be provided before an oil transfer, regulated under this chapter, occurs in situations defined by the department as posing a higher risk. The notice may include the time, location, and volume of the oil transfer, as well as the region per bill of lading, gravity as measured by standards developed by the American petroleum institute, and type of crude oil. The rules may not require prior notice when marine fuel outlets are transferring less than three thousand gallons of oil in a single transaction to a ship that is not a covered vessel and the transfers are scheduled less than four hours in advance.

(3) The department may require semiannual reporting of volumes of oil transferred to ships by a marine fuel outlet.

(4) The rules may require additional measures to be taken in conjunction with the deployment of containment equipment or with the alternatives to deploying containment equipment. However, these measures must be scaled appropriately to the risks posed by the oil transfer.

(5) The rules shall include regulations to enhance the safety of oil transfers over water originating from vehicles transporting oil over private roads or highways of the state.

**NEW SECTION. Sec. 9.** If any provision of this act or its application to any person or circumstance is held

invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 2 of the title, after "transportation;" strike the remainder of the title and insert "amending RCW 88.16.190, 88.46.240, 90.56.565, and 88.46.165; adding a new section to chapter 88.16 RCW; adding new sections to chapter 88.46 RCW; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1578 and advanced the bill as amended by the Senate to final passage.

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

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

Representatives Shea and Orcutt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1578, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1578, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 59; Nays, 35; Absent, 0; Excused, 4.

Voting yea: Representatives Bergquist, Blake, Caldier, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Orcutt, Rude, Schmick, Shea, Stokesbary, Sutherland, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1578, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 15, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1587 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that nearly eleven percent of Washington households, including more than two hundred eighty thousand children, are food insecure with limited or uncertain availability of nutritionally adequate and safe foods. The legislature further finds that food insecurity contributes to poor quality diets; chronic medical conditions such as diabetes, heart disease, and hypertension; and negative outcomes for children and families, including harmful effects on behavioral health. Further, food insecurity disproportionately affects people with low incomes, people of color, and rural residents.

(2) The legislature finds that food assistance programs such as the special supplemental nutrition program for women, infants, and children and the supplemental nutrition assistance program are effective in significantly reducing food insecurity; that participants report difficulty affording and accessing healthy foods; and that fruit and vegetable consumption among such food assistance program participants is far below national dietary guidelines.

(3) The legislature finds that the state department of health has successfully managed a food insecurity nutrition incentives grant from the United States department of agriculture that provides a framework for providing fruit and vegetable incentives for low-income shoppers and that those federal funds are set to expire in March 2020. Further, the legislature finds that more than two million dollars in fruit and vegetable incentives have been redeemed by food insecure Washingtonians through this grant, helping to alleviate food insecurity and increase fruit and vegetable consumption.

(4) Therefore, the legislature intends to create a state fruit and vegetable incentives program to benefit people who are food insecure, our agricultural industry, and retailers across the state.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The fruit and vegetable incentives program is established to increase fruit and vegetable consumption among food insecure individuals with limited incomes. The fruit and vegetable incentives program includes:

(a) Farmers market basic food incentives to provide eligible participants with extra benefits to purchase fruits and vegetables at authorized farmers markets when the participant uses basic food benefits;

(b) Grocery store basic food incentives to provide eligible participants with extra benefits to purchase fruits and vegetables at authorized grocery stores when the participant uses basic food benefits; and

(c) Fruit and vegetable vouchers provided by a health care provider, health educator, community health worker, or other health professional to an eligible participant for use at an authorized farmers market or grocery store.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department shall administer the fruit and vegetable incentives program. As part of its duties, the department shall:

(a) Collaborate with other state agencies whose missions and programs closely align with the fruit and vegetable incentives program, including the department of social and health services and the department of agriculture, in the development and implementation of the program;

(b) Provide resources, coordination, and technical assistance to program partners for targeted outreach to food insecure populations and for administration of the program. Program partners may include farmers markets, grocery stores, government agencies, health care systems, and nonprofit organizations; and

(c) Adopt rules to implement this section.

(3) Farmers market basic food incentives may be provided to eligible participants for use at farmers markets authorized by the department. The incentives are additional funds that may be used to purchase eligible fruits and vegetables as defined by the department. When authorizing a participating farmers market, the department may give preference to a farmers market that accepts or has previously accepted supplemental nutrition assistance program benefits, has the capacity to accept supplemental nutrition assistance program benefits, or is located in a county with a high level of food insecurity, as defined by the department.

(4) Grocery store basic food incentives may be provided to eligible participants for use at a grocery store that is an authorized supplemental nutrition assistance program retailer and approved by the department. The incentives are additional funds that may be used to purchase eligible fruits and vegetables as defined by the department. When approving a participating grocery store, the department may give preference to a store that is located in a county with a high level of food insecurity.

(5) Fruit and vegetable vouchers are cash-value vouchers that may be distributed by a participating health care provider, health educator, community health worker, or other health professional to a patient who is eligible for basic food and has a qualifying health condition, as defined by the department, or is food insecure. The voucher may be redeemed at a participating retailer, including an authorized farmers market or grocery store. The department shall approve participating health care systems and may give preference to systems that have operated fruit and vegetable prescription programs, routinely screen patients for food insecurity, have a high percentage of patients who are

medicaid clients, or are located in a county with a high level of food insecurity.

(6) Subject to the availability of funds, the department must evaluate the fruit and vegetable incentives program effectiveness. When conducting the evaluation, the department must collect information related to fruit and vegetable consumption by eligible participants, levels of food security, and likely impacts on public health outcomes as a result of the program. By July 1, 2021, and in compliance with RCW 43.01.036, the department must submit a progress report to the governor and the legislature describing the results of the program and recommending any legislative or programmatic changes to improve the effectiveness of program delivery. By December 1, 2023, the department must submit a complete program evaluation describing the program's effectiveness and including any additional recommendations for program improvements.

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

(a) "Eligible participant" means:

(i) For the purposes of subsection (1)(a) and (b) of this section, a recipient of basic food benefits, including the supplemental nutrition assistance program and the food assistance program, as authorized under Title 74 RCW; or

(ii) For the purposes of subsection (1)(c) of this section, a person who is determined to be food insecure by a participating health care provider.

(b) "Food insecure" means a state in which consistent access to adequate food is limited by a lack of money and other resources at times during the year."

On page 1, line 2 of the title, after "incomes;" strike the remainder of the title and insert "adding a new section to chapter 43.70 RCW; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

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

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1587 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1587, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute House Bill No. 1587, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 84; Nays, 10; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Calder, Callan, Chambers, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hudgins, Irwin, Jinkins, Kilduff, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Volz, Walen, Walsh, Wilcox, Wylie and Ybarra.

Voting nay: Representatives Chandler, Dufault, Dye, Hoff, Jenkin, Kraft, McCaslin, Shea, Vick and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SUBSTITUTE HOUSE BILL NO. 1587, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 15, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1602 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 4.56.110 and 2018 c 199 s 201 are each amended to read as follows:

Interest on judgments shall accrue as follows:

(1) Judgments founded on written contracts, providing for the payment of interest until paid at a specified rate, shall bear interest at the rate specified in the contracts: PROVIDED, That said interest rate is set forth in the judgment.

(2) All judgments for unpaid child support that have accrued under a superior court order or an order entered under the administrative procedure act shall bear interest at the rate of twelve percent.

(3)(a) Judgments founded on the tortious conduct of a "public agency" as defined in RCW 42.30.020 shall bear interest from the date of entry at two percentage points above the equivalent coupon issue yield, as published by the board of governors of the federal reserve system, of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the calendar

month immediately preceding the date of entry. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.

(b) Except as provided in (a) of this subsection, judgments founded on the tortious conduct of individuals or other entities, whether acting in their personal or representative capacities, shall bear interest from the date of entry at two percentage points above the prime rate, as published by the board of governors of the federal reserve system on the first business day of the calendar month immediately preceding the date of entry. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.

(4) Except as provided under subsection (1) of this section, judgments for unpaid private student loan debt, as defined in RCW 6.01.060, shall bear interest from the date of entry at two percentage points above the prime rate, as published by the board of governors of the federal reserve system on the first business day of the calendar month immediately preceding the date of entry.

(5) Except as provided under subsection (1) of this section, judgments for unpaid consumer debt, as defined in RCW 6.01.060, shall bear interest from the date of entry at a rate of nine percent.

(6) Except as provided under subsections (1)(~~(2)~~, (~~3~~), and (~~4~~)) through (5) of this section, judgments shall bear interest from the date of entry at the maximum rate permitted under RCW 19.52.020 on the date of entry thereof. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered. The method for determining an interest rate prescribed by this subsection is also the method for determining the "rate applicable to civil judgments" for purposes of RCW 10.82.090.

**Sec. 2.** RCW 6.01.060 and 2018 c 199 s 202 are each amended to read as follows:

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

(1) "Certified mail" includes, for mailings to a foreign country, any form of mail that requires or permits a return receipt.

(2) "Consumer debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are

primarily for personal, family, or household purposes. Consumer debt includes medical debt.

(3) "Private student loan" means any loan not guaranteed by the federal or state government that is used solely for personal use to finance postsecondary education and costs of attendance at an educational institution. A private student loan includes a loan made solely to refinance a private student loan. A private student loan does not include an extension of credit made under an open-end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling.

**Sec. 3.** RCW 6.15.010 and 2018 c 199 s 203 are each amended to read as follows:

(1) Except as provided in RCW 6.15.050, the following personal property is exempt from execution, attachment, and garnishment:

(a) All wearing apparel of every individual and family, but not to exceed three thousand five hundred dollars in value in furs, jewelry, and personal ornaments for any individual.

(b) All private libraries including electronic media, which includes audiovisual, entertainment, or reference media in digital or analogue format, of every individual, but not to exceed three thousand five hundred dollars in value, and all family pictures and keepsakes.

(c) A cell phone, personal computer, and printer.

(d) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community:

(i) The individual's or community's household goods, appliances, furniture, and home and yard equipment, not to exceed six thousand five hundred dollars in value for the individual or thirteen thousand dollars for the community, no single item to exceed seven hundred fifty dollars, said amount to include provisions and fuel for the comfortable maintenance of the individual or community;

(ii) Other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed three thousand dollars in value, of which not more than one thousand five hundred dollars in value may consist of cash, and of which not more than:

(A) For all debts except private student loan debt and consumer debt, five hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)(d)(ii)(A) may not exceed five hundred dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(B) For all private student loan debt, two thousand five hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)(d)(ii)(B)

may not exceed two thousand five hundred dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(C) For all consumer debt, two thousand dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)(d)(ii)(C) may not exceed two thousand dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities;

(iii) For an individual, a motor vehicle used for personal transportation, not to exceed three thousand two hundred fifty dollars or for a community two motor vehicles used for personal transportation, not to exceed six thousand five hundred dollars in aggregate value;

(iv) Any past due, current, or future child support paid or owed to the debtor, which can be traced;

(v) All professionally prescribed health aids for the debtor or a dependent of the debtor; and

(vi) To any individual, the right to or proceeds of a payment not to exceed twenty thousand dollars on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor. The exemption under this subsection (1)(d)(vi) does not apply to the right of the state of Washington, or any agent or assignee of the state, as a lienholder or subrogee under RCW 43.20B.060.

(e) To each qualified individual, one of the following exemptions:

(i) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed ten thousand dollars in value;

(ii) To a physician, surgeon, attorney, member of the clergy, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed ten thousand dollars in value;

(iii) To any other individual, the tools and instruments and materials used to carry on his or her trade for the support of himself or herself or family, not to exceed ten thousand dollars in value.

(f) Tuition units, under chapter 28B.95 RCW, purchased more than two years prior to the date of a bankruptcy filing or court judgment, and contributions to any other qualified tuition program under 26 U.S.C. Sec. 529 of the internal revenue code of 1986, as amended, and to a Coverdell education savings account, also known as an education individual retirement account, under 26 U.S.C. Sec. 530 of the internal revenue code of 1986, as amended, contributed more than two years prior to the date of a bankruptcy filing or court judgment.

(2) For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

Sec. 4. RCW 6.27.100 and 2018 c 199 s 204 are each amended to read as follows:

(1) A writ issued for a continuing lien on earnings shall be substantially in the form provided in RCW 6.27.105. All other writs of garnishment shall be substantially in the following form, but:

(a) If the writ is issued under an order or judgment for child support, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for child support";

(b) If the writ is issued under an order or judgment for private student loan debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for private student loan debt"; ((and))

(c) If the writ is issued under an order or judgment for consumer debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for consumer debt"; and

(d) If the writ is issued by an attorney, the writ shall be revised as indicated in subsection (2) of this section:

"IN THE . . . . COURT  
OF THE STATE OF WASHINGTON IN AND FOR  
THE COUNTY OF . . . .  
.....,  
Plaintiff, No. . . . .  
vs.  
....., WRIT OF  
Defendant, GARNISHMENT  
.....,  
Garnishee  
THE STATE OF WASHINGTON TO: .....  
Garnishee  
AND TO: .....  
Defendant

The above-named plaintiff has applied for a writ of garnishment against you, claiming that the above-named defendant is indebted to plaintiff and that the amount to be held to satisfy that indebtedness is \$ . . . . ., consisting of:

Balance on Judgment or Amount of \$ . . . .  
Claim

Interest under Judgment from . . . .	\$ . . . .
to . . . .	
Per Day Rate of Estimated Interest	\$ . . . .
	per day
Taxable Costs and Attorneys' Fees	\$ . . . .
Estimated Garnishment Costs:	
Filing and Ex Parte Fees	\$ . . . .
Service and Affidavit Fees	\$ . . . .
Postage and Costs of Certified Mail	\$ . . . .
Answer Fee or Fees	\$ . . . .
Garnishment Attorney Fee	\$ . . . .
Other	\$ . . . .

YOU ARE HEREBY COMMANDED, unless otherwise directed by the court, by the attorney of record for the plaintiff, or by this writ, not to pay any debt, whether earnings subject to this garnishment or any other debt, owed to the defendant at the time this writ was served and not to deliver, sell, or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control at the time when this writ was served. Any such payment, delivery, sale, or transfer is void to the extent necessary to satisfy the plaintiff's claim and costs for this writ with interest.

YOU ARE FURTHER COMMANDED to answer this writ according to the instructions in this writ and in the answer forms and, within twenty days after the service of the writ upon you, to mail or deliver the original of such answer to the court, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant, at the addresses listed at the bottom of this writ.

If you owe the defendant a debt payable in money in excess of the amount set forth in the first paragraph of this writ, hold only the amount set forth in the first paragraph and any processing fee if one is charged and release all additional funds or property to defendant.

IF YOU FAIL TO ANSWER THIS WRIT AS COMMANDED, A JUDGMENT MAY BE ENTERED AGAINST YOU FOR THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH ACCRUING INTEREST, ATTORNEY FEES, AND COSTS WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT. IF YOU PROPERLY ANSWER THIS WRIT, ANY JUDGMENT AGAINST YOU WILL NOT EXCEED THE AMOUNT OF ANY NONEXEMPT DEBT OR THE VALUE OF ANY NONEXEMPT PROPERTY OR EFFECTS IN YOUR POSSESSION OR CONTROL.

JUDGMENT MAY ALSO BE ENTERED AGAINST THE DEFENDANT FOR COSTS AND FEES INCURRED BY THE PLAINTIFF.

Witness, the Honorable . . . . ., Judge of the above-entitled Court, and the seal thereof, this . . . . day of . . . ., . . . . (year)

[Seal]

.....

Attorney for Clerk of the  
 Plaintiff (or Court  
 Plaintiff, if no  
 attorney)

.....

Address By  
 .....

Name of Defendant Address"  
 .....

Address of Defendant

(2) If an attorney issues the writ of garnishment, the final paragraph of the writ, containing the date, and the subscribed attorney and clerk provisions, shall be replaced with text in substantially the following form:

"This writ is issued by the undersigned attorney of record for plaintiff under the authority of chapter 6.27 of the Revised Code of Washington, and must be complied with in the same manner as a writ issued by the clerk of the court.

Dated this .....day of ....., .... (year)

.....

Attorney for Plaintiff

.....

Address Address of the Clerk of the  
 Court"

.....

Name of Defendant

.....

Address of Defendant

Sec. 5. RCW 6.27.105 and 2018 c 199 s 205 are each amended to read as follows:

(1) A writ that is issued for a continuing lien on earnings shall be substantially in the following form, but:

(a) If the writ is issued under an order or judgment for child support, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for child support";

(b) If the writ is issued under an order or judgment for private student loan debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for private student loan debt"; ((and))

(c) If the writ is issued under an order or judgment for consumer debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for consumer debt"; and

(d) If the writ is issued by an attorney, the writ shall be revised as indicated in subsection (2) of this section:

"IN THE . . . . COURT  
OF THE STATE OF WASHINGTON IN AND FOR  
THE COUNTY OF . . . . .

.....,  
Plaintiff, No. ....

vs.  
....., WRIT OF  
Defendant GARNISHMENT  
FOR  
CONTINUING  
LIEN ON

....., EARNINGS

Garnishee  
THE STATE OF WASHINGTON TO:.....

Garnishee

AND TO:.....  
Defendant

The above-named plaintiff has applied for a writ of garnishment against you, claiming that the above-named defendant is indebted to plaintiff and that the amount to be held to satisfy that indebtedness is \$ . . . . ., consisting of:

Balance on Judgment or Amount of Claim	\$ . . . .
Interest under Judgment from . . . . to . . . .	\$ . . . .
Per Day Rate of Estimated Interest	\$ . . . . per day
Taxable Costs and Attorneys' Fees	\$ . . . .
Estimated Garnishment Costs:	
Filing and Ex Parte Fees	\$ . . . .
Service and Affidavit Fees	\$ . . . .
Postage and Costs of Certified Mail	\$ . . . .
Answer Fee or Fees	\$ . . . .
Garnishment Attorney Fee	\$ . . . .
Other	\$ . . . .

THIS IS A WRIT FOR A CONTINUING LIEN. THE GARNISHEE SHALL HOLD the nonexempt portion

of the defendant's earnings due at the time of service of this writ and shall also hold the defendant's nonexempt earnings that accrue through the last payroll period ending on or before SIXTY days after the date of service of this writ. HOWEVER, IF THE GARNISHEE IS PRESENTLY HOLDING THE NONEXEMPT PORTION OF THE DEFENDANT'S EARNINGS UNDER A PREVIOUSLY SERVED WRIT FOR A CONTINUING LIEN, THE GARNISHEE SHALL HOLD UNDER THIS WRIT only the defendant's nonexempt earnings that accrue from the date the previously served writ or writs terminate and through the last payroll period ending on or before sixty days after the date of termination of the previous writ or writs. IN EITHER CASE, THE GARNISHEE SHALL STOP WITHHOLDING WHEN THE SUM WITHHELD EQUALS THE AMOUNT STATED IN THIS WRIT OF GARNISHMENT.

YOU ARE HEREBY COMMANDED, unless otherwise directed by the court, by the attorney of record for the plaintiff, or by this writ, not to pay any debt, whether earnings subject to this garnishment or any other debt, owed to the defendant at the time this writ was served and not to deliver, sell, or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control at the time when this writ was served. Any such payment, delivery, sale, or transfer is void to the extent necessary to satisfy the plaintiff's claim and costs for this writ with interest.

YOU ARE FURTHER COMMANDED to answer this writ according to the instructions in this writ and in the answer forms and, within twenty days after the service of the writ upon you, to mail or deliver the original of such answer to the court, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant, at the addresses listed at the bottom of this writ.

If, at the time this writ was served, you owed the defendant any earnings (that is, wages, salary, commission, bonus, tips, or other compensation for personal services or any periodic payments pursuant to a nongovernmental pension or retirement program), the defendant is entitled to receive amounts that are exempt from garnishment under federal and state law. You must pay the exempt amounts to the defendant on the day you would customarily pay the compensation or other periodic payment. As more fully explained in the answer, the basic exempt amount is the greater of seventy-five percent of disposable earnings or a minimum amount determined by reference to the employee's pay period, to be calculated as provided in the answer. However, if this writ carries a statement in the heading of ~~((either:))~~ "This garnishment is based on a judgment or order for child support," the basic exempt amount is fifty percent of disposable earnings; ~~((or))~~ and if this writ carries a statement in the heading of "This garnishment is based on a judgment or order for private student loan debt," the basic exempt amount is the greater of eighty-five percent of disposable earnings or fifty times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable; and if this writ carries a statement in the heading of "This garnishment is based on a judgment or order for consumer debt," the basic exempt amount is the

greater of eighty percent of disposable earnings or thirty-five times the state minimum hourly wage.

YOU MAY DEDUCT A PROCESSING FEE FROM THE REMAINDER OF THE EMPLOYEE'S EARNINGS AFTER WITHHOLDING UNDER THIS WRIT. THE PROCESSING FEE MAY NOT EXCEED TWENTY DOLLARS FOR THE FIRST ANSWER AND TEN DOLLARS AT THE TIME YOU SUBMIT THE SECOND ANSWER.

If you owe the defendant a debt payable in money in excess of the amount set forth in the first paragraph of this writ, hold only the amount set forth in the first paragraph and any processing fee if one is charged and release all additional funds or property to defendant.

IF YOU FAIL TO ANSWER THIS WRIT AS COMMANDED, A JUDGMENT MAY BE ENTERED AGAINST YOU FOR THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH ACCRUING INTEREST, ATTORNEY FEES, AND COSTS WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT. IF YOU PROPERLY ANSWER THIS WRIT, ANY JUDGMENT AGAINST YOU WILL NOT EXCEED THE AMOUNT OF ANY NONEXEMPT DEBT OR THE VALUE OF ANY NONEXEMPT PROPERTY OR EFFECTS IN YOUR POSSESSION OR CONTROL.

JUDGMENT MAY ALSO BE ENTERED AGAINST THE DEFENDANT FOR COSTS AND FEES INCURRED BY THE PLAINTIFF.

Witness, the Honorable . . . . ., Judge of the above-entitled Court, and the seal thereof, this . . . . day of . . . . ., . . . . (year)

[Seal]

.....	.....
Attorney for Plaintiff (or Plaintiff, if no attorney)	Clerk of the Court
.....	.....
Address	By
.....	.....
Name of Defendant	Address"
.....	
Address of Defendant	

(2) If an attorney issues the writ of garnishment, the final paragraph of the writ, containing the date, and the subscribed attorney and clerk provisions, shall be replaced with text in substantially the following form:

"This writ is issued by the undersigned attorney of record for plaintiff under the authority of chapter 6.27 of the Revised Code of Washington, and must be complied with in the same manner as a writ issued by the clerk of the court.

Dated this .....day of ....., .... (year)

.....

Attorney for Plaintiff

.....

Address Address of the Clerk of the Court"

.....

Name of Defendant

.....

Address of Defendant

Sec. 6. RCW 6.27.140 and 2018 c 199 s 206 are each amended to read as follows:

(1) The notice required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in no smaller than size twelve point font:

NOTICE OF GARNISHMENT AND OF YOUR RIGHTS

A Writ of Garnishment issued in a Washington court has been or will be served on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to withhold payment of any money that was due to you and to withhold any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

WAGES. If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. If the garnishment is for child support, the exempt amount paid to you will be a percent of your disposable earnings, which is fifty percent of that part of your earnings remaining after your employer deducts those amounts which are required by law to be withheld. If the garnishment is for private student loan debt, the exempt amount paid to you will be the greater of the following: A percent of your disposable earnings,

which is eighty-five percent of the part of your earnings remaining after your employer deducts those amounts which are required by law to be withheld, or fifty times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable. If the garnishment is for consumer debt, the exempt amount paid to you will be the greater of the following: A percent of your disposable earnings, which is eighty percent of the part of your earnings remaining after your employer deducts those amounts which are required by law to be withheld, or thirty-five times the state minimum hourly wage.

BANK ACCOUNTS. If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or any federally qualified pension, such as a state or federal pension, individual retirement account (IRA), or 401K plan, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCW 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a stepparent are exempt from a garnishment on the child support obligation of the parent.

OTHER EXEMPTIONS. If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.15.010, a Washington statute that exempts certain property of your choice (including up to \$2,500.00 in a bank account if you owe on private student loan debts; up to \$2,000.00 in a bank account if you owe on consumer debts; or up to \$500.00 in a bank account for all other debts) and certain other property such as household furnishings, tools of trade, and a motor vehicle (all limited by differing dollar values).

HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the plaintiff receives your claim form. If the plaintiff objects, the law requires a hearing not later than 14 days after the plaintiff receives your claim form, and notice of the objection and hearing date

will be mailed to you at the address that you put on the claim form.

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

(2)(a) If the writ is to garnish funds or property held by a financial institution, the claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in no smaller than size twelve point font:

[Caption to be filled in by judgment creditor or plaintiff before mailing.]

Name of Court

..... No .....

Plaintiff,

vs.

..... EXEMPTION CLAIM

Defendant,

Garnishee Defendant

INSTRUCTIONS:

- 1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet.
2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF BANK ACCOUNT IS GARNISHED:

- [ ] The account contains payments from:
[ ] Temporary assistance for needy families, SSI, or other public assistance. I receive \$..... monthly.
[ ] Social Security. I receive \$..... monthly.

- [ ] Veterans' Benefits. I receive \$..... monthly.
[ ] Federally qualified pension, such as a state or federal pension, individual retirement account (IRA), or 401K plan. I receive \$..... monthly.
[ ] Unemployment Compensation. I receive \$..... monthly.
[ ] Child support. I receive \$..... monthly.
[ ] Other. Explain .....
[ ] \$2,500 exemption for private student loan debts.
[ ] \$2,000 exemption for consumer debts.
[ ] \$500 exemption for all other debts.

IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING:

- [ ] No money other than from above payments are in the account.
[ ] Moneys in addition to the above payments have been deposited in the account. Explain .....

OTHER PROPERTY:

- [ ] Describe property .....
(If you claim other personal property as exempt, you must attach a list of all other personal property that you own.)

Print: Your name If married or in a state registered domestic partnership, name of husband/wife/state registered domestic partner
Your signature Signature of husband, wife, or state registered domestic partner
Address Address (if different from yours)

Telephone number Telephone number

(if different from yours)

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

(b) If the writ is directed to an employer to garnish earnings, the claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, subject to (c) of this subsection, printed or typed in no smaller than size twelve point font type:

[Caption to be filled in by judgment creditor or plaintiff before mailing.]

.....

Name of Court

..... No . . . . .

Plaintiff,

vs.

..... EXEMPTION CLAIM

Defendant,

.....

Garnishee Defendant

INSTRUCTIONS:

- 1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet.
2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER

THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:

[ ] Name and address of employer who is paying the benefits: .....

IF EARNINGS ARE GARNISHED FOR CHILD SUPPORT:

[ ] I claim maximum exemption.

IF EARNINGS ARE GARNISHED FOR PRIVATE STUDENT LOAN DEBT:

[ ] I claim maximum exemption.

IF EARNINGS ARE GARNISHED FOR CONSUMER DEBT:

[ ] I claim maximum exemption.

.....

Print: Your name If married or in a state registered domestic partnership, name of husband/wife/state registered domestic partner

.....

Your signature Signature of husband, wife, or state registered domestic partner

.....

.....

Address Address (if different from yours)

.....

Telephone number Telephone number (if different from yours)

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

(c) If the writ under (b) of this subsection is not a writ for the collection of child support, the exemption language pertaining to child support may be omitted.

(d) If the writ under (b) of this subsection is not a writ for the collection of private student loan debt, the exemption language pertaining to private student loan debt may be omitted.

(e) If the writ under (b) of this subsection is not a writ for the collection of consumer debt, the exemption language pertaining to consumer debt may be omitted.

**Sec. 7.** RCW 6.27.150 and 2018 c 199 s 207 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, if the garnishee is an employer owing the defendant earnings, then for each week of such earnings, an amount shall be exempt from garnishment which is the greatest of the following:

(a) Thirty-five times the federal minimum hourly wage in effect at the time the earnings are payable; or

(b) Seventy-five percent of the disposable earnings of the defendant.

(2) In the case of a garnishment based on a judgment or other order for child support or court order for spousal maintenance, other than a mandatory wage assignment order pursuant to chapter 26.18 RCW, or a mandatory assignment of retirement benefits pursuant to chapter 41.50 RCW, the exemption shall be fifty percent of the disposable earnings of the defendant.

(3) In the case of a garnishment based on a judgment or other order for the collection of private student loan debt, for each week of such earnings, an amount shall be exempt from garnishment which is the greater of the following:

(a) Fifty times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable; or

(b) Eighty-five percent of the disposable earnings of the defendant.

(4) In the case of a garnishment based on a judgment or other order for the collection of consumer debt, for each week of such earnings, an amount shall be exempt from garnishment which is the greater of the following:

(a) Thirty-five times the state minimum hourly wage; or

(b) Eighty percent of the disposable earnings of the defendant.

~~(5)~~ (6) The exemptions stated in this section shall apply whether such earnings are paid, or are to be paid, weekly, monthly, or at other intervals, and whether earnings are due the defendant for one week, a portion thereof, or for a longer period.

~~((5))~~ (6) Unless directed otherwise by the court, the garnishee shall determine and deduct exempt amounts under this section as directed in the writ of garnishment and answer, and shall pay these amounts to the defendant.

~~((6))~~ (7) No money due or earned as earnings as defined in RCW 6.27.010 shall be exempt from garnishment under the provisions of RCW 6.15.010, as now or hereafter amended."

On page 1, line 1 of the title, after "debt;" strike the remainder of the title and insert "and amending RCW 4.56.110, 6.01.060, 6.15.010, 6.27.100, 6.27.105, 6.27.140, and 6.27.150."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1602 and advanced the bill as amended by the Senate to final passage.

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

Representatives Reeves and Irwin spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1602, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1602, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 67; Nays, 27; Absent, 0; Excused, 4.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Corry, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Irwin, Jinkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, McCaslin, Mead, Morgan, Morris, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Volz, Walen, Wylie, Ybarra and Young.

Voting nay: Representatives Barkis, Boehnke, Calder, Chambers, Chandler, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Harris, Hoff, Jenkin, Klippert,

Kraft, Kretz, MacEwen, Maycumber, Orcutt, Schmick, Stokesbary, Vick, Walsh and Wilcox.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SUBSTITUTE HOUSE BILL NO. 1602, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

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

The Speaker assumed the chair.

#### **SIGNED BY THE SPEAKER**

The Speaker signed the following bills:

SECOND SUBSTITUTE HOUSE BILL NO. 1048  
HOUSE BILL NO. 1066  
HOUSE BILL NO. 1070  
HOUSE BILL NO. 1092  
ENGROSSED HOUSE BILL NO. 1126  
HOUSE BILL NO. 1146  
HOUSE BILL NO. 1147  
HOUSE BILL NO. 1149  
SUBSTITUTE HOUSE BILL NO. 1151  
ENGROSSED HOUSE BILL NO. 1175  
SUBSTITUTE HOUSE BILL NO. 1239  
SUBSTITUTE HOUSE BILL NO. 1295  
HOUSE BILL NO. 1318  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1329  
SUBSTITUTE HOUSE BILL NO. 1350  
ENGROSSED HOUSE BILL NO. 1354  
HOUSE BILL NO. 1380  
SUBSTITUTE HOUSE BILL NO. 1415  
SUBSTITUTE HOUSE BILL NO. 1430  
SECOND SUBSTITUTE HOUSE BILL NO. 1448  
HOUSE BILL NO. 1449  
SUBSTITUTE HOUSE BILL NO. 1480  
HOUSE BILL NO. 1516  
SUBSTITUTE HOUSE BILL NO. 1531  
HOUSE BILL NO. 1533  
HOUSE BILL NO. 1537  
SUBSTITUTE HOUSE BILL NO. 1545  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1557  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1569  
HOUSE BILL NO. 1589  
HOUSE BILL NO. 1604  
SUBSTITUTE HOUSE BILL NO. 1607  
HOUSE BILL NO. 1726  
HOUSE BILL NO. 1753  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1794  
SUBSTITUTE HOUSE BILL NO. 1856  
SUBSTITUTE HOUSE BILL NO. 1865  
HOUSE BILL NO. 1901  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1916  
SUBSTITUTE HOUSE BILL NO. 1917  
HOUSE BILL NO. 1918  
SUBSTITUTE HOUSE BILL NO. 1931  
HOUSE BILL NO. 2062  
HOUSE BILL NO. 2119

SUBSTITUTE HOUSE JOINT MEMORIAL NO.  
4007  
SENATE BILL NO. 5000  
SUBSTITUTE SENATE BILL NO. 5003  
SUBSTITUTE SENATE BILL NO. 5004  
SENATE BILL NO. 5074  
SENATE BILL NO. 5119  
SUBSTITUTE SENATE BILL NO. 5163  
SUBSTITUTE SENATE BILL NO. 5297  
SENATE BILL NO. 5310  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5311  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5332  
SUBSTITUTE SENATE BILL NO. 5394  
SENATE BILL NO. 5404  
SUBSTITUTE SENATE BILL NO. 5471  
SENATE BILL NO. 5558  
SUBSTITUTE SENATE BILL NO. 5638  
SENATE BILL NO. 5641  
SENATE BILL NO. 5795  
SENATE BILL NO. 5909  
SENATE BILL NO. 5923

The Speaker called upon Representative Orwall to preside.

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

April 10, 2019

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1579 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that the population of southern resident killer whales has declined in recent years and currently stands at a thirty-year low of seventy-four animals.

(2) The governor convened the southern resident killer whale task force after the 2018 legislative session to study and identify actions that could be taken to help sustain and recover this important species. In the course of its work, the task force found that chinook salmon compose the largest portion of the whales' diet, and are therefore critical to the recovery of the species. Further, several runs of chinook salmon in Washington state are listed under the federal endangered species act, making chinook recovery all the more urgent.

(3) The task force identified four overarching southern resident killer whale recovery goals and adopted several recommendations for specific actions under each goal. Goal one identified by the task force is to increase chinook abundance, and actions under that goal relate to habitat protection, protection of chinook prey, such as forage fish, and reducing impacts of nonnative chinook predators.

(4) To address the need identified by the task force to increase chinook abundance, the legislature intends to take initial, important steps consistent with recommendations made by the governor's southern resident killer whale task force.

**NEW SECTION. Sec. 2.** A new section is added to chapter 77.08 RCW to read as follows:

The commission shall adopt rules to liberalize bag limits for bass, walleye, and channel catfish in all anadromous waters of the state in order to reduce the predation risk to salmon smolts.

**Sec. 3.** RCW 77.32.010 and 2014 c 48 s 26 are each amended to read as follows:

(1) Except as otherwise provided in this chapter or department rule, a recreational license issued by the director is required to hunt, fish, or take wildlife or seaweed. A recreational fishing or shellfish license is not required for carp, freshwater smelt, and crawfish, and a hunting license is not required for bullfrogs.

(2) A pass or permit issued under RCW 79A.80.020, 79A.80.030, or 79A.80.040 is required to park or operate a motor vehicle on a recreation site or lands, as defined in RCW 79A.80.010.

(3) The commission may, by rule, indicate that a fishing permit issued to a nontribal member by the Colville Tribes shall satisfy the license requirements in subsection (1) of this section on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods, and that a Colville Tribes tribal member identification card shall satisfy the license requirements in subsection (1) of this section on all waters of Lake Rufus Woods.

**NEW SECTION. Sec. 4.** A new section is added to chapter 77.55 RCW to read as follows:

(1) A person proposing construction or other work landward of the ordinary high water line that will use, divert, obstruct, or change the natural flow or bed of state waters shall submit a permit application to the department. However, if a person is unsure about whether the work requires a permit, they may request a preapplication determination from the department. The department must evaluate the proposed work and determine if the work is a hydraulic project and, if so, whether a permit from the department is required to ensure adequate protection of fish life.

(2) The preapplication determination request must be submitted through the department's online permitting system and must contain:

- (a) A description of the proposed project;
  - (b) A map showing the location of the project site;
- and

(c) Preliminary plans and specifications of the proposed construction or work, if available.

(3) The department shall provide tribes and local governments a seven calendar day review and comment period. The department shall consider all applicable written comments received before issuing a determination.

(4) The department shall issue a written determination, including the rationale for the decision, within twenty-one calendar days of receiving the request.

(5) Determinations made according to the provisions of this section are not subject to the requirements of chapter 43.21C RCW.

**NEW SECTION. Sec. 5.** A new section is added to chapter 77.55 RCW to read as follows:

(1) When the department determines that a violation of this chapter, or of any of the rules that implement this chapter, has occurred or is about to occur, it shall first attempt to achieve voluntary compliance. The department shall offer information and technical assistance to the project proponent, identifying one or more means to accomplish the project proponent's purposes within the framework of the law. The department shall provide a reasonable timeline to achieve voluntary compliance that takes into consideration factors specific to the violation, such as the complexity of the hydraulic project, the actual or potential harm to fish life or fish habitat, and the environmental conditions at the time.

(2) If a person violates this chapter, or any of the rules that implement this chapter, or deviates from a permit, the department may issue a notice of correction in accordance with chapter 43.05 RCW, a notice of violation in accordance with chapter 43.05 RCW, a stop work order, a notice to comply, or a notice of civil penalty as authorized by law and subject to chapter 43.05 RCW and RCW 34.05.110.

(3) For purposes of this section, the term "project proponent" means a person who has applied for a hydraulic project approval, a person identified as an authorized agent on an application for a hydraulic project approval, a person who has obtained a hydraulic project approval, or a person who undertakes a hydraulic project without a hydraulic project approval.

(4) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

**NEW SECTION. Sec. 6.** A new section is added to chapter 77.55 RCW to read as follows:

(1) The department may serve upon a project proponent a stop work order, which is a final order of the department, if:

(a) There is any severe violation of this chapter or of the rules implementing this chapter or there is a deviation

from the hydraulic project approval that may cause significant harm to fish life; and

(b) Immediate action is necessary to prevent continuation of or to avoid more than minor harm to fish life or fish habitat.

(2)(a) The stop work order must set forth:

(i) A description of the condition that is not in compliance and the text of the specific section or subsection of this chapter or the rules that implement this chapter;

(ii) A statement of what is required to achieve compliance;

(iii) The date by which the department requires compliance;

(iv) Notice of the means to contact any technical assistance services provided by the department or others;

(v) Notice of when, where, and to whom the request to extend the time to achieve compliance for good cause may be filed with the department; and

(vi) The right to an appeal.

(b) A stop work order may require that any project proponent stop all work connected with the violation until corrective action is taken. A stop work order may also require that any project proponent take corrective action to prevent, correct, or compensate for adverse impacts to fish life and fish habitat.

(c) A stop work order must be authorized by senior or executive department personnel. The department shall initiate rule making to identify the appropriate level of senior and executive level staff approval for these actions based on the level of financial effect on the violator and the scope and scale of the impact to fish life and habitat.

(3) Within five business days of issuing the stop work order, the department shall mail a copy of the stop work order to the last known address of any project proponent, to the last known address of the owner of the land on which the hydraulic project is located, and to the local jurisdiction in which the hydraulic project is located. The department must take all measures reasonably calculated to ensure that the project proponent actually receives notice of the stop work order.

(4) Issuance of a stop work order may be informally appealed by a project proponent who was served with the stop work order or who received a copy of the stop work order from the department, or by the owner of the land on which the hydraulic project is located, to the department within thirty days from the date of receipt of the stop work order. Requests for informal appeal must be filed in the form and manner prescribed by the department by rule. A stop work order that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(5) The project proponent who was served with the stop work order or who received a copy of the stop work order from the department, or the owner of the land on which

the hydraulic project is located, may commence an appeal to the board within thirty days from the date of receipt of the stop work order. If such an appeal is commenced, the proceeding is an adjudicative proceeding under the administrative procedure act, chapter 34.05 RCW. The recipient of the stop work order must comply with the order of the department immediately upon being served, but the board may stay, modify, or discontinue the order, upon motion, under such conditions as the board may impose.

(6) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

(7) For the purposes of this section, "project proponent" has the same meaning as defined in section 5(3) of this act.

**NEW SECTION. Sec. 7.** A new section is added to chapter 77.55 RCW to read as follows:

(1)(a) If a violation of this chapter or of the rules implementing this chapter, a deviation from the hydraulic project approval, damage to fish life or fish habitat, or potential damage to fish life or fish habitat, has occurred and the department determines that a stop work order is unnecessary, the department may issue and serve upon a project proponent a notice to comply, which must clearly set forth:

(i) A description of the condition that is not in compliance and the text of the specific section or subsection of this chapter or the rules that implement this chapter;

(ii) A statement of what is required to achieve compliance;

(iii) The date by which the department requires compliance to be achieved;

(iv) Notice of the means to contact any technical assistance services provided by the department or others;

(v) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department; and

(vi) The right to an appeal.

(b) The notice to comply may require that any project proponent take corrective action to prevent, correct, or compensate for adverse impacts to fish life or fish habitat.

(2) Within five business days of issuing the notice to comply, the department shall mail a copy of the notice to comply to the last known address of any project proponent, to the last known address of the owner of the land on which the hydraulic project is located, and to the local jurisdiction in which the hydraulic project is located. The department must take all measures reasonably calculated to ensure that the project proponent actually receives notice of the notice to comply.

(3) Issuance of a notice to comply may be informally appealed by a project proponent who was served with the

notice to comply or who received a copy of the notice to comply from the department, or by the owner of the land on which the hydraulic project is located, to the department within thirty days from the date of receipt of the notice to comply. Requests for informal appeal must be filed in the form and manner prescribed by the department by rule. A notice to comply that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(4) The project proponent who was served with the notice to comply, the project proponent who received a copy of the notice to comply from the department, or the owner of the land on which the hydraulic project is located may commence an appeal to the board within thirty days from the date of receipt of the notice to comply. If such an appeal is commenced, the proceeding is an adjudicative proceeding under the administrative procedure act, chapter 34.05 RCW. The recipient of the notice to comply must comply with the notice to comply immediately upon being served, but the board may stay, modify, or discontinue the notice to comply, upon motion, under such conditions as the board may impose.

(5) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

(6) For the purposes of this section, "project proponent" has the same meaning as defined in section 5(3) of this act.

**NEW SECTION. Sec. 8.** A new section is added to chapter 77.55 RCW to read as follows:

(1)(a) If section 13 of this act is enacted into law by June 30, 2019, the department may levy civil penalties of up to ten thousand dollars for every violation of this chapter or of the rules that implement this chapter. If section 13 of this act is not enacted into law by June 30, 2019, the department may levy civil penalties of up to one hundred dollars for every violation of this chapter or of the rules that implement this chapter. Each and every violation is a separate and distinct civil offense.

(b) Penalties must be authorized by senior or executive department personnel. The department shall initiate rule making to identify the appropriate level of senior and executive level staff approval for these actions based on the level of financial effect on the violator and the scope and scale of the impact to fish life and habitat.

(2) The penalty provided must be imposed by notice in writing by the department, provided either by certified mail or by personal service, to the person incurring the penalty and to the local jurisdiction in which the hydraulic project is located, describing the violation. The department must take all measures reasonably calculated to ensure that the project proponent actually receives notice of the notice of penalty. The civil penalty notice must set forth:

(a) The basis for the penalty;

(b) The amount of the penalty; and

(c) The right of the person incurring the penalty to appeal the civil penalty.

(3)(a) Except as provided in (b) of this subsection, any person incurring any penalty under this chapter may appeal the penalty to the board pursuant to chapter 34.05 RCW. Appeals must be filed within thirty days from the date of receipt of the notice of civil penalty in accordance with RCW 43.21B.230.

(b) Issuance of a civil penalty may be informally appealed by the person incurring the penalty to the department within thirty days from the date of receipt of the notice of civil penalty. Requests for informal appeal must be filed in the form and manner prescribed by the department by rule. A civil penalty that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(4) The penalty imposed becomes due and payable thirty days after receipt of a notice imposing the penalty unless an appeal is filed. Whenever an appeal of any penalty incurred under this chapter is filed, the penalty becomes due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. When the penalty becomes past due, it is also subject to interest at the rate allowed by RCW 43.17.240 for debts owed to the state.

(5) If the amount of any penalty is not paid within thirty days after it becomes due and payable, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of the county in which such a violation occurred, to recover the penalty. In all such actions, the rules of civil procedures and the rules of evidence are the same as in an ordinary civil action. The department is also entitled to recover reasonable attorneys' fees and costs incurred in connection with the penalty recovered under this section. All civil penalties received or recovered by state agency action for violations as prescribed in subsection (1) of this section must be deposited into the state's general fund. The department is authorized to retain any attorneys' fees and costs it may be awarded in connection with an action brought to recover a civil penalty issued pursuant to this section.

(6) The department shall adopt by rule a penalty schedule to be effective by January 1, 2020. The penalty schedule must be developed in consideration of the following:

(a) Previous violation history;

(b) Severity of the impact on fish life and fish habitat;

(c) Whether the violation of this chapter or of its rules was intentional;

(d) Cooperation with the department;

(e) Reparability of any adverse effects resulting from the violation; and

(f) The extent to which a penalty to be imposed on a person for a violation committed by another should be reduced if the person was unaware of the violation and has not received a substantial economic benefit from the violation.

(7) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

**NEW SECTION. Sec. 9.** A new section is added to chapter 77.55 RCW to read as follows:

(1) The department may apply for an administrative inspection warrant in either Thurston county superior court or the superior court in the county in which the hydraulic project is located. The court may issue an administrative inspection warrant where:

(a) Department personnel need to inspect the hydraulic project site to ensure compliance with this chapter or with rules adopted to implement this chapter; or

(b) Department personnel have probable cause to believe that a violation of this chapter or of the rules that implement this chapter is occurring or has occurred.

(2) This section does not apply to a project, or to that portion of a project, that has received a forest practices hydraulic project permit from the department of natural resources pursuant to chapter 76.09 RCW.

**NEW SECTION. Sec. 10.** A new section is added to chapter 77.55 RCW to read as follows:

(1) The department may disapprove an application for hydraulic project approval submitted by a person who has failed to comply with a final order issued pursuant to section 6 or 7 of this act or who has failed to pay civil penalties issued pursuant to section 8 of this act. Applications may be disapproved for up to one year from the issuance of a notice of intent to disapprove applications under this section, or until all outstanding civil penalties are paid and all outstanding notices to comply and stop work orders are complied with, whichever is longer.

(2) The department shall provide written notice of its intent to disapprove an application under this section to the applicant and to any authorized agent or landowner identified in the application.

(3) The disapproval period runs from thirty days following the date of actual notice of intent or when all administrative and judicial appeals, if any, have been exhausted.

(4) Any person provided the notice may seek review from the board by filing a request for review within thirty days of the date of the notice of intent to disapprove applications.

**NEW SECTION. Sec. 11.** A new section is added to chapter 77.55 RCW to read as follows:

The remedies under this chapter are not exclusive and do not limit or abrogate any other civil or criminal penalty, remedy, or right available in law, equity, or statute.

**Sec. 12.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70.94 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, 70.94.431, 70.105.080, 70.107.050, 76.09.170, ~~((77.55.294))~~ section 8 of this act, 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, 70.94.211, 70.94.332, 70.105.095, 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 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(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 70.95.205.

(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.

(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 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, 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.

**NEW SECTION. Sec. 13.** A new section is added to chapter 43.23 RCW to read as follows:

(1) The state conservation commission shall convene and facilitate the departments of ecology, agriculture, fish and wildlife, and natural resources, and the state conservation commission to work together cooperatively, efficiently, and productively on the expeditious construction of three demonstration projects. The legislature expects that the joint and contemporaneous participation of all these state agencies will expedite the permitting of these demonstration projects. The legislature further intends that the collaborative process that the stakeholder group creates, including local stakeholders among others, will be used as a model for river management throughout the state.

(2) The floodplain management strategies developed in the process in this section must address multiple benefits including: Reducing flood hazard to public infrastructure

and other land uses caused by sediment accumulation or for other causes; improving fish and wildlife habitat; sustaining viable agriculture; and public access.

(3) The state conservation commission and the departments of agriculture, natural resources, fish and wildlife, and ecology must jointly identify and assess three demonstration projects that test the effectiveness and costs of river management by using various management strategies and techniques as applied to accomplish the following goals:

(a) Protection of agricultural lands;

(b) Restoration or enhancement of fish runs; and

(c) Protection of public infrastructure and recreational access.

(4)(a) The state conservation commission must convene and facilitate a stakeholder group consisting of the departments of agriculture, natural resources, fish and wildlife, and ecology, and the state conservation commission, local and statewide agricultural organizations and conservation districts, land conservation organizations, and local governments with interest and experience in floodplain management techniques. The stakeholder group must develop and assess three demonstration projects, one located in Whatcom county, one located in Snohomish county, and one located in Grays Harbor county. The departments must also seek the participation and the views of the federally recognized tribes that may be affected by each pilot project.

(b) The disposition of any gravel resources removed as a result of these pilot projects that are owned by the state must be consistent with chapter 79.140 RCW, otherwise they must be: (i) Used at the departments' discretion in projects related to fish programs in the local area of the project or by property owners adjacent to the project; (ii) made available to a local tribe for its use; or (iii) sold and the proceeds applied to funding the demonstration projects.

(5) At a minimum, the pilot projects must examine the following management strategies and techniques:

(a) Setting back levees and other measures to accommodate high flow with reduced risk to property, while providing space for river processes that are vital to the creation of fish habitat;

(b) Providing deeper, cooler holes for fish life;

(c) Removing excess sediment and gravel that causes diversion of water and erosion of river banks and farmland;

(d) Providing off-channels for habitat as refuge during high flows;

(e) Ensuring that any management activities leave sufficient gravel and sediment for fish spawning and rearing;

(f) Providing stable river banks that will allow for long-term growth of riparian enhancement efforts, such as planting shade trees and hedgerows;

(g) Protecting existing mature treed riparian zones that cool the waters;

(h) Restoring previously existing bank contours that protect the land from erosion caused by more intense and more frequent flooding; and

(i) Developing management practices that reduce the amount of gravel, sediment, and woody debris deposited into farm fields.

(6) By December 31, 2020, the state conservation commission must coordinate the development of a report to the legislative committees with oversight of agriculture, water, rural economic development, ecology, fish and wildlife, and natural resources. The report should include the input of all state agencies, tribes, local entities, and stakeholders participating in, or commenting on, the process identified in this section. The report must include, but not be limited to, the following elements: (a) Their progress toward setting benchmarks and meeting the stakeholder group's timetable; (b) any decisions made in assessing the projects; and (c) agency recommendations for funding of the projects from federal grants, federal loans, state grants and loans, and private donations, or if other funding sources are not available or complete, submitting the three projects for consideration in the biennial capital budget request to the governor and the legislature. The departments must report annually thereafter by December 31st of each year.

(7) The stakeholder group must be staffed jointly by the departments.

(8) Within amounts appropriated in the omnibus operating appropriations act, the state conservation commission, the department of ecology, the department of agriculture, the department of fish and wildlife, and the department of natural resources shall implement all requirements in this section.

(9) This section expires June 30, 2030.

**NEW SECTION. Sec. 14.** The following acts or parts of acts are each repealed:

(1) RCW 77.55.141 (Marine beach front protective bulkheads or rockwalls) and 2010 c 210 s 28, 2005 c 146 s 501, & 1991 c 279 s 1; and

(2) RCW 77.55.291 (Civil penalty) and 2010 c 210 s 31, 2005 c 146 s 701, 2000 c 107 s 19, 1993 sp.s. c 2 s 35, 1988 c 36 s 35, & 1986 c 173 s 6."

On page 1, line 3 of the title, after "abundance;" strike the remainder of the title and insert "amending RCW 77.32.010 and 43.21B.110; adding a new section to chapter 77.08 RCW; adding new sections to chapter 77.55 RCW; adding a new section to chapter 43.23 RCW; creating a new section; repealing RCW 77.55.141 and 77.55.291; prescribing penalties; and providing an expiration date."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

## SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1579 and advanced the bill as amended by the Senate to final passage.

## FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

Representative MacEwen spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1579, as amended by the Senate.

## ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1579, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 57; Nays, 37; Absent, 0; Excused, 4.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jenkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Stokesbary, Sutherland, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SECOND SUBSTITUTE HOUSE BILL NO. 1579, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

## MESSAGE FROM THE SENATE

April 15, 2019

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1603 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.08.025 and 2011 1st sp.s. c 42 s 7 are each amended to read as follows:

(1) Public assistance may be awarded to any applicant:

(a) Who is in need and otherwise meets the eligibility requirements of department assistance programs; and

(b) Who has not made a voluntary assignment of property or cash for the purpose of qualifying for an assistance grant; and

(c) Who is not an inmate of a public institution except as a patient in a medical institution or except as an inmate in a public institution who could qualify for federal aid assistance: PROVIDED, That the assistance paid by the department to recipients in nursing homes, or receiving nursing home care, may cover the cost of clothing and incidentals and general maintenance exclusive of medical care and health services. The department may pay a grant to cover the cost of clothing and personal incidentals in public or private medical institutions and institutions for tuberculosis. The department shall allow recipients in nursing homes to retain, in addition to the grant to cover the cost of clothing and incidentals, wages received for work as a part of a training or rehabilitative program designed to prepare the recipient for less restrictive placement to the extent permitted under Title XIX of the federal social security act.

~~(2) ((Any person otherwise qualified for temporary assistance for needy families under this title who has resided in the state of Washington for fewer than twelve consecutive months immediately preceding application for assistance is limited to the benefit level in the state in which the person resided immediately before Washington, using the eligibility rules and other definitions established under this chapter, that was obtainable on the date of application in Washington state, if the benefit level of the prior state is lower than the level provided to similarly situated applicants in Washington state. The benefit level under this subsection shall be in effect for the first twelve months a recipient is on temporary assistance for needy families in Washington state.~~

~~(3)) Any person otherwise qualified for temporary assistance for needy families who is assessed through the state alcohol and substance abuse program as drug or alcohol-dependent and requiring treatment to become employable shall be required by the department to participate in a drug or alcohol treatment program as a condition of benefit receipt.~~

~~((4) The department may implement a permanent disqualification for adults who have been terminated due to WorkFirst noncompliance sanction three or more times since March 1, 2007. A household that includes an adult who has been permanently disqualified from receiving temporary assistance for needy families shall be ineligible for further temporary assistance for needy families assistance.~~

~~(5)) (3) Pursuant to 21 U.S.C. 862a(d)(1), the department shall exempt individuals from the eligibility restrictions of 21 U.S.C. 862a(a)(1) and (2) to ensure~~

eligibility for temporary assistance for needy families benefits and federal food assistance.

Sec. 2. RCW 74.08A.010 and 2011 1st sp.s. c 42 s 6 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 ((may)) 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 ((or)), including if the recipient is a homeless person as described in RCW 43.185C.010; 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) ((Beginning on October 31, 2005,)) The department shall provide transitional food ((stamp)) 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 ((stamp)) certification until the end of the transition period.~~

**Sec. 3.** RCW 74.08A.410 and 1997 c 58 s 702 are each amended to read as follows:

(1) The WorkFirst program shall develop outcome measures for use in evaluating the WorkFirst program authorized in chapter 58, Laws of 1997, which may include but are not limited to:

(a) Caseload reduction, including data for participants who exit: (i) Due to increased income; (ii) to employment; (iii) at the participant's request; or (iv) for other reasons;

(b) Recidivism to caseload after two years;

(c) Employment;

(d) Job retention;

~~((d))~~ (e) Earnings;

~~((e))~~ (f) Wage progression;

(g) Reduction in average grant through increased recipient earnings; ~~and~~

~~((f))~~ (h) Placement of recipients into private sector, unsubsidized jobs; and

(i) Outcomes for sanctioned and time-limited families.

(2) The department shall require that contractors for WorkFirst services collect outcome measure information and report outcome measures to the department regularly. The department shall develop benchmarks that compare outcome measure information from all contractors to provide a clear indication of the most effective contractors. Benchmark information shall be published quarterly and provided to the legislature, the governor, the legislative-executive WorkFirst poverty reduction oversight task force, and all contractors for WorkFirst services.

**Sec. 4.** RCW 74.08A.411 and 2009 c 85 s 3 are each amended to read as follows:

The department shall continue to implement WorkFirst program improvements that are designed to achieve progress against outcome measures specified in RCW 74.08A.410. Outcome data regarding job retention and wage progression shall be reported quarterly to the appropriate fiscal and policy committees of the legislature and to the legislative-executive WorkFirst poverty reduction oversight task force for families who leave assistance for any reason, measured after twelve months, twenty-four months, and thirty-six months. The department shall also report the percentage of families who have returned to temporary assistance for needy families after twelve months, twenty-four months, and thirty-six months. The department shall make every effort to maximize vocational training, as allowed by federal and state requirements.

**Sec. 5.** RCW 74.08A.250 and 2017 c 156 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, as used in this chapter, "work activity" means:

(1) Unsubsidized paid employment in the private or public sector;

(2) Subsidized paid employment in the private or public sector, including employment through the state or federal work-study program for a period not to exceed twenty-four months;

(3) Work experience, including:

(a) An internship or practicum, that is paid or unpaid and is required to complete a course of vocational training or to obtain a license or certificate in a high-demand occupation, as determined by the employment security department. No internship or practicum shall exceed twelve months; or

(b) Work associated with the refurbishing of publicly assisted housing, if sufficient paid employment is not available;

(4) On-the-job training;

(5) Job search and job readiness assistance;

(6) Community service programs, including a recipient's voluntary service at a child care or preschool facility licensed under chapter ~~((43.215))~~ 43.216 RCW or an elementary school in which his or her child is enrolled;

(7) Vocational educational training, not to exceed twelve months with respect to any individual except that this twelve-month limit may be increased to twenty-four months subject to funding appropriated specifically for this purpose;

(8) Job skills training directly related to employment;

(9) Education directly related to employment, in the case of a recipient who has not received a high school diploma or a high school equivalency certificate as provided in RCW 28B.50.536;

(10) Satisfactory attendance at secondary school or in a course of study leading to a high school equivalency certificate as provided in RCW 28B.50.536, in the case of a recipient who has not completed secondary school or received such a certificate;

(11) The provision of child care services to an individual who is participating in a community service program;

(12) Internships, that shall be paid or unpaid work experience performed by an intern in a business, industry, or government or nongovernmental agency setting;

(13) Practicums, which include any educational program in which a student is working under the close supervision of a professional in an agency, clinic, or other professional practice setting for purposes of advancing their skills and knowledge;

(14) Services required by the recipient under RCW 74.08.025~~((3))~~ (2) and 74.08A.010(4) to become employable;

(15) Financial literacy activities designed to be effective in assisting a recipient in becoming self-sufficient and financially stable; and

(16) Parent education services or programs that support development of appropriate parenting skills, life skills, and employment-related competencies.

**NEW SECTION. Sec. 6.** This act applies prospectively only and not retroactively. Prospective application of this act allows families who have been previously permanently disqualified under prior policies to receive benefits prospectively only, if otherwise eligible.

**NEW SECTION. Sec. 7.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, line 3 of the title, after "participation;" strike the remainder of the title and insert "amending RCW 74.08.025, 74.08A.010, 74.08A.410, 74.08A.411, and 74.08A.250; and creating new sections."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### **MOTION**

Representative Senn moved that the House concur in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1603.

Representative Senn and Senn (again) spoke in favor of the motion to concur in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1603.

Representatives Eslick, Klippert and Dent spoke against the motion to concur in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1603.

Division was demanded on the motion to concur in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1603 and the demand was sustained. The Speaker (Representative Orwall presiding) divided the House. The result was 55 - YEAS; 39 - NAYS.

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

The House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1603 and advanced the bill as amended by the Senate to final passage.

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

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

Representative Dent spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1603, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1603, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 55; Nays, 39; Absent, 0; Excused, 4.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jinkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Stokesbary, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SECOND SUBSTITUTE HOUSE BILL NO. 1603, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

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

April 15, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1646 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes state and national efforts to reform policies that incarcerate youth and young adults in the adult criminal justice system. The legislature acknowledges that transferring youth and young adults to the adult criminal justice system is not effective in reducing future criminal behavior. Youth and young adults incarcerated in the adult criminal justice system are more likely to recidivate than their counterparts housed in juvenile facilities.

The legislature intends to enhance community safety by emphasizing rehabilitation of juveniles convicted even of

the most serious violent offenses under the adult criminal justice system. Juveniles adjudicated as adults should be served and housed within the facilities of the juvenile rehabilitation administration up until age twenty-five, but released earlier if their sentence ends prior to that. In doing so, the legislature takes advantage of recent changes made by congress during the reauthorization of the juvenile justice and delinquency prevention act by the juvenile justice reform act of 2018 that allow youth and young adults who at the time of their offense are younger than the maximum age of confinement in a juvenile correctional facility, to be placed in a juvenile correctional facility by operation of state law. The emphasis on rehabilitation up to age twenty-five reflects similar programming in other states, which has significantly reduced recidivism of juveniles confined in adult correctional facilities.

**Sec. 2.** RCW 72.01.410 and 2017 3rd sp.s. c 6 s 728 are each amended to read as follows:

(1) Whenever any ~~((child under the age of eighteen))~~ person is convicted as an adult in the courts of this state of a ~~((crime amounting to a))~~ felony offense committed under the age of eighteen, and is committed for a term of confinement, that ~~((child))~~ person shall be initially placed in a facility operated by the department of ~~((corrections to))~~ children, youth, and families. The department of corrections shall determine the ~~((child's))~~ person's earned release date.

~~(a) ((If the earned release date is prior to the child's twenty first birthday, the department of corrections shall transfer the child to the custody of the department of children, youth, and families, or to such other institution as is now, or may hereafter be authorized by law to receive such child, until such time as the child completes the ordered term of confinement or arrives at the age of twenty one years.~~

~~(i))~~ While in the custody of the department of children, youth, and families, the ~~((child))~~ person must have the same treatment, housing options, transfer, and access to program resources as any other ~~((child))~~ person committed ~~((directly))~~ to that juvenile correctional facility or institution pursuant to chapter 13.40 RCW. Except as provided under (d) of this subsection, treatment, placement, and program decisions shall be at the sole discretion of the department of children, youth, and families. The ((youth)) person shall ((only)) not be transferred ((back)) to the custody of the department of corrections ((with)) without the approval of the department of children, youth, and families ((or when the child)) until the person reaches the age of ((twenty one)) twenty-five.

~~((iii))~~ (b) If the ((child's)) person's sentence includes a term of community custody, the department of children, youth, and families shall not release the ((child)) person to community custody until the department of corrections has approved the ((child's)) person's release plan pursuant to RCW 9.94A.729(5)(b). If a ((child)) person is held past his or her earned release date pending release plan approval, the department of children, youth, and families shall retain custody until a plan is approved or the ((child)) person completes the ordered term of confinement prior to age ((twenty one)) twenty-five.

~~((iii))~~ (c) If the department of children, youth, and families determines that retaining custody of the ((child)) person in a facility of the department of children, youth, and families presents a significant safety risk, the ((child may be returned)) department of children, youth, and families may transfer the person to the custody of the department of corrections.

~~((b) If the child's earned release date is on or after the child's twenty first birthday, the department of corrections shall, with the consent of the secretary of children, youth, and families, transfer the child to a facility or institution operated by the department of children, youth, and families. Despite the transfer,))~~ (d) The department of corrections ((retains)) must retain authority over custody decisions relating to a person whose earned release date is on or after the person's twenty-fifth birthday and who is placed in a facility operated by the department of children, youth, and families under this section, unless the person qualifies for partial confinement under section 6 of this act, and must approve any leave from the facility. When the ((child)) person turns age ((twenty one)) twenty-five, he or she must be transferred ((back)) to the department of corrections, except as described under section 6 of this act. The department of children, youth, and families has all routine and day-to-day operations authority for the ((child)) person while the person is in its custody.

(2)(a) Except as provided in (b) and (c) of this subsection, ~~((an offender))~~ a person under the age of eighteen who is ~~((convicted in adult criminal court and who is committed to a term of confinement at))~~ transferred to the custody of the department of corrections must be placed in a housing unit, or a portion of a housing unit, that is separated from ~~((offenders))~~ other persons in custody who are eighteen years of age or older, until the ((offender)) person reaches the age of eighteen.

~~((An offender))~~ A person who is transferred to the custody of the department of corrections and reaches eighteen years of age may remain in a housing unit for ((offenders)) persons under the age of eighteen if the secretary of corrections determines that: (i) The ((offender's)) person's needs and the ((correctional)) rehabilitation goals for the ((offender)) person could continue to be better met by the programs and housing environment that is separate from ((offenders)) other persons in custody who are eighteen years of age and older; and (ii) the programs or housing environment for ((offenders)) persons under the age of eighteen will not be substantially affected by the continued placement of the ((offender)) person in that environment. The ((offender)) person may remain placed in a housing unit for ((offenders)) persons under the age of eighteen until such time as the secretary of corrections determines that the ((offender's)) person's needs and ((correctional)) goals are no longer better met in that environment but in no case past the ((offender's twenty first)) person's twenty-fifth birthday.

~~((An offender))~~ A person transferred to the custody of the department of corrections who is under the age of eighteen may be housed in an intensive management unit or administrative segregation unit containing offenders eighteen years of age or older if it is necessary for the safety

or security of the offender or staff. In these cases, the offender must be kept physically separate from other offenders at all times.

(3) The department of children, youth, and families must review the placement of a person over age twenty-one in the custody of the department of children, youth, and families under this section to determine whether the person should be transferred to the custody of the department of corrections. The department of children, youth, and families may determine the frequency of the review required under this subsection, but the review must occur at least once before the person reaches age twenty-three if the person's commitment period in a juvenile institution extends beyond the person's twenty-third birthday.

**Sec. 3.** RCW 13.40.300 and 2018 c 162 s 7 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a juvenile offender may not be committed by the juvenile court to the department of children, youth, and families for placement in a juvenile ~~((correctional institution))~~ rehabilitation facility beyond the juvenile offender's twenty-first birthday.

(2) A juvenile offender ~~((convicted))~~ adjudicated of an A++ juvenile disposition category offense listed in RCW 13.40.0357, or found to be armed with a firearm and sentenced to an additional twelve months pursuant to RCW 13.40.193(3)(b), may be committed by the juvenile court to the department of children, youth, and families for placement in a juvenile ~~((correctional institution))~~ rehabilitation facility up to the juvenile offender's twenty-fifth birthday, but not beyond.

(3) A juvenile may be under the jurisdiction of the juvenile court or the authority of the department of children, youth, and families beyond the juvenile's eighteenth birthday only if prior to the juvenile's eighteenth birthday:

(a) Proceedings are pending seeking the adjudication of a juvenile offense and the court by written order setting forth its reasons extends jurisdiction of juvenile court over the juvenile beyond his or her eighteenth birthday, except:

(i) If the court enters a written order extending jurisdiction under this subsection, it shall not extend jurisdiction beyond the juvenile's twenty-first birthday;

(ii) If the order fails to specify a specific date, it shall be presumed that jurisdiction is extended to age twenty-one; and

(iii) If the juvenile court previously extended jurisdiction beyond the juvenile's eighteenth birthday, and that period of extension has not expired, the court may further extend jurisdiction by written order setting forth its reasons;

(b) The juvenile has been found guilty after a fact finding or after a plea of guilty and an automatic extension is necessary to allow for the imposition of disposition;

(c) Disposition has been held and an automatic extension is necessary to allow for the execution and enforcement of the court's order of disposition, subject to the following:

(i) If an order of disposition imposes commitment to the department, then jurisdiction is automatically extended to include a period of up to twelve months of parole, in no case extending beyond the offender's twenty-first birthday, except;

(ii) If an order of disposition imposes a commitment to the department for a juvenile offender ~~((convicted))~~ adjudicated of an A++ juvenile disposition category offense listed in RCW 13.40.0357, or found to be armed with a firearm and sentenced to an additional twelve months pursuant to RCW 13.40.193(3)(b), then jurisdiction for parole is automatically extended to include a period of up to twenty-four months of parole, in no case extending beyond the offender's twenty-fifth birthday;

(d) While proceedings are pending in a case in which jurisdiction is vested in the adult criminal court pursuant to RCW 13.04.030, the juvenile turns eighteen years of age and is subsequently found not guilty of the charge for which he or she was transferred, or is convicted in the adult criminal court of ~~((a lesser included))~~ an offense that is not also an offense listed in RCW 13.04.030(1)(e)(v), and an automatic extension is necessary to impose the juvenile disposition as required by RCW 13.04.030(1)(e)(v)(C)(II); or

(e) Pursuant to the terms of RCW 13.40.190 and 13.40.198, the juvenile court maintains jurisdiction beyond the juvenile offender's twenty-first birthday for the purpose of enforcing an order of restitution or penalty assessment.

(4) Except as otherwise provided herein, in no event may the juvenile court have authority to extend jurisdiction over any juvenile offender beyond the juvenile offender's twenty-first birthday.

(5) Notwithstanding any extension of jurisdiction over a person pursuant to this section, the juvenile court has no jurisdiction over any offenses alleged to have been committed by a person eighteen years of age or older.

**NEW SECTION. Sec. 4.** A new section is added to chapter 72.01 RCW to read as follows:

(1) Any person in the custody of the department of social and health services or the department of children, youth, and families on or before the effective date of this section, who was under the age of eighteen at the time of the commission of the offense and who was convicted as an adult, must remain in the custody of the department of children, youth, and families until transfer to the department of corrections or release pursuant to RCW 72.01.410.

(2) Any person in the custody of the department of corrections on the effective date of this section, who was under the age of eighteen at the time of the commission of the offense and who was convicted as an adult, and who has not yet reached the age of twenty-five, is eligible for transfer to the custody of the department of children, youth, and

families beginning January 1, 2020, subject to the process established in subsection (3) of this section.

(3) By February 1, 2020, the department of corrections and the department of children, youth, and families must review and determine whether a person identified in subsection (2) of this section should transfer from the department of corrections to the department of children, youth, and families through the following process:

(a) No later than September 1, 2019, the department of corrections and the department of children, youth, and families shall establish, through a memorandum of understanding, a multidisciplinary interagency team to conduct a case-by-case review of the transfer of persons from the department of corrections to the department of children, youth, and families pursuant to subsection (2) of this section. The multidisciplinary interagency team must include a minimum of three representatives from the department of corrections and three representatives from the department of children, youth, and families, and must provide the person whose transfer is being considered an opportunity to consent to the transfer. In considering whether a transfer to the department of children, youth, and families is appropriate, the multidisciplinary interagency team may consider any relevant factors including, but not limited to:

(i) The safety and security of the person, staff, and other persons in the custody of the department of children, youth, and families;

(ii) The person's behavior and assessed risks and needs;

(iii) Whether the department of children, youth, and families or the department of corrections' programs are better equipped to facilitate successful rehabilitation and reentry into the community; and

(iv) Any statements regarding the transfer made by the person whose transfer is being considered.

(b) After reviewing each proposed transfer, the multidisciplinary interagency team shall make a recommendation regarding the transfer to the secretaries of the department of children, youth, and families and the department of corrections. This recommendation must be provided to the secretaries of each department by January 1, 2020.

(c) The secretaries of the department of children, youth, and families and the department of corrections, or their designees, shall approve or deny the transfer within thirty days of receiving the recommendation of the multidisciplinary interagency team, and by no later than February 1, 2020.

(4) This section expires July 1, 2021.

**Sec. 5.** 2018 c 162 s 9 (uncodified) is amended to read as follows:

(1) The Washington state institute for public policy must;

(a) Assess the impact of ((this act)) chapter 162, Laws of 2018, and sections 2 through 6, chapter . . . , Laws of 2019 (sections 2 through 6 of this act) on community safety, racial disproportionality, recidivism, state expenditures, and youth rehabilitation, to the extent possible((-)); and

(b) Conduct a cost-benefit analysis, including health impacts and recidivism effects, of extending RCW 72.01.410 to include all offenses committed under the age of twenty-one.

(2) The institute shall submit, in compliance with RCW 43.01.036, a preliminary report on the requirements listed in subsection (1) of this section to the governor and the appropriate committees of the legislature by December 1, 2023, and a final report to the governor and the appropriate committees of the legislature by December 1, 2031.

**NEW SECTION. Sec. 6.** A new section is added to chapter 72.01 RCW to read as follows:

(1) A person in the custody of the department of children, youth, and families under RCW 72.01.410 who has an earned release date that is after the person's twenty-fifth birthday but on or before the person's twenty-sixth birthday may, after turning twenty-five, serve the remainder of the person's term of confinement in partial confinement on electronic home monitoring under the authority and supervision of the department of children, youth, and families, provided that the department of children, youth, and families determines that such placement and retention is in the best interests of the person and the community. The department of children, youth, and families retains the authority to transfer the person to the custody of the department of corrections under RCW 72.01.410.

(2) A person placed on electronic home monitoring under this section must otherwise continue to be subject to similar treatment, options, access to programs and resources, conditions, and restrictions applicable to other similarly situated persons under the jurisdiction of the department of children, youth, and families. If the person has a sentence that includes a term of community custody, this term of community custody must begin after the current term of confinement has ended.

(3) If a person placed on electronic home monitoring under this section commits a violation requiring the return of the person to total confinement, the person must be transferred to the custody and supervision of the department of corrections for the remainder of the sentence.

**NEW SECTION. Sec. 7.** A new section is added to chapter 43.216 RCW to read as follows:

(1) The department shall meet regularly with the school districts that educate students who are in the custody of medium and maximum security facilities operated by juvenile rehabilitation to help coordinate activities in areas of common interest, such as communication with parents.

The office of the superintendent of public instruction shall facilitate upon request of the department.

(2) The office of the superintendent of public instruction, in collaboration with the department, shall create a comprehensive plan for the education of students in juvenile rehabilitation and provide it to the governor and relevant committees of the legislature by September 1, 2020.

**Sec. 8.** RCW 13.40.0357 and 2018 c 162 s 3 are each amended to read as follows:

**DESCRIPTION AND OFFENSE CATEGORY**

JUVENILE DISPOSITION	DESCRIPTION	JUVENILE DISPOSITION	OFFENSE CATEGORY
		CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION	

**Arson and Malicious Mischief**

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+

**Assault and Other Crimes Involving Physical Harm**

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045) committed at age 15 or under	C+
A++	Drive-By Shooting (9A.36.045) committed at age 16 or 17	<u>A</u>
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+

D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

**Burglary and Trespass**

B+	Burglary 1 (9A.52.020) committed at age 15 or under	C+
A-	Burglary 1 (9A.52.020) committed at age 16 or 17	B+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E

**Drugs**

E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
E	Possession of Legend Drug (69.41.030(2)(b))	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Marihuana <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B

C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C	Criminal Mischief with Weapon (9A.84.010(2)(b))	D+
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C	Criminal Mischief Without Weapon (9A.84.010(2)(a))	E
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C	Failure to Disperse (9A.84.020)	E
			Disorderly Conduct (9A.84.030)	E
			<b>Sex Crimes</b>	
			Rape 1 (9A.44.040)	B+
			Rape 2 (9A.44.050) committed at age 14 or under	B++
			Rape 2 (9A.44.050) committed at age 15 through age 17	A-
			Rape 3 (9A.44.060)	D+
			Rape of a Child 1 (9A.44.073) committed at age 14 or under	B++
			Rape of a Child 1 (9A.44.073) committed at age 15	A-
			Rape of a Child 2 (9A.44.076)	B+
			Incest 1 (9A.64.020(1))	B
			Incest 2 (9A.64.020(2))	C
			Indecent Exposure (Victim <14)	D+
			Indecent Exposure (Victim 14 or over)	E
			Promoting Prostitution 1 (9A.88.070)	B+
			Promoting Prostitution 2 (9A.88.080)	C+
			O & A (Prostitution) (9A.88.030)	E
			Indecent Liberties (9A.44.100)	C+
			Child Molestation 1 (9A.44.083) committed at age 14 or under	B++
			Child Molestation 1 (9A.44.083) committed at age 15 through age 17	A-
			Child Molestation 2 (9A.44.086)	B
			Failure to Register as a Sex Offender (9A.44.132)	C
			<b>Theft, Robbery, Extortion, and Forgery</b>	
			Theft 1 (9A.56.030)	B
			Theft 2 (9A.56.040)	C
			Theft 3 (9A.56.050)	D
			Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	B
			Forgery (9A.60.020)	C
				D
B	Theft of Firearm (9A.56.300)	C		
B	Possession of Stolen Firearm (9A.56.310)	C		
E	Carrying Loaded Pistol Without Permit (9.41.050)	E		
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a) ((+)) (v))	C		
D+	Possession of Dangerous Weapon (9.41.250)	E		
D	Intimidating Another Person by use of Weapon (9.41.270)	E		
	<b>Homicide</b>			
A+	Murder 1 (9A.32.030)	A		
A+	Murder 2 (9A.32.050)	B+		
B+	Manslaughter 1 (9A.32.060)	C+		
C+	Manslaughter 2 (9A.32.070)	D+		
B+	Vehicular Homicide (46.61.520)	C+		
	<b>Kidnapping</b>			
A	Kidnap 1 (9A.40.020)	B+		
B+	Kidnap 2 (9A.40.030)	C+		
C+	Unlawful Imprisonment (9A.40.040)	D+		
	<b>Obstructing Governmental Operation</b>			
D	Obstructing a Law Enforcement Officer (9A.76.020)	E		
E	Resisting Arrest (9A.76.040)	E		
B	Introducing Contraband 1 (9A.76.140)	C		
C	Introducing Contraband 2 (9A.76.150)	D		
E	Introducing Contraband 3 (9A.76.160)	E		
B+	Intimidating a Public Servant (9A.76.180)	C+		
B+	Intimidating a Witness (9A.72.110)	C+		
	<b>Public Disturbance</b>			

A	Robbery 1 (9A.56.200) committed at age 15 or under	B+
A++	Robbery 1 (9A.56.200) committed at age 16 or 17	<del>(A++)</del> A
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2))	D
D	Identity Theft 2 (9.35.020(3))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of a Stolen Vehicle (9A.56.068)	C
B	Possession of Stolen Property (9A.56.150)	C
C	Possession of Stolen Property (9A.56.160)	D
D	Possession of Stolen Property (9A.56.170)	E
B	Taking Motor Vehicle Without Permission 1 (9A.56.070)	C
C	Taking Motor Vehicle Without Permission 2 (9A.56.075)	D
B	Theft of a Motor Vehicle (9A.56.065)	C
<b>Motor Vehicle Related Crimes</b>		
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B+	Felony Driving While Under the Influence (46.61.502(6))	B
B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
<b>Other</b>		
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C

C	Escape 1 <sup>1</sup> (9A.76.110)	C
C	Escape 2 <sup>1</sup> (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) <sup>2</sup>	V

<sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 28 days confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

<sup>2</sup>If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**JUVENILE SENTENCING STANDARDS**

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D.

**OPTION A**

**JUVENILE OFFENDER SENTENCING GRID**

**STANDARD RANGE**

A	129 to 260 weeks for all category A++ offenses				
A	180 weeks to age 21 for all category A+ offenses				
A	103-129 weeks for all category A offenses				
A-	30-40	52-65	80-100	103-	103-
				129	129

		wee ks	wee ks	wee ks	wee ks	wee ks
CURRENT OFFENSE CATEGOR Y	B ++	15- 36	52- 65	80- 100	103 -	103 -
		wee ks	wee ks	wee ks	129 wee ks	129 wee ks
	B +	15- 36	15- 36	52- 65	80- 100	103 -
		wee ks	wee ks	wee ks	wee ks	129 wee ks
	B	LS	LS	15- 36 wee ks	15- 36 wee ks	52- 65 wee ks
	C +	LS	LS	LS	15- 36 wee ks	15- 36 wee ks
	C	LS	LS	LS	LS	15- 36 wee ks
	D +	LS	LS	LS	LS	LS
	D	LS	LS	LS	LS	LS
	E	LS	LS	LS	LS	LS
PRIOR		0	1	2	3	4 or mor e
ADJUDICA TIONS						

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

**OR**

**OPTION B**

**SUSPENDED DISPOSITION ALTERNATIVE**

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender:

(a) Is adjudicated of an A+ or A++ offense;

(b) Is fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060);

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2) (a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of a sex offense as defined in RCW 9.94A.030; or

(e) Has a prior option B disposition.

**OR**

**OPTION C**

**CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed a B++ or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

**OR**

**OPTION D**

**MANIFEST INJUSTICE**

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

**Sec. 9.** RCW 13.04.030 and 2018 c 162 s 2 are each amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is

required in any such proceeding due to the juvenile's age. If such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters. The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: One or more prior serious violent offenses; two or more prior violent offenses; or three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately; or

(C) Rape of a child in the first degree.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)(C)(II) and (III) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of ~~((a lesser included))~~ an offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall maintain residual juvenile court jurisdiction up to age twenty-five if the juvenile has turned eighteen years of age during the adult criminal court proceedings but only for the purpose of returning a case to juvenile court for disposition pursuant to RCW 13.40.300(3)(d). ~~((However, once the case is returned to juvenile court, the court may hold a decline hearing pursuant to RCW 13.40.110 to determine whether to retain the case in juvenile court for the purpose of disposition or return the case to adult criminal court for sentencing.))~~

(III) The prosecutor and respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction in (e)(v)(A) through (C) of this subsection and remove the proceeding back to juvenile court with the court's approval.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the diveree has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction;

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and

(j) Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services and the department of children, youth, and families.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family court over child custody proceedings under chapter 26.10 RCW and parenting plans or residential schedules under chapter((s)) 26.09 ~~((and 26.26)), 26.26A, or 26.26B~~ RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

**Sec. 10.** RCW 13.40.110 and 2018 c 162 s 4 are each amended to read as follows:

(1) Discretionary decline hearing - The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be set for a hearing on the question of declining jurisdiction only if:

(a) The respondent is, at the time of proceedings, at least fifteen years of age or older and is charged with a serious violent offense as defined in RCW 9.94A.030; ~~((or))~~

(b) The respondent is, at the time of proceedings, fourteen years of age or younger and is charged with murder in the first degree (RCW 9A.32.030), and/or murder in the second degree (RCW 9A.32.050); or

(c) The respondent is any age and is charged with custodial assault, RCW 9A.36.100, and, at the time the respondent is charged, is already serving a minimum juvenile sentence to age twenty-one.

(2) Mandatory decline hearing - Unless waived by the court, the parties, and their counsel, a decline hearing shall be held when the information alleges an escape by the respondent and the respondent is serving a minimum juvenile sentence to age twenty-one.

(3) The court after a decline hearing may order the case transferred for adult criminal prosecution upon a finding that the declination would be in the best interest of the juvenile or the public. The court shall consider the relevant reports, facts, opinions, and arguments presented by the parties and their counsel.

(4) When the respondent is transferred for criminal prosecution or retained for prosecution in juvenile court, the court shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing.

**NEW SECTION. Sec. 11.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, sections 1 through 6 of this act are null and void."

On page 1, line 2 of the title, after "facilities;" strike the remainder of the title and insert "amending RCW 72.01.410, 13.40.300, 13.40.0357, 13.04.030, and 13.40.110; amending 2018 c 162 s 9 (uncodified); adding new sections to chapter 72.01 RCW; adding a new section to chapter 43.216 RCW; creating new sections; prescribing penalties; and providing an expiration date."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### MOTION

Representative Senn moved that the House concur in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1646.

Representatives Senn, Goodman and Goodman (again) spoke in favor of the motion to concur in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1646.

Representatives Dent, Irwin, Orcutt, Dufault and Klippert spoke against the motion to concur in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1646.

#### SENATE AMENDMENT TO HOUSE BILL

The House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1646 and advanced the bill as amended by the Senate to final passage.

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

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

Representative Dent spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1646, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1646, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 56; Nays, 38; Absent, 0; Excused, 4.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Jenkins, Kilduff, Kloba, Leavitt, Lekanoff, Lovick, Macri, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Harris, Hoff, Irwin, Jenkin, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, Mosbrucker, Orcutt, Rude, Schmick, Shea, Smith, Sutherland, Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1646, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 12, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1658 with the following amendment:

On page 3, after line 33, insert the following:

"**Sec. 5.** RCW 28A.660.042 and 2017 c 237 s 19 are each amended to read as follows:

(1) The pipeline for paraeducators conditional scholarship program is created. Participation is limited to paraeducators without a college degree who have at least ~~((three))~~ one year((s)) of classroom experience. It is anticipated that candidates enrolled in this program will complete their associate of arts degree at a community and technical college in ~~((two))~~ four years or less and become eligible for an endorsement in a subject matter shortage area, as defined by the professional educator standards board, via ~~((route one in the alternative routes to))~~ a teacher certification program ~~((provided in this chapter))~~ approved by the professional educator standards board.

(2) Entry requirements for candidates include district or building validation of qualifications, including ~~((three))~~ one year((s)) of successful student interaction and leadership as a classified instructional employee.

**Sec. 6.** RCW 28A.660.050 and 2016 c 233 s 14 are each amended to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the student achievement council. In administering the programs, the council has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of professional educator standards board-approved alternative route teacher certification programs ~~((under RCW 28A.660.040))~~. For fiscal year 2011, priority must be given to fiscal year 2010 participants in the alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in an alternative route teacher certification program through a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route teacher certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route teacher certification program in which the recipient is enrolled. The council may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified paraeducators as provided by RCW 28A.660.042. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than ~~((two))~~ four years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative route teacher certification program for an early childhood education, elementary education, mathematics, computer science, special education, bilingual education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route teacher certification program in which the recipient is enrolled. The student achievement council may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The educator retooling conditional scholarship program is limited to current K-12 teachers. In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue an endorsement in a subject or geographic endorsement shortage area, as defined by the professional educator standards board, including but not limited to mathematics, science, special education, elementary education, early childhood education, bilingual education, English language learner, computer science education, or environmental and sustainability education; or

(ii) Individuals who are certificated with an elementary education endorsement shall pursue an endorsement in a subject or geographic endorsement shortage area, as defined by the professional educator standards board, including but not limited to mathematics, science, special education, bilingual education, English language learner, computer science education, or environmental and sustainability education; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive an endorsement in a subject or geographic endorsement shortage area, as defined by the professional educator standards board, including but

not limited to mathematics, science, special education, bilingual education, English language learner, computer science education, or environmental and sustainability education, which shall include passing an endorsement test plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members. In awarding conditional scholarships to support additional bilingual education or English language learner endorsements, the board shall also give preference to teachers assigned to schools required under state or federal accountability measures to implement a plan for improvement, and to teachers assigned to schools whose enrollment of English language learner students has increased an average of more than five percent per year over the previous three years.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The student achievement council shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) The student achievement council may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

NEW SECTION. Sec. 7. Sections 5 and 6, chapter . . ., Laws of 2019 (sections 5 and 6 of this act) take effect only if Engrossed Substitute House Bill No. 1139, chapter . . ., Laws of 2019 is not enacted."

On page 1, beginning on line 1 of the title, after "28A.413.060" strike the remainder of the title and insert ", 28A.413.070, 28A.660.042, and 28A.660.050; adding a new section to chapter 28A.413 RCW; creating a new section; and providing a contingent effective date."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1658 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Paul and Volz spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1658, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1658, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SUBSTITUTE HOUSE BILL NO. 1658, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 16, 2019

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1668 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.115.010 and 1989 1st ex.s. c 9 s 716 are each amended to read as follows:

The legislature finds that changes in demographics, the delivery of health care services, and an escalation in the cost of educating health professionals has resulted in shortages of health professionals. A poor distribution of health care professionals has resulted in a surplus of some professionals in some areas of the state and a shortage of others in other parts of the state, such as in the more rural areas and in behavioral health services. The high cost of health professional education requires that health care practitioners command higher incomes to repay the financial obligations incurred to obtain the required training. Health professional shortage areas are often areas that have troubled economies and lower per capita incomes. These areas often require more services because the health care needs are greater due to poverty or because the areas are difficult to service due to geographic circumstances. The salary potentials for shortage areas are often not as favorable when compared to nonshortage areas and practitioners are unable to serve. The legislature further finds that encouraging health professionals to serve in shortage areas is essential to assure continued access to health care for persons living in these parts of the state.

The legislature also finds that one in five adults in the United States experiences mental illness in any given year, but only forty-one percent of adults with a mental health condition received mental health services in 2016, according to the national institute of mental health. The children's mental health work group found that in 2013, only forty percent of children on medicaid with mental health treatment needs were receiving services. Individuals seeking behavioral health services may have trouble receiving the help they need from health care professionals because behavioral health services are limited due to workforce shortages of behavioral health providers. The legislature further finds that encouraging more health care professionals to practice behavioral health in areas with limited services would benefit the state by creating greater access to behavioral health services and by having more health care professionals experienced in providing behavioral health services.

Therefore, the legislature intends to establish the Washington health corps to encourage more health care professionals to work in underserved areas by providing loan repayment and conditional scholarships in return for completing a service commitment.

**Sec. 2.** RCW 28B.115.020 and 2013 c 19 s 46 are each amended to read as follows:

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

(1) "Credentialed health care profession" means a health care profession regulated by a disciplining authority in the state of Washington under RCW 18.130.040 or by the pharmacy quality assurance commission under chapter 18.64 RCW and designated by the department in RCW 28B.115.070 as a profession having shortages of credentialed health care professionals in the state.

(2) "Credentialed health care professional" means a person regulated by a disciplining authority in the state of Washington to practice a health care profession under RCW 18.130.040 or by the pharmacy quality assurance commission under chapter 18.64 RCW.

(3) "Department" means the state department of health.

(4) "Eligible education and training programs" means education and training programs approved by the department that lead to eligibility for a credential as a credentialed health care professional.

(5) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses determined by the office.

(6) "Eligible student" means a student who has been accepted into an eligible education or training program and has a declared intention to serve in a health professional shortage area upon completion of the education or training program.

(7) "Forgiven" or "to forgive" or "forgiveness" means to render health care services in a health professional shortage area or an underserved behavioral health area in the state of Washington in lieu of monetary repayment.

(8) "Health professional shortage areas" means those areas where credentialed health care professionals are in short supply as a result of geographic maldistribution or as the result of a short supply of credentialed health care professionals in specialty health care areas and where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The department shall determine health professional shortage areas as provided for in RCW 28B.115.070. In making health professional shortage area designations in the state the department may be guided by applicable federal standards for "health manpower shortage areas," and "medically underserved areas," and "medically underserved populations."

(9) "Loan repayment" means a loan that is paid in full or in part if the participant renders health care services in a health professional shortage area or an underserved behavioral health area as defined by the department.

(10) "Nonshortage rural area" means a nonurban area of the state of Washington that has not been designated as a rural physician shortage area. The department shall identify the nonshortage rural areas of the state.

(11) "Office" means the office of student financial assistance.

(12) "Participant" means a credentialed health care professional who has received a loan repayment award and has commenced practice as a credentialed health care provider in a designated health professional shortage area or an underserved behavioral health area or an eligible student who has received a scholarship under this program.

(13) (~~"Program" means the health professional loan repayment and scholarship program.~~)

~~(14))~~ "Required service obligation" means an obligation by the participant to provide health care services in a health professional shortage area or an underserved behavioral health area for a period to be established as provided for in this chapter.

~~((15))~~ (14) "Rural physician shortage area" means rural geographic areas where primary care physicians are in short supply as a result of geographic maldistributions and where their limited numbers jeopardize patient care and pose a threat to public health and safety. The department shall designate rural physician shortage areas.

~~((16))~~ (15) "Satisfied" means paid-in-full.

~~((17))~~ (16) "Scholarship" means a loan that is forgiven in whole or in part if the recipient renders health care services in a health professional shortage area or an underserved behavioral health area.

~~((18))~~ (17) "Sponsoring community" means a rural hospital or hospitals as authorized in chapter 70.41 RCW, a rural health care facility or facilities as authorized in chapter 70.175 RCW, or a city or county government or governments.

(18) "Underserved behavioral health area" means a geographic area, population, or facility that has a shortage of health care professionals providing behavioral health services, as determined by the department.

**Sec. 3.** RCW 28B.115.030 and 2013 c 298 s 1 are each amended to read as follows:

The Washington health corps is the state's initiative to encourage health care professionals to work in underserved communities. In exchange for service, the health care professional receives assistance with higher education, in the form of loan repayment or a conditional scholarship. The Washington health corps consists of the health professional loan repayment and scholarship program and the behavioral health loan repayment program.

(1) The health professional loan repayment and scholarship program is established for credentialed health professionals and residents serving in health professional shortage areas.

(2) The behavioral health loan repayment program is established for credentialed health professionals serving in underserved behavioral health areas.

(3) The health professional loan repayment and scholarship and the behavioral health loan repayment programs shall be administered by the office. In administering ~~(this)~~ the programs, the office shall:

~~((4))~~ (a)(i) Select credentialed health care professionals and residents to participate in the loan repayment portion ~~((of the loan repayment and scholarship program and select eligible students to participate))~~ and in the scholarship portion of the health professional loan repayment and scholarship program; and

(ii) Select credentialed health care participants to participate in the behavioral health loan repayment program;

~~((2))~~ (b) Adopt rules and develop guidelines to administer the programs;

~~((3))~~ (c) Collect and manage repayments from participants who do not meet their service obligations under this chapter;

~~((4))~~ (d) Publicize the program, particularly to maximize participation among individuals in shortage and underserved areas and among populations expected to experience the greatest growth in the workforce;

~~((5))~~ (e) Solicit and accept grants and donations from public and private sources for the programs;

~~((6))~~ (f) Use a competitive procurement to contract with a fund-raiser to solicit and accept grants and donations from private sources for the programs. The fund-raiser shall be paid on a contingency fee basis on a sliding scale but must not exceed fifteen percent of the total amount raised for the programs each year. The fund-raiser shall not be a registered state lobbyist; and

~~((7))~~ (g) Develop criteria for a contract for service in lieu of the service obligation where appropriate, that may be a combination of service and payment.

**Sec. 4.** RCW 28B.115.040 and 1991 c 332 s 17 are each amended to read as follows:

The department may provide technical assistance to rural communities desiring to become sponsoring communities for the purposes of identification of prospective students for the health professional loan repayment and scholarship program, assisting prospective students to apply to an eligible education and training program, making formal agreements with prospective students to provide credentialed health care services in the community, forming agreements between rural communities in a service area to share credentialed health care professionals, and fulfilling any matching requirements.

**Sec. 5.** RCW 28B.115.050 and 2011 1st sp.s. c 11 s 206 are each amended to read as follows:

The office shall establish a planning committee to assist it in developing criteria for the selection of participants for both the health professional loan repayment and scholarship program and the behavioral health loan repayment program. The office shall include on the planning committee representatives of the department, the department of social and health services, appropriate representatives from health care facilities, provider groups, consumers, the state board for community and technical colleges, the superintendent of public instruction, institutions of higher education, representatives from the behavioral health and public health fields, and other appropriate public and private agencies and organizations. The criteria may require that some of the participants meet the definition of "needy student" under RCW 28B.92.030.

**Sec. 6.** RCW 28B.115.070 and 2017 3rd sp.s. c 1 s 958 are each amended to read as follows:

~~((4))~~ After June 1, 1992, the department, in consultation with the office and the department of social and health services, shall:

~~((a))~~ (1) Determine eligible credentialed health care professions for the purposes of the health professional loan repayment and scholarship program and the behavioral health loan repayment program authorized by this chapter. Eligibility shall be based upon an assessment that determines that there is a shortage or insufficient availability of a credentialed profession so as to jeopardize patient care and pose a threat to the public health and safety. The department shall consider the relative degree of shortages among professions when determining eligibility. The department may add or remove professions from eligibility based upon the determination that a profession is no longer in shortage. Should a profession no longer be eligible, participants or eligible students who have received scholarships shall be eligible to continue to receive scholarships or loan repayments until they are no longer eligible or until their service obligation has been completed;

~~((b))~~ (2) Determine health professional shortage areas for each of the eligible credentialed health care professions; and

(3) Determine underserved behavioral health areas for each of the eligible credentialed health care professions.

~~((2) For the 2017 2019 fiscal biennium, consideration for eligibility shall also be given to registered nursing students who have been accepted into an eligible nursing education program and have declared an intention to teach nursing upon completion of the nursing education program.))~~

**Sec. 7.** RCW 28B.115.080 and 2011 1st sp.s. c 11 s 208 are each amended to read as follows:

After June 1, 1992, the office, in consultation with the department and the department of social and health services, shall:

(1) Establish the annual award amount for each credentialed health care profession which shall be based upon an assessment of reasonable annual eligible expenses involved in training and education for each credentialed health care profession for both the health professional loan repayment and scholarship program and the behavioral health loan repayment program. The annual award amount may be established at a level less than annual eligible expenses. The annual award amount shall be established by the office for each eligible health profession. The awards shall not be paid for more than a maximum of five years per individual;

(2) Determine any scholarship awards for prospective physicians in such a manner to require the recipients declare an interest in serving in rural areas of the state of Washington. Preference for scholarships shall be given to students who reside in a rural physician shortage area or a nonshortage rural area of the state prior to

admission to the eligible education and training program in medicine. Highest preference shall be given to students seeking admission who are recommended by sponsoring communities and who declare the intent of serving as a physician in a rural area. The office may require the sponsoring community located in a nonshortage rural area to financially contribute to the eligible expenses of a medical student if the student will serve in the nonshortage rural area;

(3) Establish the required service obligation for each credentialed health care profession, which shall be no less than three years or no more than five years, for the health professional loan repayment and scholarship program and the behavioral health loan repayment program. The required service obligation may be based upon the amount of the scholarship or loan repayment award such that higher awards involve longer service obligations on behalf of the participant;

(4) Determine eligible education and training programs for purposes of the scholarship portion of the health professional loan repayment and scholarship program;

(5) Honor loan repayment and scholarship contract terms negotiated between the office and participants prior to May 21, 1991, concerning loan repayment and scholarship award amounts and service obligations authorized under chapter 28B.115(~~(, 28B.104,)~~) or 70.180 RCW.

**Sec. 8.** RCW 28B.115.090 and 2011 1st sp.s. c 11 s 209 are each amended to read as follows:

(1) The office may grant loan repayment and scholarship awards to eligible participants from the funds appropriated (~~for this purpose~~) to the health professional loan repayment and scholarship program, or from any private or public funds given to the office for this purpose. The office may grant loan repayment to eligible participants from the funds appropriated to the behavioral health loan repayment program or from any private or public funds given to the office for this purpose. Participants are ineligible to receive loan repayment under the health professional loan repayment and scholarship program or the behavioral health loan repayment program if they have received a scholarship from programs authorized under this chapter or chapter 70.180 RCW or are ineligible to receive a scholarship if they have received loan repayment authorized under this chapter or chapter 28B.115 RCW.

(2) Funds appropriated for the health professional loan repayment and scholarship program, including reasonable administrative costs, may be used by the office for the purposes of loan repayments or scholarships. The office shall annually establish the total amount of funding to be awarded for loan repayments and scholarships and such allocations shall be established based upon the best utilization of funding for that year.

(3) One portion of the funding appropriated for the health professional loan repayment and scholarship program shall be used by the office as a recruitment incentive for communities participating in the community-based recruitment and retention program as authorized by chapter

70.185 RCW; one portion of the funding shall be used by the office as a recruitment incentive for recruitment activities in state-operated institutions, county public health departments and districts, county human service agencies, federal and state contracted community health clinics, and other health care facilities, such as rural hospitals that have been identified by the department, as providing substantial amounts of charity care or publicly subsidized health care; one portion of the funding shall be used by the office for all other awards. The office shall determine the amount of total funding to be distributed between the three portions.

**Sec. 9.** RCW 28B.115.100 and 1991 c 332 s 23 are each amended to read as follows:

In providing health care services the participant shall not discriminate against a person on the basis of the person's ability to pay for such services or because payment for the health care services provided to such persons will be made under the insurance program established under part A or B of Title XVIII of the federal social security act or under a state plan for medical assistance including Title XIX of the federal social security act or under the state medical assistance program authorized by chapter 74.09 RCW and agrees to accept assignment under section 18.42(b)(3)(B)(ii) of the federal social security act for all services for which payment may be made under part B of Title XVIII of the federal social security act and enters into an appropriate agreement with the department of social and health services for medical assistance under Title XIX of the federal social security act to provide services to individuals entitled to medical assistance under the plan and enters into appropriate agreements with the department of social and health services for medical care services under chapter 74.09 RCW. Participants found by the (~~board~~) office or the department in violation of this section shall be declared ineligible for receiving assistance under the programs authorized by this chapter.

**Sec. 10.** RCW 28B.115.110 and 2011 1st sp.s. c 11 s 210 are each amended to read as follows:

Participants in the Washington health (~~professional loan repayment and scholarship program~~) corps who are awarded loan repayments shall receive payment (~~from the program~~) for the purpose of repaying educational loans secured while attending a program of health professional training which led to a credential as a credentialed health professional in the state of Washington.

(1) Participants shall agree to meet the required service obligation (~~in a designated health professional shortage area~~).

(2) Repayment shall be limited to eligible educational and living expenses as determined by the office and shall include principal and interest.

(3) Loans from both government and private sources may be repaid by the program. Participants shall agree to allow the office access to loan records and to acquire information from lenders necessary to verify eligibility and

to determine payments. Loans may not be renegotiated with lenders to accelerate repayment.

(4) Repayment of loans established pursuant to ~~((this program))~~ the Washington health corps shall begin no later than ninety days after the individual has become a participant. Payments shall be made quarterly, or more frequently if deemed appropriate by the office, to the participant until the loan is repaid or the participant becomes ineligible due to discontinued service in a health professional shortage area or an underserved behavioral health area after the required service obligation when eligibility discontinues, whichever comes first.

(5) Should the participant discontinue service in a health professional shortage area or an underserved behavioral health area, payments against the loans of the participants shall cease to be effective on the date that the participant discontinues service.

(6) Except for circumstances beyond their control, participants who serve less than the required service obligation shall be obligated to repay to the program an amount equal to ~~((twice))~~ the unsatisfied portion of the service obligation, or the total amount paid by the program on their behalf, whichever is less. This amount is due and payable immediately. Participants who are unable to pay the full amount due shall enter into a payment arrangement with the office, including an arrangement for payment of interest. The maximum period for repayment is ten years. The office shall determine the applicability of this subsection. The interest rate shall be determined by the office and be established by rule.

(7) The office is responsible for the collection of payments made on behalf of participants from the participants who discontinue service before completion of the required service obligation. The office shall exercise due diligence in such collection, maintaining all necessary records to ensure that the maximum amount of payment made on behalf of the participant is recovered. Collection under this section shall be pursued using the full extent of the law, including wage garnishment if necessary.

(8) The office shall not be held responsible for any outstanding payments on principal and interest to any lenders once a participant's eligibility expires.

(9) The office shall temporarily or, in special circumstances, permanently defer the requirements of this section for eligible students as defined in RCW 28B.10.017.

(10) The office shall establish an appeal process by rule.

**Sec. 11.** RCW 28B.115.120 and 2011 1st sp.s. c 11 s 211 are each amended to read as follows:

(1) Participants in the Washington health ~~((professional loan repayment and scholarship program))~~ corps who are awarded scholarships incur an obligation to repay the scholarship, with penalty and interest, unless they serve the required service obligation in a health professional shortage area in the state of Washington.

(2) The interest rate shall be determined by the office and established by rule. Participants who fail to complete the service obligation shall incur an equalization fee based on the remaining unforgiven balance. The equalization fee shall be added to the remaining balance and repaid by the participant.

(3) The period for repayment shall coincide with the required service obligation, with payments of principal and interest commencing no later than six months from the date the participant completes or discontinues the course of study or completes or discontinues the required postgraduate training. Provisions for deferral of payment shall be determined by the office.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant serves in a health professional shortage area until the entire repayment obligation is satisfied or the borrower ceases to so serve. Should the participant cease to serve in a health professional shortage area of this state before the participant's repayment obligation is completed, payment of the unsatisfied portion of the principal and interest is due and payable immediately.

~~((5) ((In addition to the amount determined in subsection (4) of this section, except for circumstances beyond their control, participants who serve less than the required service obligation shall be obliged to pay a penalty of an amount equal to twice the unsatisfied portion of the principal.~~

~~((6))~~ Participants who are unable to pay the full amount due shall enter into a payment arrangement with the office for repayment including interest. The office shall set the maximum period for repayment ((is ten years)) by rule.

~~((7))~~ (6) The office is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The office is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

~~((8))~~ (7) Receipts from the payment of principal or interest or any other subsidies to which the office as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited with the office and shall be used to cover the costs of granting the scholarships, maintaining necessary records, and making collections under subsection ~~((7))~~ (6) of this section. The office shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant scholarships to eligible students.

~~((9))~~ (8) Sponsoring communities who financially contribute to the eligible financial expenses of eligible medical students may enter into agreements with the student to require repayment should the student not serve the

required service obligation in the community as a primary care physician. The office may develop criteria for the content of such agreements with respect to reasonable provisions and obligations between communities and eligible students.

~~((40))~~ (9) The office may make exceptions to the conditions for participation and repayment obligations should circumstances beyond the control of individual participants warrant such exceptions. The office shall establish an appeal process by rule.

**NEW SECTION. Sec. 12.** A new section is added to chapter 28B.115 RCW to read as follows:

(1) Any funds appropriated by the legislature for the behavioral health loan repayment program, or any other public or private funds intended for loan repayments under this program, must be placed in the account created by this section.

(2) The behavioral health loan repayment program account is created in the custody of the state treasurer. All receipts from the program must be deposited into the account. Expenditures from the account may be used only for the behavioral health loan repayment program. Only the office, or its designee, may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 13.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, line 3 of the title, after "communities;" strike the remainder of the title and insert "amending RCW 28B.115.010, 28B.115.020, 28B.115.030, 28B.115.040, 28B.115.050, 28B.115.070, 28B.115.080, 28B.115.090, 28B.115.100, 28B.115.110, and 28B.115.120; adding a new section to chapter 28B.115 RCW; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1668 and advanced the bill as amended by the Senate to final passage.

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

Representatives Slatter and Van Werven spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1668, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1668, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 93; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representative Kraft.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SECOND SUBSTITUTE HOUSE BILL NO. 1668, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 10, 2019

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1672 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 66.24.170 and 2017 c 238 s 1 are each amended to read as follows:

(1) There is a license for domestic wineries; fee to be computed only on the liters manufactured: Less than two hundred fifty thousand liters per year, one hundred dollars per year; and two hundred fifty thousand liters or more per year, four hundred dollars per year.

(2) The license allows for the manufacture of wine in Washington state from grapes or other agricultural products.

(3) Any domestic winery licensed under this section may also act as a retailer of wine of its own production. Any domestic winery licensed under this section may act as a distributor of its own production. Notwithstanding any

language in this title to the contrary, a domestic winery may use a common carrier to deliver up to one hundred cases of its own production, in the aggregate, per month to licensed Washington retailers. A domestic winery may not arrange for any such common carrier shipments to licensed retailers of wine not of its own production. Except as provided in this section, any winery operating as a distributor and/or retailer under this subsection must comply with the applicable laws and rules relating to distributors and/or retailers, except that a winery operating as a distributor may maintain a warehouse off the premises of the winery for the distribution of wine of its own production provided that: (a) The warehouse has been approved by the board under RCW 66.24.010; and (b) the number of warehouses off the premises of the winery does not exceed one.

(4)(a) A domestic winery licensed under this section, at locations separate from any of its production or manufacturing sites, may serve samples of its own products, with or without charge, may sell wine of its own production at retail, and may sell for off-premises consumption wines of its own production in kegs or sanitary containers meeting the applicable requirements of federal law brought to the premises by the purchaser or furnished by the licensee and filled at the tap at the time of sale, provided that: ~~((a))~~ (i) Each additional location has been approved by the board under RCW 66.24.010; ~~((b))~~ (ii) the total number of additional locations does not exceed four; ~~((c))~~ (iii) a winery may not act as a distributor at any such additional location; and ~~((d))~~ (iv) any person selling or serving wine at an additional location for on-premises consumption must obtain a class 12 or class 13 alcohol server permit. Each additional location is deemed to be part of the winery license for the purpose of this title. At additional locations operated by multiple wineries under this section, if the board cannot connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee, the board may hold all licensees operating the additional location jointly liable. Nothing in this subsection may be construed to prevent a domestic winery from holding multiple domestic winery licenses.

(b) A customer of a domestic winery may remove from the premises of the domestic winery or from a tasting room location approved under (a) of this subsection, recorked or recapped in its original container, any portion of wine purchased for on-premises consumption.

(5)(a) A domestic winery licensed under this section may apply to the board for an endorsement to sell wine of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars. An endorsement issued pursuant to this subsection does not count toward the four additional retail locations limit specified in this section.

(b) For each month during which a domestic winery will sell wine at a qualifying farmers market, the winery must provide the board or its designee a list of the dates, times, and locations at which bottled wine may be offered for sale. This list must be received by the board before the winery may offer wine for sale at a qualifying farmers market.

(c) The wine sold at qualifying farmers markets must be made entirely from grapes grown in a recognized Washington appellation or from other agricultural products grown in this state.

(d) Each approved location in a qualifying farmers market is deemed to be part of the winery license for the purpose of this title. The approved locations under an endorsement granted under this subsection include tasting or sampling privileges subject to the conditions pursuant to RCW 66.24.175. The winery may not store wine at a farmers market beyond the hours that the winery offers bottled wine for sale. The winery may not act as a distributor from a farmers market location.

(e) Before a winery may sell bottled wine at a qualifying farmers market, the farmers market must apply to the board for authorization for any winery with an endorsement approved under this subsection to sell bottled wine at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved winery may sell bottled wine; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled wine may be sold. Before authorizing a qualifying farmers market to allow an approved winery to sell bottled wine at retail at its farmers market location, the board must notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (5)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers. However, if a farmers market does not satisfy this subsection (5)(g)(i)(B), a farmers market is still considered a "qualifying farmers market" if the total combined gross annual sales of farmers and processors at the farmers market is one million dollars or more;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(6) Wine produced in Washington state by a domestic winery licensee may be shipped out-of-state for the purpose of making it into sparkling wine and then returned to such licensee for resale. Such wine is deemed wine manufactured in the state of Washington for the purposes of RCW 66.24.206, and shall not require a special license.

(7) During an event held by a nonprofit holding a special occasion license issued under RCW 66.24.380, a domestic winery licensed under this section may take orders, either in writing or electronically, and accept payment for wines of its own production under the following conditions:

(a) Wine produced by the domestic winery may be served for on-premises consumption by the special occasion licensee;

(b) The domestic winery delivers wine to the consumer on a date after the conclusion of the special occasion event;

(c) The domestic winery delivers wine to the consumer at a location different from the location at which the special occasion event is held;

(d) The domestic winery complies with all requirements in chapter 66.20 RCW for direct sale of wine to consumers;

(e) The wine is not sold for resale; and

(f) The domestic winery is entitled to all proceeds from the sale and delivery of its wine to a consumer after the conclusion of the special occasion event, but may enter into an agreement to share a portion of the proceeds of these sales with the special occasion licensee licensed under RCW 66.24.380.

**Sec. 2.** RCW 66.24.320 and 2007 c 370 s 9 are each amended to read as follows:

There shall be a beer and/or wine restaurant license to sell beer, including strong beer, or wine, or both, at retail, for consumption on the premises. A patron of the licensee may remove from the premises, recorked or recapped in its original container, any portion of wine or sake that was purchased for consumption with a meal.

(1) The annual fee shall be two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license.

(2)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those types of liquor that are authorized under the on-premises license privileges for sale and service at event locations at a specified date and, except as provided in subsection (3) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with ~~((f+))~~ a catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(3) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or the passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

(4) The holder of this license or its manager may furnish beer or wine to the licensee's employees free of charge as may be required for use in connection with instruction on beer and wine. The instruction may include the history, nature, values, and characteristics of beer or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling beer or wine. The beer and/or wine licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the beer and/or wine licensee.

(5) If the license is issued to a person who contracts with the Washington state ferry system to provide food and alcohol service on a designated ferry route, the license shall cover any vessel assigned to the designated route. A separate license is required for each designated ferry route.

**Sec. 3.** RCW 66.24.400 and 2011 c 119 s 401 are each amended to read as follows:

(1) There shall be a retailer's license, to be known and designated as a spirits, beer, and wine restaurant license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only. A club licensed under chapter 70.62 RCW with overnight sleeping accommodations, that is licensed under this section may sell liquor by the bottle to registered guests of the club for consumption in guest rooms, hospitality rooms, or at banquets in the club. A patron of a bona fide restaurant or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine or sake which was purchased for consumption with a meal, and registered guests who have purchased liquor from the club by the bottle may remove from the premises any unused portion of such liquor in its original container. Such license may be issued only to bona fide restaurants and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a spirits, beer, and wine restaurant license under the provisions and limitations of this title.

(2) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell bottled wine for off-premises consumption. Spirits and beer may not be sold for off-premises consumption under this section except as provided in subsection (4) of this section. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(3) The holder of a spirits, beer, and wine license or its manager may furnish beer, wine, or spirituous liquor to the licensee's employees free of charge as may be required for use in connection with instruction on beer, wine, or spirituous liquor. The instruction may include the history,

nature, values, and characteristics of beer, wine, or spirituous liquor, the use of wine lists, and the methods of presenting, serving, storing, and handling beer, wine, and spirituous liquor. The spirits, beer, and wine restaurant licensee must use the beer, wine, or spirituous liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the spirits, beer, and wine restaurant licensee.

(4) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell for off-premises consumption malt liquor in kegs or other containers that are capable of holding four gallons or more of liquid and are registered in accordance with RCW 66.28.200. Beer may also be sold under the endorsement to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale. The annual fee for the endorsement under this subsection is one hundred twenty dollars."

On page 1, line 1 of the title, after "wine" strike the remainder of the title and insert "and sake; and amending RCW 66.24.170, 66.24.320, and 66.24.400."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

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

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1672 and advanced the bill as amended by the Senate to final passage.

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

Representatives Jenkin and Stanford spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 1672, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of House Bill No. 1672, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos,

Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

HOUSE BILL NO. 1672, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 12, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1724 with the following amendment:

On page 1, line 14, after "had" strike "or might have"

On page 1, line 15, after "on" insert "parking in"

On page 2, beginning on line 8, after "(a)" insert ""Public facility" means a project that was completed by December 31, 2014.

(b)"

Reletter the remaining subsections consecutively and correct any

internal references accordingly.

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1724 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1724, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1724, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 87; Nays, 7; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kloba, Kretz, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Dent, Griffey, Klippert, Kraft, MacEwen, McCaslin and Shea.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SUBSTITUTE HOUSE BILL NO. 1724, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 11, 2019

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1727 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 19.240.010 and 2011 c 213 s 1 are each amended to read as follows:

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

(1) (~~"Artistic and cultural organization" has the same meaning as in RCW 82.04.4328.~~

~~(2) "Charitable organization" means an organization exempt from tax under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)).~~

~~(3) "Fund raising activity" has the same meaning as in RCW 82.04.3651.~~

~~(4))~~ (a) "Gift card" means a record as described in subsection (5) of this section in the form of a card, or a stored value card or other physical medium, containing stored value primarily intended to be exchanged for consumer goods and services.

(b) "Gift card" does not include prepaid telephone calling cards or prepaid commercial mobile radio services as defined in 47 C.F.R. 20.3.

~~((5))~~ ~~(2)~~(a) "Gift certificate" means an instrument evidencing a promise by the seller or issuer of the record that consumer goods or services will be provided to the bearer of

the record to the value or credit shown in the record and includes gift cards.

(b) "Gift certificate" does not include prepaid telephone calling cards or prepaid commercial mobile radio services as defined in 47 C.F.R. 20.3.

~~((6))~~ (3) "Bearer" means a person with a right to receive consumer goods and services under the terms of a gift certificate, without regard to any fee, expiration date, or dormancy or inactivity charge.

~~((7))~~ (4) "Issue" means to sell or otherwise provide a gift certificate to any person, and includes reloading or adding value to an existing gift certificate.

~~((8))~~ (5) "Stored value" has the same meaning as the term "closed loop ~~((stored value device))~~ prepaid access" defined in RCW 19.230.010.

**Sec. 2.** RCW 19.240.020 and 2004 c 168 s 3 are each amended to read as follows:

(1) Except as provided in RCW 19.240.030 ~~((through 19.240.070))~~, it is unlawful for any person or entity to issue, or to enforce against a bearer, a gift certificate that contains:

- (a) An expiration date;
- (b) Any fee, including a service fee; or
- (c) A dormancy or inactivity charge.

(2) If a gift certificate is issued with the sale of tangible personal property or services, the gift certificate is subject to subsection (1) of this section.

(3) If a purchase is made with a gift certificate for an amount that is less than the value of the gift certificate, the issuer must make the remaining value available to the bearer in cash or as a gift certificate at the option of the issuer. If after the purchase the remaining value of the gift certificate is less than five dollars, the gift certificate must be redeemable in cash for its remaining value on demand of the bearer. A gift certificate is valid until redeemed or replaced.

(4) This section does not require, unless otherwise required by law, the issuer of a gift certificate to replace a lost or stolen gift certificate.

**Sec. 3.** RCW 19.240.030 and 2004 c 168 s 4 are each amended to read as follows:

(1) It is lawful to issue, and to enforce against the bearer, a gift certificate containing an expiration date if:

(a) The gift certificate is issued pursuant to an awards or loyalty program ~~((or in other instances where no money or other thing of value is given in exchange))~~ for the gift certificate.

(b) The gift certificate is donated to a charitable organization without any money or other thing of value being given in exchange for the gift certificate if the gift

certificate is used by a charitable organization solely to provide charitable services.

(2) The expiration date must be disclosed clearly and legibly on any gift certificate described in subsection (1) of this section.

**NEW SECTION. Sec. 4.** The following acts or parts of acts are each repealed:

(1) RCW 19.240.040 (Dormancy or inactivity charge allowed, when) and 2004 c 168 s 5;

(2) RCW 19.240.050 (Expiration date allowed—Donation to charitable organization) and 2004 c 168 s 6;

(3) RCW 19.240.060 (Expiration date—Artistic and cultural organizations) and 2004 c 168 s 7; and

(4) RCW 19.240.070 (Format of statement or expiration date) and 2004 c 168 s 8.

**NEW SECTION. Sec. 5.** This act takes effect July 1, 2020."

On page 1, line of the title, after "cards;" strike the remainder of the title and insert "amending RCW 19.240.010, 19.240.020, and 19.240.030; repealing RCW 19.240.040, 19.240.050, 19.240.060, and 19.240.070; and providing an effective date."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

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

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1727 and advanced the bill as amended by the Senate to final passage.

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

Representatives Walen and Vick spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 1727, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of House Bill No. 1727, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen,

Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

HOUSE BILL NO. 1727, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 15, 2019

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1730 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 4.16.270 and Code 1881 s 45 are each amended to read as follows:

When any payment (~~(of principal or interest)~~) has been or shall be made upon any existing contract prior to its applicable limitation period having expired, whether (~~(it be)~~) the contract is a bill of exchange, promissory note, bond, or other evidence of indebtedness, if (~~(such)~~) the payment (~~(be)~~) is made after (~~(the same shall have become)~~) it is due, the limitation period shall (~~(commence)~~) restart from the time the (~~(last)~~) most recent payment was made. Any payment on the contract made after the limitation period has expired shall not restart, revive, or extend the limitation period.

**Sec. 2.** RCW 4.16.280 and Code 1881 s 44 are each amended to read as follows:

No acknowledgment or promise shall be sufficient evidence of a new or continuing contract whereby to take the case out of the operation of this chapter, unless it is contained in some writing signed by the party to be charged thereby; (~~(but)~~) except, an acknowledgment or promise made after the limitation period has expired shall not restart, revive, or extend the limitation period. This section shall not alter the effect of any payment of principal or interest."

On page 1, line 2 of the title, after "period;" strike the remainder of the title and insert "and amending RCW 4.16.270 and 4.16.280."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1730 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 1730, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1730, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

HOUSE BILL NO. 1730, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 10, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1732 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.36.078 and 1993 c 127 s 1 are each amended to read as follows:

The legislature finds that crimes and threats against persons because of their race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory (~~(handicaps)~~) disabilities are serious and increasing. The legislature also finds that crimes and threats are often directed against interracial couples and their children or couples of mixed religions, colors, ancestries, or national origins because of bias and bigotry against the race, color, religion, ancestry, or national origin of one person in the couple or family. The legislature finds that the state interest in preventing crimes and threats motivated by bigotry and bias goes beyond the state interest in preventing other felonies or misdemeanors such as criminal trespass, malicious mischief, assault, or other crimes that are not motivated by hatred, bigotry, and bias, and that prosecution of those other crimes inadequately protects citizens from crimes and threats motivated by bigotry and bias. Therefore, the legislature finds that protection of those citizens from threats of harm due to bias and bigotry is a compelling state interest.

The legislature also finds that in many cases, certain discrete words or symbols are used to threaten the victims. Those discrete words or symbols have historically or traditionally been used to connote hatred or threats towards members of the class of which the victim or a member of the victim's family or household is a member. In particular, the legislature finds that cross burnings historically and traditionally have been used to threaten, terrorize, intimidate, and harass African Americans and their families. Cross burnings often preceded lynchings, murders, burning of homes, and other acts of terror. Further, Nazi swastikas historically and traditionally have been used to threaten, terrorize, intimidate, and harass Jewish people and their families. Swastikas symbolize the massive destruction of the Jewish population, commonly known as the holocaust. Therefore, the legislature finds that any person who burns or attempts to burn a cross or displays a swastika on the property of the victim or burns a cross or displays a swastika as part of a series of acts directed towards a particular person, the person's family or household members, or a particular group, knows or reasonably should know that the cross burning or swastika may create a reasonable fear of harm in the mind of the person, the person's family and household members, or the group.

The legislature also finds that attacks on religious places of worship and threatening defacement of religious texts have increased, as have assaults and attacks on those who visibly self-identify as members of a religious minority, such as by wearing religious head covering or other visible articles of faith. The legislature finds that any person who defaces religious real property with derogatory words, symbols, or items, who places a vandalized or defaced religious item or scripture on the property of a victim, or who attacks or attempts to remove the religious garb or faith-based attire of a victim, knows or reasonably should know that such actions create a reasonable fear of harm in the mind of the victim.

The legislature also finds that a hate crime committed against a victim because of the victim's gender

may be identified in the same manner that a hate crime committed against a victim of another protected group is identified. Affirmative indications of hatred towards gender as a class is the predominant factor to consider. Other factors to consider include the perpetrator's use of language, slurs, or symbols expressing hatred towards the victim's gender as a class; the severity of the attack including mutilation of the victim's sexual organs; a history of similar attacks against victims of the same gender by the perpetrator or a history of similar incidents in the same area; a lack of provocation; an absence of any other apparent motivation; and common sense.

The legislature recognizes that, since 2015, Washington state has experienced a sharp increase in malicious harassment offenses, and, in response, the legislature intends to rename the offense to its more commonly understood title of "hate crime offense" and create a multidisciplinary working group to establish recommendations for best practices for identifying and responding to hate crimes.

**Sec. 2.** RCW 9A.36.080 and 2010 c 119 s 1 are each amended to read as follows:

(1) A person is guilty of (~~(malicious harassment)~~) a hate crime offense if he or she maliciously and intentionally commits one of the following acts because of his or her perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory (~~(handicap)~~) disability:

(a) Causes physical injury to the victim or another person;

(b) Causes physical damage to or destruction of the property of the victim or another person; or

(c) Threatens a specific person or group of persons and places that person, or members of the specific group of persons, in reasonable fear of harm to person or property. The fear must be a fear that a reasonable person would have under all the circumstances. For purposes of this section, a "reasonable person" is a reasonable person who is a member of the victim's race, color, religion, ancestry, national origin, gender, or sexual orientation, or who has the same gender expression or identity, or the same mental, physical, or sensory (~~(handicap)~~) disability as the victim. Words alone do not constitute (~~(malicious harassment)~~) a hate crime offense unless the context or circumstances surrounding the words indicate the words are a threat. Threatening words do not constitute (~~(malicious harassment)~~) a hate crime offense if it is apparent to the victim that the person does not have the ability to carry out the threat.

(2) In any prosecution for (~~(malicious harassment)~~) a hate crime offense, unless evidence exists which explains to the trier of fact's satisfaction that the person did not intend to threaten the victim or victims, the trier of fact may infer that the person intended to threaten a specific victim or group of victims because of the person's perception of the victim's or victims' race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or

mental, physical, or sensory (~~(handicap)~~) disability if the person commits one of the following acts:

(a) Burns a cross on property of a victim who is or whom the actor perceives to be of African American heritage; (~~(or)~~)

(b) Defaces property of a victim who is or whom the actor perceives to be of Jewish heritage by defacing the property with a swastika;

(c) Defaces religious real property with words, symbols, or items that are derogatory to persons of the faith associated with the property;

(d) Places a vandalized or defaced religious item or scripture on the property of a victim who is or whom the actor perceives to be of the faith with which that item or scripture is associated;

(e) Damages, destroys, or defaces religious garb or other faith-based attire belonging to the victim or attempts to or successfully removes religious garb or other faith-based attire from the victim's person without the victim's authorization; or

(f) Places a noose on the property of a victim who is or whom the actor perceives to be of a racial or ethnic minority group.

This subsection only applies to the creation of a reasonable inference for evidentiary purposes. This subsection does not restrict the state's ability to prosecute a person under subsection (1) of this section when the facts of a particular case do not fall within (a) (~~(or (b))~~) through (f) of this subsection.

(3) It is not a defense that the accused was mistaken that the victim was a member of a certain race, color, religion, ancestry, national origin, gender, or sexual orientation, had a particular gender expression or identity, or had a mental, physical, or sensory (~~(handicap)~~) disability.

(4) Evidence of expressions or associations of the accused may not be introduced as substantive evidence at trial unless the evidence specifically relates to the crime charged. Nothing in this chapter shall affect the rules of evidence governing impeachment of a witness.

(5) Every person who commits another crime during the commission of a crime under this section may be punished and prosecuted for the other crime separately.

(6) For the purposes of this section:

(a) "Gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

(b) "Sexual orientation" (~~has the same meaning as in RCW 49.60.040~~) means heterosexuality, homosexuality, or bisexuality.

(~~(b)~~) (c) "Threat" means to communicate, directly or indirectly, the intent to:

(i) Cause bodily injury immediately or in the future to the person threatened or to any other person; or

(ii) Cause physical damage immediately or in the future to the property of a person threatened or that of any other person.

(7) (~~(Malicious harassment)~~) Commission of a hate crime offense is a class C felony.

(8) The penalties provided in this section for (~~(malicious harassment)~~) hate crime offenses do not preclude the victims from seeking any other remedies otherwise available under law.

(9) Nothing in this section confers or expands any civil rights or protections to any group or class identified under this section, beyond those rights or protections that exist under the federal or state Constitution or the civil laws of the state of Washington.

**Sec. 3.** RCW 9A.36.083 and 1993 c 127 s 3 are each amended to read as follows:

In addition to the criminal penalty provided in RCW 9A.36.080 for committing a (~~(crime of malicious harassment)~~) hate crime offense, the victim may bring a civil cause of action for (~~(malicious harassment)~~) the hate crime offense against the (~~(harasser)~~) person who committed the offense. A person may be liable to the victim of (~~(malicious harassment)~~) the hate crime offense for actual damages, punitive damages of up to (~~(ten)~~) one hundred thousand dollars, and reasonable attorneys' fees and costs incurred in bringing the action.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.10 RCW to read as follows:

(1) The office of the attorney general must, by September 1, 2019, coordinate and convene a multidisciplinary hate crime advisory working group for the purpose of developing strategies toward raising awareness of and appropriate responses to hate crime offenses and hate incidents. The working group must undertake its work with a view towards restorative justice.

(2) The group's membership must include:

(a) Four legislators, one appointed by each of the two largest caucuses of the senate and one appointed by each of the two largest caucuses of the house of representatives;

(b) Six members appointed by the governor from organizations representing groups protected under RCW 9A.36.080;

(c) One member appointed by the governor representing law enforcement;

(d) One member appointed by the governor representing prosecutors;

(e) One member appointed by the governor that is from a local organization with national expertise legislating

against, tracking, and responding to hate crimes and hate incidents;

(f) One member appointed by the governor representing K-12 educators; and

(g) One member representing the attorney general's office.

(3) The work group must develop recommended best practices for:

(a) Preventing hate crimes and hate incidents, especially those occurring in public K-12 schools and in the workplace, through public awareness and antibias campaigns;

(b) Increasing identification and reporting of hate crimes and hate incidents, including recommendations for standardization of data collection and reporting;

(c) Strengthening law enforcement, prosecutorial, and public K-12 school responses to hate crime offenses and hate incidents through enhanced training and other measures; and

(d) Supporting victims of hate crime offenses and hate incidents, and in particular, ways of strengthening law enforcement, health care, and educational collaboration with, and victim connection to, community advocacy and support organizations.

(4) The working group is encouraged to solicit participation and feedback from nonmember groups and individuals with relevant experience, as needed.

(5) The working group must hold at least four meetings. By July 1, 2020, the office of the attorney general must report the working group's recommendations to the governor and the legislature, in compliance with RCW 43.01.036.

**Sec. 5.** RCW 2.56.030 and 2009 c 479 s 2 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of the chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Submit annually, as of February 1st, to the chief justice, a report of the activities of the administrator's office for the preceding calendar year including activities related to courthouse security;

(10) Administer programs and standards for the training and education of judicial personnel;

(11) Examine the need for new superior court and district court judge positions under an objective workload analysis. The results of the objective workload analysis shall be reviewed by the board for judicial administration which shall make recommendations to the legislature. It is the intent of the legislature that an objective workload analysis become the basis for creating additional district and superior court positions, and recommendations should address that objective;

(12) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;

(13) Attend to such other matters as may be assigned by the supreme court of this state;

(14) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers and be updated yearly to reflect changes in statutes, court rules, or case law;

(15) Develop, in consultation with the entities set forth in RCW 2.56.150(3), a comprehensive statewide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 2008, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, domestic violence, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made

available to all superior court judges, court personnel, and all persons who act as guardians ad litem;

(16) Develop a curriculum for a general understanding of (~~crimes of malicious harassment~~) hate crime offenses, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of (~~malicious harassment~~) hate crime offense victims. This curriculum shall be made available to all superior court and court of appeals judges and to all justices of the supreme court;

(17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts statewide;

(18) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required;

(19) Develop a Washington family law handbook in accordance with RCW 2.56.180;

(20) Administer state funds for improving the operation of the courts and provide support for court coordinating councils, under the direction of the board for judicial administration;

(21) Administer the family and juvenile court improvement grant program;

(22)(a) Administer and distribute amounts appropriated under RCW 43.08.250(2) for district court judges' and qualifying elected municipal court judges' salary contributions. The administrator for the courts shall develop a distribution formula for these amounts that does not differentiate between district and elected municipal court judges.

(b) A city qualifies for state contribution of elected municipal court judges' salaries under (a) of this subsection if:

(i) The judge is serving in an elected position;

(ii) The city has established by ordinance that a full-time judge is compensated at a rate equivalent to at least ninety-five percent, but not more than one hundred percent, of a district court judge salary or for a part-time judge on a pro rata basis the same equivalent; and

(iii) The city has certified to the office of the administrator for the courts that the conditions in (b)(i) and (ii) of this subsection have been met;

(23) Subject to the availability of funds specifically appropriated therefor, assist courts in the development and

implementation of language assistance plans required under RCW 2.43.090.

**Sec. 6.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any

issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or

selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Electronic monitoring" means tracking the location of an individual, whether pretrial or posttrial, through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

(25) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(26) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(27) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(28) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence twenty-four hours a day, unless an absence from the residence is approved, authorized, or otherwise

permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(32) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

(33) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

- (l) Manslaughter in the second degree;
- (m) Promoting prostitution in the first degree;
- (n) Rape in the third degree;
- (o) Robbery in the second degree;
- (p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(34) "Nonviolent offense" means an offense which is not a violent offense.

(35) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for

the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(36) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

(37) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) ~~((Malicious Harassment))~~ Hate Crime (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(38) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (38)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree

constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(39) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(40) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(41) "Public school" has the same meaning as in RCW 28A.150.010.

(42) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(43) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to

the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(44) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(45) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(46) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(47) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(48) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(49) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(50) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(51) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(52) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(53) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(54) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(55) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(56) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(57) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(58) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

**Sec. 7.** RCW 9.94A.515 and 2018 c 236 s 721 and 2018 c 7 s 7 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- XVI Aggravated Murder 1 (RCW 10.95.020)
- XV Homicide by abuse (RCW 9A.32.055)
- Malicious explosion 1 (RCW 70.74.280(1))
- Murder 1 (RCW 9A.32.030)
- XIV Murder 2 (RCW 9A.32.050)

- Trafficking 1 (RCW 9A.40.100(1))
- XIII Malicious explosion 2 (RCW 70.74.280(2))
- Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)
- Assault of a Child 1 (RCW 9A.36.120)
- Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
- Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
- Rape 1 (RCW 9A.44.040)
- Rape of a Child 1 (RCW 9A.44.073)
- Trafficking 2 (RCW 9A.40.100(3))
- XI Manslaughter 1 (RCW 9A.32.060)
- Rape 2 (RCW 9A.44.050)
- Rape of a Child 2 (RCW 9A.44.076)
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- X Child Molestation 1 (RCW 9A.44.083)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
- Kidnapping 1 (RCW 9A.40.020)
- Leading Organized Crime (RCW 9A.82.060(1)(a))
- Malicious explosion 3 (RCW 70.74.280(3))
- Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Abandonment of Dependent Person 1 (RCW 9A.42.060)
- Assault of a Child 2 (RCW 9A.36.130)

	Explosive devices prohibited (RCW 70.74.180)		Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))
	Hit and Run—Death (RCW 46.52.020(4)(a))		Introducing Contraband 1 (RCW 9A.76.140)
	Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)		Malicious placement of an explosive 3 (RCW 70.74.270(3))
	Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))		Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))
	Malicious placement of an explosive 2 (RCW 70.74.270(2))		Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
	Robbery 1 (RCW 9A.56.200)		Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))
	Sexual Exploitation (RCW 9.68A.040)		Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
VIII	Arson 1 (RCW 9A.48.020)		Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
	Commercial Sexual Abuse of a Minor (RCW 9.68A.100)		Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225)
	Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)		Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
	Manslaughter 2 (RCW 9A.32.070)		
	Promoting Prostitution 1 (RCW 9A.88.070)	VI	Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
	Theft of Ammonia (RCW 69.55.010)		Bribery (RCW 9A.68.010)
VII	Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b))		Incest 1 (RCW 9A.64.020(1))
	Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b))		Intimidating a Judge (RCW 9A.72.160)
	Burglary 1 (RCW 9A.52.020)		Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
	Child Molestation 2 (RCW 9A.44.086)		Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
	Civil Disorder Training (RCW 9A.48.120)		Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
	Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))		Rape of a Child 3 (RCW 9A.44.079)
	Drive-by Shooting (RCW 9A.36.045)		
	Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)		

Theft of a Firearm (RCW 9A.56.300)	Persistent prison misbehavior (RCW 9.94.070)
Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))	Possession of a Stolen Firearm (RCW 9A.56.310)
Unlawful Storage of Ammonia (RCW 69.55.020)	Rape 3 (RCW 9A.44.060)
V Abandonment of Dependent Person 2 (RCW 9A.42.070)	Rendering Criminal Assistance 1 (RCW 9A.76.070)
Advancing money or property for extortionate extension of credit (RCW 9A.82.030)	Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))
Air bag diagnostic systems (RCW 46.37.660(2)(c))	Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
Air bag replacement requirements (RCW 46.37.660(1)(c))	Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))	Sexually Violating Human Remains (RCW 9A.44.105)
Child Molestation 3 (RCW 9A.44.089)	Stalking (RCW 9A.46.110)
Criminal Mistreatment 2 (RCW 9A.42.030)	Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
Custodial Sexual Misconduct 1 (RCW 9A.44.160)	IV Arson 2 (RCW 9A.48.030)
Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))	Assault 2 (RCW 9A.36.021)
Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, <del>((26.26.138))</del> <u>26.26B.050</u> , 26.50.110, 26.52.070, or 74.34.145)	Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
Extortion 1 (RCW 9A.56.120)	Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))
Extortionate Extension of Credit (RCW 9A.82.020)	Assault by Watercraft (RCW 79A.60.060)
Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)	Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
Incest 2 (RCW 9A.64.020(2))	Cheating 1 (RCW 9.46.1961)
Kidnapping 2 (RCW 9A.40.030)	Commercial Bribery (RCW 9A.68.060)
Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c))	Counterfeiting (RCW 9.16.035(4))
Perjury 1 (RCW 9A.72.020)	Driving While Under the Influence (RCW 46.61.502(6))
	Endangerment with a Controlled Substance (RCW 9A.42.100)

Escape 1 (RCW 9A.76.110)	Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))
<u>Hate Crime (RCW 9A.36.080)</u>	
Hit and Run—Injury (RCW 46.52.020(4)(b))	Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))	
Identity Theft 1 (RCW 9.35.020(2))	Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))
Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)	Willful Failure to Return from Furlough (RCW 72.66.060)
Influencing Outcome of Sporting Event (RCW 9A.82.070)	III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
<del>((Malicious Harassment (RCW 9A.36.080)))</del>	Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))	Assault of a Child 3 (RCW 9A.36.140)
Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))	Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
Residential Burglary (RCW 9A.52.025)	Burglary 2 (RCW 9A.52.030)
Robbery 2 (RCW 9A.56.210)	Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
Theft of Livestock 1 (RCW 9A.56.080)	Criminal Gang Intimidation (RCW 9A.46.120)
Threats to Bomb (RCW 9.61.160)	Custodial Assault (RCW 9A.36.100)
Trafficking in Stolen Property 1 (RCW 9A.82.050)	Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))	Escape 2 (RCW 9A.76.120)
Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))	Extortion 2 (RCW 9A.56.130)
Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))	Harassment (RCW 9A.46.020)
Unlawful transaction of insurance business (RCW 48.15.023(3))	Intimidating a Public Servant (RCW 9A.76.180)
Unlicensed practice as an insurance professional (RCW 48.17.063(2))	Introducing Contraband 2 (RCW 9A.76.150)
Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))	Malicious Injury to Railroad Property (RCW 81.60.070)
	Mortgage Fraud (RCW 19.144.080)

Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)	Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))
Organized Retail Theft 1 (RCW 9A.56.350(2))	Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
Perjury 2 (RCW 9A.72.030)	Willful Failure to Return from Work Release (RCW 72.65.070)
Possession of Incendiary Device (RCW 9.40.120)	II Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
Possession of Machine Gun, Bump-fire Stock, or Short-Barreled Shotgun or Rifle (RCW 9.41.190)	Computer Trespass 1 (RCW 9A.90.040)
Promoting Prostitution 2 (RCW 9A.88.080)	Counterfeiting (RCW 9.16.035(3))
Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))	Electronic Data Service Interference (RCW 9A.90.060)
Securities Act violation (RCW 21.20.400)	Electronic Data Tampering 1 (RCW 9A.90.080)
Tampering with a Witness (RCW 9A.72.120)	Electronic Data Theft (RCW 9A.90.100)
Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))	Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))
Theft of Livestock 2 (RCW 9A.56.083)	Escape from Community Custody (RCW 72.09.310)
Theft with the Intent to Resell 1 (RCW 9A.56.340(2))	Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)
Trafficking in Stolen Property 2 (RCW 9A.82.055)	Health Care False Claims (RCW 48.80.030)
Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))	Identity Theft 2 (RCW 9.35.020(3))
Unlawful Imprisonment (RCW 9A.40.040)	Improperly Obtaining Financial Information (RCW 9.35.010)
Unlawful Misbranding of ( <del>Food</del> ) Fish or Shellfish 1 (RCW 77.140.060(3))	Malicious Mischief 1 (RCW 9A.48.070)
Unlawful possession of firearm in the second degree (RCW 9.41.040(2))	Organized Retail Theft 2 (RCW 9A.56.350(3))
Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))	Possession of Stolen Property 1 (RCW 9A.56.150)
Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))	Possession of a Stolen Vehicle (RCW 9A.56.068)
	Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3))

Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100)	Possession of Stolen Property 2 (RCW 9A.56.160)
Theft 1 (RCW 9A.56.030)	Reckless Burning 1 (RCW 9A.48.040)
Theft of a Motor Vehicle (RCW 9A.56.065)	Spotlighting Big Game 1 (RCW 77.15.450(3)(b))
Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at five thousand dollars or more) (RCW 9A.56.096(5)(a))	Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))
Theft with the Intent to Resell 2 (RCW 9A.56.340(3))	Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
Trafficking in Insurance Claims (RCW 48.30A.015)	Theft 2 (RCW 9A.56.040)
Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))	Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))
Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))	Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at seven hundred fifty dollars or more but less than five thousand dollars) (RCW 9A.56.096(5)(b))
Unlawful Practice of Law (RCW 2.48.180)	Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)
Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))	Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))
Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))	Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))	Unlawful Possession of Fictitious Identification (RCW 9A.56.320)
Voyeurism 1 (RCW 9A.44.115)	Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)
I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)	Unlawful Possession of Payment Instruments (RCW 9A.56.320)
False Verification for Welfare (RCW 74.08.055)	Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)
Forgery (RCW 9A.60.020)	Unlawful Production of Payment Instruments (RCW 9A.56.320)
Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)	Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b))
Malicious Mischief 2 (RCW 9A.48.080)	Unlawful Trafficking in Food Stamps (RCW 9.91.142)
Mineral Trespass (RCW 78.44.330)	

Unlawful Use of Food Stamps (RCW 9.91.144)

Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b))

Unlawful Use of Prohibited Aquatic Animal Species (RCW 77.15.253(3))

Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b))

**Sec. 8.** RCW 9A.46.060 and 2006 c 138 s 21 are each amended to read as follows:

As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

- (1) Harassment (RCW 9A.46.020);
- (2) (~~Malicious harassment~~) Hate crime (RCW 9A.36.080);
- (3) Telephone harassment (RCW 9.61.230);
- (4) Assault in the first degree (RCW 9A.36.011);
- (5) Assault of a child in the first degree (RCW 9A.36.120);
- (6) Assault in the second degree (RCW 9A.36.021);
- (7) Assault of a child in the second degree (RCW 9A.36.130);
- (8) Assault in the fourth degree (RCW 9A.36.041);
- (9) Reckless endangerment (RCW 9A.36.050);
- (10) Extortion in the first degree (RCW 9A.56.120);
- (11) Extortion in the second degree (RCW 9A.56.130);
- (12) Coercion (RCW 9A.36.070);
- (13) Burglary in the first degree (RCW 9A.52.020);
- (14) Burglary in the second degree (RCW 9A.52.030);
- (15) Criminal trespass in the first degree (RCW 9A.52.070);
- (16) Criminal trespass in the second degree (RCW 9A.52.080);
- (17) Malicious mischief in the first degree (RCW 9A.48.070);
- (18) Malicious mischief in the second degree (RCW 9A.48.080);
- (19) Malicious mischief in the third degree (RCW 9A.48.090);

(20) Kidnapping in the first degree (RCW 9A.40.020);

(21) Kidnapping in the second degree (RCW 9A.40.030);

(22) Unlawful imprisonment (RCW 9A.40.040);

(23) Rape in the first degree (RCW 9A.44.040);

(24) Rape in the second degree (RCW 9A.44.050);

(25) Rape in the third degree (RCW 9A.44.060);

(26) Indecent liberties (RCW 9A.44.100);

(27) Rape of a child in the first degree (RCW 9A.44.073);

(28) Rape of a child in the second degree (RCW 9A.44.076);

(29) Rape of a child in the third degree (RCW 9A.44.079);

(30) Child molestation in the first degree (RCW 9A.44.083);

(31) Child molestation in the second degree (RCW 9A.44.086);

(32) Child molestation in the third degree (RCW 9A.44.089);

(33) Stalking (RCW 9A.46.110);

(34) Cyberstalking (RCW 9.61.260);

(35) Residential burglary (RCW 9A.52.025);

(36) Violation of a temporary, permanent, or final protective order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW;

(37) Unlawful discharge of a laser in the first degree (RCW 9A.49.020); and

(38) Unlawful discharge of a laser in the second degree (RCW 9A.49.030).

**Sec. 9.** RCW 36.28A.030 and 1993 c 127 s 4 are each amended to read as follows:

(1) The Washington association of sheriffs and police chiefs shall establish and maintain a central repository for the collection and classification of information regarding violations of RCW 9A.36.080. Upon establishing such a repository, the association shall develop a procedure to monitor, record, and classify information relating to violations of RCW 9A.36.080 and any other crimes of bigotry or bias apparently directed against other persons because the people committing the crimes perceived that their victims were of a particular race, color, religion, ancestry, national origin, gender, sexual orientation, had a particular gender expression or identity, or had a mental, physical, or sensory (~~handicap~~) disability.

(2) All local law enforcement agencies shall report monthly to the association concerning all violations of RCW 9A.36.080 and any other crimes of bigotry or bias in such

form and in such manner as prescribed by rules adopted by the association. Agency participation in the association's reporting programs, with regard to the specific data requirements associated with violations of RCW 9A.36.080 and any other crimes of bigotry or bias, shall be deemed to meet agency reporting requirements. The association must summarize the information received and file an annual report with the governor and the senate law and justice committee and the house of representatives judiciary committee.

(3) The association shall disseminate the information according to the provisions of chapters 10.97 and 10.98 RCW, and all other confidentiality requirements imposed by federal or Washington law.

**Sec. 10.** RCW 43.43.830 and 2017 c 272 s 5 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.845.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults, juveniles, or children, or which provides child day care, early learning, or early childhood education services.

(2) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults;

(c) Any prospective adoptive parent, as defined in RCW 26.33.020; or

(d) Any prospective custodian in a nonparental custody proceeding under chapter 26.10 RCW.

(3) "Business or organization" means a person, business, or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, or that provides child day care, early learning, or early learning childhood education services, including but not limited to public housing authorities, school districts, and educational service districts.

(4) "Civil adjudication proceeding" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

(5) "Client" or "resident" means a child, person with developmental disabilities, or vulnerable adult applying for housing assistance from a business or organization.

(6) "Conviction record" means "conviction record" information as defined in RCW 10.97.030 and 10.97.050 relating to a crime committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(7) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnapping; first, second, or third degree assault; fourth degree assault (if a violation of RCW 9A.36.041(3)); first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; endangerment with a controlled substance; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; first or second degree custodial sexual misconduct; (~~malicious harassment~~) hate crime; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; commercial sexual abuse of a minor; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

(8) "Crimes relating to drugs" means a conviction of a crime to manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

(9) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(10) "Financial exploitation" means "financial exploitation" as defined in RCW 74.34.020.

(11) "Health care facility" means a nursing home licensed under chapter 18.51 RCW, ~~((a-fan))~~ an assisted living facility licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(12) "Peer counselor" means a nonprofessional person who has equal standing with another person, providing advice on a topic about which the nonprofessional person is more experienced or knowledgeable, and who is a counselor for a peer counseling program that contracts with or is otherwise approved by the department, another state or local agency, or the court.

(13) "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

With regard to peer counselors, "unsupervised" does not include incidental contact with children under age sixteen at the location at which the peer counseling is taking place. "Incidental contact" means minor or casual contact with a child in an area accessible to and within visual or auditory range of others. It could include passing a child while walking down a hallway but would not include being alone with a child for any period of time in a closed room or office.

(14) "Vulnerable adult" means "vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

**Sec. 11.** RCW 48.18.553 and 2003 c 117 s 1 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Insured" means a current policyholder or a person or entity that is covered under the insurance policy.

(b) ~~((Malicious harassment))~~ "Hate crime offense" has the same meaning as RCW 9A.36.080. Under this section, the perpetrator does not have to be identified for ~~((an act of malicious harassment))~~ a hate crime offense to have occurred.

(c) "Underwriting action" means an insurer:

(i) Cancels or refuses to renew an insurance policy; or

(ii) Changes the terms or benefits in an insurance policy.

(2) This section applies to property insurance policies if the insured is:

(a) An individual;

(b) A religious organization;

(c) An educational organization; or

(d) Any other nonprofit organization that is organized and operated for religious, charitable, or educational purposes.

(3) An insurer may not take an underwriting action on a policy described in subsection (2) of this section because an insured has made one or more insurance claims for any loss that occurred during the preceding sixty months that is the result of ~~((malicious harassment))~~ a hate crime offense. An insurer may take an underwriting action due to other factors that are not prohibited by this subsection.

(4) If an insured sustains a loss that is the result of ~~((malicious harassment))~~ a hate crime offense, the insured must file a report with the police or other law enforcement authority within thirty days of discovery of the incident, and a law enforcement authority must determine that a crime has occurred. The report must contain sufficient information to provide an insurer with reasonable notice that the loss was the result of ~~((malicious harassment))~~ a hate crime offense. The insured has a duty to cooperate with any law enforcement official or insurer investigation. ~~((For incidents of malicious harassment occurring prior to July 27, 2003, the insured must file the report within six months of the discovery of the incident.))~~

(5) Annually, each insurer must report underwriting actions to the commissioner if the insurer has taken an underwriting action against any insured who has filed a claim during the preceding sixty months that was the result of ~~((malicious harassment))~~ a hate crime offense. The report must include the policy number, name of the insured, location of the property, and the reason for the underwriting action."

On page 1, line 2 of the title, after "offenses;" strike the remainder of the title and insert "amending RCW 9A.36.078, 9A.36.080, 9A.36.083, 2.56.030, 9.94A.030, 9A.46.060, 36.28A.030, 43.43.830, and 48.18.553; reenacting and amending RCW 9.94A.515; and adding a new section to chapter 43.10 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE

HOUSE BILL NO. 1732 and advanced the bill as amended by the Senate to final passage.

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

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

Representative Klippert spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1732, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1732, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 73; Nays, 21; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chapman, Chopp, Cody, Davis, DeBolt, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Gildon, Goodman, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kloba, Kretz, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Walen, Wilcox and Wylie.

Voting nay: Representatives Chandler, Corry, Dent, Dufault, Dye, Eslick, Goehner, Griffey, Jenkin, Klippert, Kraft, MacEwen, McCaslin, Mosbrucker, Orcutt, Shea, Sutherland, Volz, Walsh, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1732, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

April 12, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1746 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the cost of developing high-quality, commercial office space is prohibitive in cities located outside of a major metropolitan area. The legislature finds these cities plan to

locate commercial office space within those urban centers. The legislature also finds that solely planning for commercial office space within urban centers is inadequate and an incentive should be created to stimulate commercial office space development in urban centers outside major metropolitan areas. The legislature intends to provide these cities with local options to incentivize the development of commercial office space in urban centers with access to transit, transportation systems, and other amenities.

**NEW SECTION. Sec. 2.** A governing authority of a city may designate a commercial office space development area. Within the area, the city may:

(1) Adopt a local sales and use tax remittance program to incentivize the development of commercial office space; and

(2) Establish a local property tax reinvestment program to make public improvements that incentivize the development of commercial office space.

**NEW SECTION. Sec. 3.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercial office space" means a high quality building or buildings in the local market, as determined by a city's governing authority. High quality must be reflected in the finishes, construction, and infrastructure of the project building. The building or buildings must be at least fifty thousand square feet, and at least three stories. The building must be centrally located in a city, provide close access to available public transportation and freeways, be managed professionally, and offer amenities and advanced technology options to tenants.

(2) "Commercial office space development area" means an area that has been designated by the city legislative authority as a commercial office space development area. Each area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of property not included in the commercial office space development area. The commercial office space development area or areas within a city cannot contain more than twenty-five percent of the total assessed value of the taxable real property within the boundaries of the city at the time the area is established.

(3) "County" means a county with a population of less than one million five hundred thousand.

(4) "Family living wage job" means a job with a wage that is sufficient for raising a family. A family living wage job must have an average wage of eighteen dollars an hour or more, working two thousand eighty hours per year, as adjusted annually by the consumer price index. The family living wage may be increased by the local authority based on regional factors and wage conditions.

(5) "Operationally complete" means that a certificate of occupancy has been issued for the building.

(6) "Public improvement" means infrastructure improvements to be owned by a public entity within the commercial office space development area that include:

(a) Street, road, bridge, and rail construction and maintenance;

(b) Water and sewer system construction and improvements;

(c) Sidewalks, streetlights, landscaping, and streetscaping;

(d) Parking, terminal, and dock facilities;

(e) Park and ride facilities of a transit authority;

(f) Park facilities, recreational areas, and environmental remediation;

(g) Stormwater and drainage management systems;

(h) Seismic improvements to buildings eligible for or eligible for listing in the Washington state register of historic places (RCW 27.34.220) or the national register of historic places as defined in the national historic preservation act of 1966 (Title 1, Sec. 101, P.L. 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended;

(i) Electric, gas, fiber, and other utility infrastructures; and

(j) Expenditures for any of the following purposes:

(i) Providing environmental analysis, professional management, planning, and promotion within the commercial office space development area; and

(ii) Providing maintenance and security for common or public areas in the commercial office space development area.

(7) "Public improvement costs" means the costs of:

(a) Design; planning; acquisition, including land acquisition; site preparation, including land clearing; construction; reconstruction; rehabilitation; improvements; and installation of public improvements;

(b) Demolishing, relocating, maintaining, and operating property pending construction of public improvements;

(c) Relocating utilities as a result of public improvements;

(d) Financing public improvements, including interest during construction; legal, and other professional services; taxes; insurance; principal and interest costs on general indebtedness issued to finance public improvements; and any necessary reserves for general indebtedness; and

(e) Administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and use of funds deposited into the commercial office development public improvement fund.

(8) "Qualifying project" means new construction or rehabilitation of a building or group of buildings intended for use as commercial office space. A "qualifying project" may include mixed-use buildings, not solely intended to be used as office space, but does not include any portion of a project intended for residential use or noncommercial use. A "qualifying project" may include new construction, or rehabilitation of an existing building, which included an area intended to be used for childcare facilities at or near the commercial office space. "Qualifying project" does not include the land associated with the new construction or rehabilitation.

(9) "Rehabilitation" and "rehabilitation improvements" means modifications to an existing building or buildings made to achieve substantial improvements such that the building or buildings can be categorized as commercial office space.

(10) "Rehabilitation improvements" means modifications to an existing building or buildings made to achieve substantial improvements such that the building or buildings can be categorized as commercial office space.

(11) "Urban center" means a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain:

(a) Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, and governmental agencies;

(b) Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and

(c) A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office use, or both commercial and office use.

**NEW SECTION. Sec. 4.** (1) In order for a city to approve a qualifying project to receive a sales and use tax remittance and participate in a local property tax reinvestment program, the city legislative authority must adopt an ordinance designating a commercial office space development area or areas. In the ordinance, the city legislative authority must:

(a) Outline the boundaries of the commercial office space development area or areas, consistent with the definitions of this chapter;

(b) Find that the area is wholly within an urban center;

(c) Find that the area lacks sufficient available, desirable, high-quality, and convenient commercial office space to provide family living wage jobs in the urban center;

(d) Outline standards and guidelines consistent with section 5 of this act to accept and approve applications for qualifying projects to be considered for a local sales and use tax remittance or a property tax reinvestment program; and

(e) Establish a commercial office development public improvement fund in which to deposit property tax reinvestment revenues.

(2) The city legislative authority must hold a public hearing on the ordinance establishing the commercial office space development area or areas. The city legislative authority must give notice of a hearing held under this section by publication of the notice once each week for two consecutive weeks, not less than seven days, nor more than thirty days before the date of the hearing in a paper having a general circulation in the city where the proposed commercial office space development area or areas would be located. The notice must state the time, date, place, and purpose of the hearing and generally identify the area proposed to be designated as a commercial office space development area.

**NEW SECTION. Sec. 5.** (1) In order to approve the sales and use tax remittance and property tax reinvestment for a qualifying project under section 4 of this act, an owner of a qualifying project must, in coordination with the city, submit an application to the city consistent with the standards and guidelines provided in section 4 of this act. Additionally, the application must include:

(a) Whether the qualifying project is located within a commercial office space development area, in accordance with an adopted ordinance under section 4 of this act;

(b) Whether the qualifying project meets the definition of a qualifying project;

(c) The number of family living wage jobs estimated to be generated by the qualifying project;

(d) A description of the qualifying project, including a physical description of proposed building or buildings including estimated square footage, number of floors, and a list of features and amenities;

(e) The cost of construction or rehabilitation, and length of time that the qualifying project will be under construction;

(f) Whether the qualifying project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved; and

(g) A statement that the qualifying project is not anticipated to be used for the purpose of relocating a business from outside of the commercial office space development area, but within the state, to within the commercial office space development area. This does not exclude the incentives authorized under this chapter and section 11 of this act from being used for the expansion of a business, including the development of additional offices or satellite facilities.

(2) If the project applicant is seeking a sales and use tax remittance, the application must also include:

(a) A written agreement for the use of the local sales and use tax remittance from any taxing authority that

imposes a sales or use tax under chapter 82.14 RCW or RCW 81.104.170. The agreement must be authorized by the governing body of such participating taxing authorities. If a taxing authority does not provide a written agreement, the sales and use tax for that taxing authority may not be remitted and the revenue may not be estimated in the application;

(b) An estimate of the amount of local sales and use tax revenue that will be remitted to a taxpayer;

(c) The approximate date that the local sales and use tax revenue will be remitted to a taxpayer; and

(d) The criteria under this section by which a qualifying project can later receive certification under section 11(4) of this act confirming that a taxpayer is eligible for the remittance.

(3) If the city intends to approve the qualifying project for a property tax reinvestment, the application must also include:

(a) A written agreement of the participation of any taxing authority that collects a local property tax allocation. The agreement must be authorized by the governing body of such participating local taxing authorities. If a taxing authority does not provide written agreement, the local property tax for that taxing authority may not be remitted to the city legislative authority that established a commercial office development public improvement fund;

(b) An estimated amount of property tax to be deposited into a commercial office development public improvement fund resulting from the qualifying project; and

(c) A prioritized list of public improvements that support the development of the qualifying project, and the estimated public improvement costs.

**NEW SECTION. Sec. 6.** (1) The duly authorized administrative official or committee of the city may approve the application if it finds that:

(a) The proposed qualifying project meets the criteria as defined by the city in section 4 of this act;

(b) The proposed qualifying project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved;

(c) The owner has complied with all standards and guidelines adopted by the city in section 4 of this act; and

(d) The site is located in a commercial office space development area that has been designated by the city legislative authority in accordance with the procedures and guidelines indicated in section 4 of this act.

(2) If the application is approved, the city must issue the owner of the property a conditional certificate of acceptance of the project for the sales and use tax remittance and participation in a property tax reinvestment program.

(3) If the application is denied by the authorized administrative official or committee authorized by the city

legislative authority, the deciding administrative official or committee must state in writing the reasons for denial and send the notice to the applicant at the applicant's last known address within ten days of the denial.

(4) Upon denial by a duly authorized administrative official or committee, an applicant may appeal the denial to the city legislative authority within thirty days after receipt of the denial. The appeal before the governing authority must be based upon the record made before the administrative official or committee with the burden of proof on the applicant to show that there was no substantial evidence to support the administrative official's or committee's decision. The decision of the city legislative authority in denying or approving the application is final.

**NEW SECTION. Sec. 7.** (1) Once the city approves an application for a qualifying project to participate in a property tax reinvestment program, the city must deposit into a commercial office development public improvement fund, the equivalent of the city's share of the ad valorem property taxation on the value of new construction and rehabilitation improvements of real property for qualifying projects under this chapter for a period of ten successive years beginning January 1st of the calendar year immediately following the calendar year in which the application is initially approved.

(2) For a period of ten successive years beginning January 1st of the calendar year immediately following the calendar year in which the application is initially approved, taxing districts participating under this section that provide a written agreement under section 5 of this act must transfer to the city an amount equivalent to the portion of the taxing district's ad valorem property tax on the value of new construction and rehabilitation improvements of real property for qualifying projects for the city to deposit into a commercial office development public improvement fund.

**NEW SECTION. Sec. 8.** (1) The city may only make expenditures from the commercial office development public improvement fund that:

(a) Are to construct the public improvement that was identified in the approved application, requesting the property tax reinvestment submitted under section 5 of this act and approved under section 6 of this act;

(b) Transfer funding to the project applicant to construct the public improvement and transfer ownership of the public improvement to a public agency; and

(c) Meet any additional criteria established in an ordinance adopted under section 4 of this act.

(2) The city and the project applicant must enter into a written agreement outlining the specifics of the public improvement, associated public improvement costs, responsible parties, and any other information required by the city.

**NEW SECTION. Sec. 9.** If a qualifying project participating in the property tax reinvestment program under this chapter changes ownership, the property continues to qualify for the reinvestment, if the new owner complies with all of the application requirements, procedures, terms, conditions, and reporting requirements under this chapter, and meets all of the criteria established by the city to which the application was submitted under this chapter.

**NEW SECTION. Sec. 10.** (1) The joint legislative audit and review committee must study the effectiveness of the local sales and use tax remittance and the local property tax reinvestment programs authorized in this chapter, and submit a report as provided in subsection (3) of this section.

(2) The report must include, but is not limited to, an assessment of the local sales and use tax remittance and the property tax reinvestment programs authorized under this chapter and an evaluation of:

(a) The availability of quality office space;

(b) The effects on affordable housing;

(c) The effects on transportation, traffic congestion, and greenhouse gas emissions; and

(d) Job creation.

(3) By October 1, 2028, and in compliance with RCW 43.01.036, the joint legislative audit and review committee must submit to the appropriate committees of the legislature a final report with their findings and recommendations under this section.

(4) This section expires December 31, 2028.

**NEW SECTION. Sec. 11.** A new section is added to chapter 82.14 RCW to read as follows:

(1) Subject to the requirements of chapter 35---RCW (the new chapter created in section 12 of this act) and RCW 81.104.170, a project is eligible for a sales and use tax remittance under the authority of this chapter on:

(a) The sale of or charge made for labor and services rendered in respect to construction or rehabilitation of a qualifying project located in a city; and

(b) The sales or use of tangible personal property that will be incorporated as an ingredient or component of a qualifying project located in a city during the course of the constructing or rehabilitating.

(2)(a) A qualifying project owner claiming a remittance under this section must pay all applicable state and local sales and use taxes imposed or authorized under RCW 82.08.020, 82.12.020, and this chapter on all purchases and uses qualifying for the remittance.

(b) The amount of the remittance is one hundred percent of the local sales and use taxes paid under an ordinance enacted under the authority of this chapter for purchases or uses qualifying under subsection (1) of this section, if the taxing authorities imposing taxes under the

authority of this chapter have authorized the use of the remittance to the city legislative authority as provided under section 6 of this act.

(3) After the qualifying project has been operationally complete for eighteen months, but not more than thirty-six months, and after all local sales and use taxes for purchases and uses qualifying under subsection (1) of this section have been paid, a qualifying project owner who submits an application for a building permit for that qualifying project prior to July 1, 2027, may apply to the department for a remittance of local sales and use taxes.

(4) A qualifying project owner requesting a remittance under this section must obtain certification from the governing authority of a city verifying that the qualifying project has satisfied the criteria in section 6 of this act.

(5) A qualifying project owner must specify the amount of exempted tax claimed and the qualifying purchases or uses for which the exemption is claimed. The qualifying project owner must retain, in adequate detail, records to enable the department to determine whether the qualifying project owner is entitled to an exemption under this section, including invoices, proof of tax paid, and construction contracts.

(6) The department must determine eligibility under this section based on information provided by the qualifying project owner, which is subject to audit verification by the department.

(7)(a) A person otherwise eligible for a remittance under this section that transfers the ownership of the qualifying project before the requirements in subsection (3) of this section are met may assign the right to the remittance under this section to the subsequent owner of the qualifying project.

(b) Persons applying for the remittance as an assignee must provide the department the following documentation in a form and manner as provided by the department:

(i) The agreement that transfers the right to the remittance to the assignee;

(ii) Proof of payment of sales and use tax on the qualifying project; and

(iii) Any other documentation the department requires.

(8) The definitions in section 3 of this act apply to this section.

**Sec. 12.** RCW 81.104.170 and 2015 3rd sp.s. c 44 s 320 are each amended to read as follows:

(1) Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, public transportation benefit areas, high capacity transportation corridor areas, and regional transit authorities may submit an authorizing proposition to the voters and if approved by a majority of persons voting, fix and impose a sales and use tax in accordance with the terms

of this chapter, solely for the purpose of providing high capacity transportation service.

(2) The tax authorized pursuant to this section is in addition to the tax authorized by RCW 82.14.030 and must be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing district.

(a) Except for the tax imposed under (b) of this subsection by regional transit authorities that include a county with a population of more than one million five hundred thousand, the maximum rate of such tax must be approved by the voters and may not exceed one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax). The maximum rate of such tax that may be imposed may not exceed nine-tenths of one percent in any county that imposes a tax under RCW 82.14.340, or within a regional transit authority if any county within the authority imposes a tax under RCW 82.14.340.

(b) The maximum rate of such tax that may be imposed by a regional transit authority that includes a county with a population of more than one million five hundred thousand must be approved by the voters and may not exceed 1.4 percent. If a regional transit authority imposes the tax authorized under this subsection (2)(b) in excess of 0.9 percent, the authority may not receive any state grant funds provided in an omnibus transportation appropriations act except transit coordination grants created in chapter 11, Laws of 2015 3rd sp. sess.

(3)(a) The exemptions in RCW 82.08.820 and 82.12.820 are for the state portion of the sales and use tax and do not extend to the tax authorized in this section.

(b) The exemptions in RCW 82.08.962 and 82.12.962 are for the state and local sales and use taxes and include the tax authorized by this section.

(c) The exemptions in section 11 of this act are for the local sales and use taxes and include the tax authorized by this section.

NEW SECTION. Sec. 13. Sections 1 through 10 of this act constitute a new chapter in Title 35 RCW."

On page 1, line 3 of the title, after "thousand;" strike the remainder of the title and insert "amending RCW 81.104.170; adding a new section to chapter 82.14 RCW; adding a new chapter to Title 35 RCW; and providing an expiration date."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1746 and advanced the bill as amended by the Senate to final passage.

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

Representatives Pollet and Kraft spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1746, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute House Bill No. 1746, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 93; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatte, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representative Chandler.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SUBSTITUTE HOUSE BILL NO. 1746, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

April 12, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1772 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.04.336 and 2009 c 275 s 3 are each amended to read as follows:

"Motorized foot scooter" means a device with ~~((no more than))~~ two ~~((ten inch or smaller diameter))~~ or three wheels that has handlebars, ~~((is designed to))~~ a floorboard that can be stood upon ~~((by the operator))~~ while riding, and is powered by an internal combustion engine or electric motor that ~~((is capable of propelling the device with or without human propulsion at a speed no more))~~ has a

maximum speed of no greater than twenty miles per hour on level ground.

For purposes of this section, a motor-driven cycle, a moped, an electric-assisted bicycle, or a motorcycle is not a motorized foot scooter.

**Sec. 2.** RCW 46.04.670 and 2011 c 171 s 19 are each amended to read as follows:

"Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including bicycles. "Vehicle" does not include power wheelchairs or devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks. mopeds are not considered vehicles or motor vehicles for the purposes of chapter 46.70 RCW. Bicycles and motorized foot scooters are not considered vehicles for the purposes of chapter 46.12, 46.16A, or 46.70 RCW or RCW 82.12.045. Electric personal assistive mobility devices and motorized foot scooters are not considered vehicles or motor vehicles for the purposes of chapter 46.12, 46.16A, 46.29, 46.37, or 46.70 RCW. A golf cart is not considered a vehicle, except for the purposes of chapter 46.61 RCW.

**Sec. 3.** RCW 46.61.710 and 2018 c 60 s 5 are each amended to read as follows:

(1) No person shall operate a moped upon the highways of this state unless the moped has been assigned a moped registration number and displays a moped permit in accordance with RCW 46.16A.405(2).

(2) Notwithstanding any other provision of law, a moped may not be operated on a bicycle path or trail, bikeway, equestrian trail, or hiking or recreational trail.

(3) Operation of a moped, electric personal assistive mobility device, or motorized foot scooter on a fully controlled limited access highway is unlawful. Operation of a moped on a sidewalk is unlawful. Operation of a motorized foot scooter or class 3 electric-assisted bicycle on a sidewalk is unlawful, unless there is no alternative for a motorized foot scooter or a class 3 electric-assisted bicycle to travel over a sidewalk as part of a bicycle or pedestrian path, or if authorized by local ordinance, as provided in section 5 of this act.

(4) Removal of any muffling device or pollution control device from a moped is unlawful.

(5) Subsections (1), (2), and (4) of this section do not apply to electric-assisted bicycles.

(6) Electric-assisted bicycles and motorized foot scooters may have access to highways of the state and may be parked to the same extent as bicycles, subject to RCW 46.61.160.

(7) Subject to subsection (10) of this section, class 1 and class 2 electric-assisted bicycles and motorized foot scooters may be operated on a shared-use path or any part of

a highway designated for the use of bicycles, but local jurisdictions or state agencies may restrict or otherwise limit the access of electric-assisted bicycles and motorized foot scooters, and local jurisdictions or state agencies may regulate the use of class 1 and class 2 electric-assisted bicycles and motorized foot scooters on facilities ~~((and))~~, properties, and rights-of-way under their jurisdiction and control. Local regulation of the operation of class 1 or class 2 electric-assisted bicycles, upon a shared use path designated for the use of bicycles that crosses jurisdictional boundaries of two or more local jurisdictions, must be consistent for the entire shared use path in order for the local regulation to be enforceable; however, this does not apply to local regulations of a shared use path in effect as of January 1, 2018.

(8) Class 3 electric-assisted bicycles may be operated on facilities that are within or adjacent to a highway. Class 3 electric-assisted bicycles may not be operated on a shared-use path, except where local jurisdictions may allow the use of class 3 electric-assisted bicycles. State agencies or local jurisdictions may regulate the use of class 3 electric-assisted bicycles on facilities and properties under their jurisdiction and control. Local regulation of the operation of class 3 electric-assisted bicycles, upon a shared use path designated for the use of bicycles that crosses jurisdictional boundaries of two or more local jurisdictions, must be consistent for the entire shared use path in order for the local regulation to be enforceable; however, this does not apply to local regulations of a shared use path in effect as of January 1, 2018.

(9) Except as otherwise provided in this section, an individual shall not operate an electric-assisted bicycle or motorized foot scooter on a trail that is specifically designated as nonmotorized and that has a natural surface tread that is made by clearing and grading the native soil with no added surfacing materials. A local authority or agency of this state having jurisdiction over a trail described in this subsection may allow the operation of an electric-assisted bicycle or motorized foot scooter on that trail.

(10) Subsections (1) and (4) of this section do not apply to motorized foot scooters. Subsection (2) of this section applies to motorized foot scooters when the bicycle path, trail, bikeway, equestrian trail, or hiking or recreational trail was built or is maintained with federal highway transportation funds. Additionally, any new trail or bicycle path or readily identifiable existing trail or bicycle path not built or maintained with federal highway transportation funds may be used by persons operating motorized foot scooters only when ~~((appropriately))~~ signed to allow motorized foot scooter use.

(11) A person operating an electric personal assistive mobility device (EPAMD) shall obey all speed limits and shall yield the right-of-way to pedestrians and human-powered devices at all times. An operator must also give an audible signal before overtaking and passing a pedestrian. Except for the limitations of this subsection, persons operating an EPAMD have all the rights and duties of a pedestrian.

(12) The use of an EPAMD may be regulated in the following circumstances:

(a) A municipality and the department of transportation may prohibit the operation of an EPAMD on public highways within their respective jurisdictions where the speed limit is greater than twenty-five miles per hour;

(b) A municipality may restrict the speed of an EPAMD in locations with congested pedestrian or nonmotorized traffic and where there is significant speed differential between pedestrians or nonmotorized traffic and EPAMD operators. The areas in this subsection must be designated by the city engineer or designee of the municipality. Municipalities shall not restrict the speed of an EPAMD in the entire community or in areas in which there is infrequent pedestrian traffic;

(c) A state agency or local government may regulate the operation of an EPAMD within the boundaries of any area used for recreation, open space, habitat, trails, or conservation purposes.

**Sec. 4.** RCW 46.20.500 and 2018 c 60 s 4 are each amended to read as follows:

(1) No person may drive either a two-wheeled or a three-wheeled motorcycle, or a motor-driven cycle unless such person has a valid driver's license specially endorsed by the director to enable the holder to drive such vehicles.

(2) However, a person sixteen years of age or older, holding a valid driver's license of any class issued by the state of the person's residence, may operate a moped without taking any special examination for the operation of a moped.

(3) No driver's license is required for operation of an electric-assisted bicycle. Persons under sixteen years of age may not operate a class 3 electric-assisted bicycle.

(4) No driver's license is required to operate an electric personal assistive mobility device or a power wheelchair.

(5) No driver's license is required to operate a motorized foot scooter. Motorized foot scooters may not be operated at any time from a half hour after sunset to a half hour before sunrise without reflectors of a type approved by the state patrol. Persons under sixteen years of age may not operate a motorized foot scooter unless provided otherwise by a local jurisdiction. A motorized foot scooter may be operated at a speed of up to fifteen miles per hour on a roadway or bicycle lane, and may be operated on a sidewalk or on pedestrian or bicycle trails if authorized by a local jurisdiction, which shall specify the maximum speed of such sidewalk operation.

(6) A person holding a valid driver's license may operate a motorcycle as defined under RCW 46.04.330(2) without a motorcycle endorsement.

(7) A person operating a motorcycle with a stabilizing conversion kit must have a valid driver's license specially endorsed by the director for a three-wheeled

motorcycle to enable the holder to operate such a motorcycle.

**NEW SECTION. Sec. 5.** A new section is added to chapter 46.61 RCW to read as follows:

(1) A local authority may regulate the operation of motorized foot scooters and shared scooters within its jurisdiction which may include, but is not limited to, the following:

(a) Determining if shared scooters may be operated within the local authority's jurisdiction, and if allowed, where they may be operated;

(b) Requiring scooter share programs to pay reasonable fees and taxes;

(c) Requiring that shared scooters be staged in a manner compliant with the Americans with disabilities act, to ensure clear passage of pedestrian traffic on sidewalks; and

(d) Adopting and assessing penalties for moving or parking violations involving shared scooters to the person responsible for such violation.

(2) A contract offered by a scooter share program to a prospective scooter share contractor must make the following written disclosures to a prospective scooter share contractor:

WHILE YOU ARE LOCATING AND RETURNING SCOOTERS, PROVIDING TRANSPORT, BATTERY CHARGE, OR REPAIR SERVICES, YOU MAY BE ENGAGED IN COMMERCIAL ACTIVITY. YOUR PRIVATE PASSENGER AUTOMOBILE, HOMEOWNERS, CONDOMINIUM, OR RENTERS INSURANCE POLICIES MIGHT NOT PROVIDE COVERAGE FOR YOU, DEPENDING ON THE TERMS OF YOUR POLICY.

(3) For the purposes of this section:

(a) "Scooter share program" means a person offering shared scooters for hire. All scooter share programs must carry the following insurance coverage:

(i) Commercial general liability insurance coverage with a limit of at least one million dollars for each occurrence and five million dollars aggregate;

(ii) Automobile liability insurance coverage with a combined single limit of at least one million dollars; and

(iii) If a local authority authorizes operation of a motorized foot scooter by persons under sixteen years of age, the local authority may require all scooter share programs offering shared scooters for hire to such persons under sixteen years of age to carry insurance coverage at greater amounts negotiated between the programs and the local authority.

(b) "Scooter share contractor" means a person other than an employee of a scooter share program retained under an independent contract to provide scooter location or

transport and/or scooter battery charging or repair services to a scooter share program.

(c) "Shared scooter" means any motorized foot scooter offered for hire. All shared scooters must bear a single unique alphanumeric identification visible from a distance of five feet, which shall not be obfuscated by branding or other markings, which shall be used throughout the state, including by local authorities, to identify the shared scooter."

On page 1, line 1 of the title, after "scooters;" strike the remainder of the title and insert "amending RCW 46.04.336, 46.04.670, 46.61.710, and 46.20.500; and adding a new section to chapter 46.61 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1772 and advanced the bill as amended by the Senate to final passage.

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

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

Representative Walsh spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1772, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1772, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 80; Nays, 14; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Davis, DeBolt, Doglio, Dolan, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Hansen, Harris, Hoff, Hudgins, Irwin, Jinkins, Kilduff, Kloba, Kretz, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Morris, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Walen, Wilcox, Wylie, Ybarra and Young.

Voting nay: Representatives Corry, Dent, Dufault, Griffey, Jenkin, Klippert, Kraft, MacEwen, McCaslin, Mosbrucker, Shea, Sutherland, Volz and Walsh.

Excused: Representatives Appleton, Graham, Kirby and Steele.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1772, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 16, 2019

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1784 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 76.06.200 and 2017 c 95 s 1 are each amended to read as follows:

(1) The department must establish a forest health assessment and treatment framework designed to proactively and systematically address the forest health issues facing the state. Specifically, the framework must endeavor to achieve an initial goal of assessing and treating one million acres of land by 2033.

(2) The department must utilize the framework to assess and treat acreage in an incremental fashion each biennium. The framework consists of three elements: Assessment; treatment; and progress review and reporting.

(a) Assessment. Each biennium, the department must identify and assess two hundred thousand acres of fire prone lands and communities that are in need of forest health treatment, including the use of prescribed fire or mechanical treatment, such as thinning.

(i) The scope of the assessment must include lands protected by the department as well as lands outside of the department's fire protection responsibilities that could pose a high risk to department protected lands during a fire.

(ii) The assessment must identify areas in need of treatment, the type or types of treatment recommended, data and planning needs to carry out recommended treatment, and the estimated cost of recommended treatment.

(b) Treatment. Each biennium, the department must review previously completed assessments and prioritize and conduct as many identified treatments as possible using appropriations provided for that specific purpose.

(c) Progress review and reporting. By December 1st of each even-numbered year, the department must provide the appropriate committees of the legislature and the office of financial management with:

(i) A request for appropriations designed to implement the framework in the following biennium,

including assessment work and conducting treatments identified in previously completed assessments;

(ii) A prioritized list and brief summary of treatments planned to be conducted under the framework with the requested appropriations, including relevant information from the assessment; and

(iii) A list and brief summary of treatments carried out under the framework in the preceding biennium, including total funding available, costs for completed treatment, and treatment outcomes. The summary must include any barriers to framework implementation and legislative or administrative recommendations to address those barriers.

(3) In developing and implementing the framework, the department must:

(a) Utilize and build on the forest health strategic planning initiated under section 308(11), chapter 36, Laws of 2016 sp. sess., to the maximum extent practicable, to promote the efficient use of resources; ~~(and)~~

(b) Prioritize, to the maximum extent practicable consistent with this section, forest health treatments that are strategically planned to serve the dual benefits of forest health maximization while providing geographically planned tools for wildfire response; and

(c) Establish a forest health advisory committee to assist in developing and implementing the framework. The committee may: (i) Include representation from large and small forest landowners, wildland fire response organizations, milling and log transportation industries, forest collaboratives that may exist in the affected areas, highly affected communities and community preparedness organizations, conservation groups, and other interested parties deemed appropriate by the commissioner; and (ii) consult with relevant local, state, and federal agencies, and tribes.

(4) In implementing subsection (3)(b) of this section, the department shall attempt to locate and design forest health treatments in such a way as to provide wildfire response personnel with strategically located treated areas to assist with managing fire response. These areas must attempt to maximize the firefighting benefits of natural and artificial geographic features and be located in areas that prioritize the protection of commercially managed lands from fires originating on public land.

(5) The department must establish and implement the forest health assessment and treatment framework within the appropriations specifically provided for this purpose.

**Sec. 2.** RCW 76.04.015 and 2016 c 109 s 1 are each amended to read as follows:

(1) The department may, at its discretion, appoint trained personnel possessing the necessary qualifications to carry out the duties and supporting functions of the department and may determine their respective salaries.

(2) The department shall have direct charge of and supervision of all matters pertaining to the forest fire service of the state.

(3) The department shall:

(a) Enforce all laws within this chapter;

(b) Be empowered to take charge of and, consistent with RCW 76.04.021, direct the work of suppressing forest fires;

(c)(i) Investigate the origin and cause of all forest fires to determine whether either a criminal act or negligence by any person, firm, or corporation caused the starting, spreading, or existence of the fire. In conducting investigations, the department shall work cooperatively, to the extent possible, with utilities, property owners, and other interested parties to identify and preserve evidence. Except as provided otherwise in this subsection, the department in conducting investigations is authorized, without court order, to take possession or control of relevant evidence found in plain view and belonging to any person, firm, or corporation. To the extent possible, the department shall notify the person, firm, or corporation of its intent to take possession or control of the evidence. The person, firm, or corporation shall be afforded reasonable opportunity to view the evidence and, before the department takes possession or control of the evidence, also shall be afforded reasonable opportunity to examine, document, and photograph it. If the person, firm, or corporation objects in writing to the department's taking possession or control of the evidence, the department must either return the evidence within seven days after the day on which the department is provided with the written objections or obtain a court order authorizing the continued possession or control.

(ii) Absent a court order authorizing otherwise, the department may not take possession or control of evidence over the objection of the owner of the evidence if the evidence is used by the owner in conducting a business or in providing an electric utility service and the department's taking possession or control of the evidence would substantially and materially interfere with the operation of the business or provision of electric utility service.

(iii) Absent a court order authorizing otherwise, the department may not take possession or control of evidence over the objection of an electric utility when the evidence is not owned by the utility but has caused damage to property owned by the utility. However, this subsection (3)(c)(iii) does not apply if the department has notified the utility of its intent to take possession or control of the evidence and provided the utility with reasonable time to examine, document, and photograph the evidence.

(iv) Only personnel qualified to work on electrical equipment may take possession or control of evidence owned or controlled by an electric utility;

(d) Furnish notices or information to the public calling attention to forest fire dangers and the penalties for violation of this chapter;

(e) Be familiar with all timbered and cut-over areas of the state, areas where forest health treatments were

undertaken on state, federal, or private land, public general transportation roads and public and private logging roads, water bodies, and other features on the landscape relevant in planning a fire response and include those features on a geographic information system for use by fire response personnel to assist in response decision making;

(f) Maximize the effective utilization of local fire suppression assets consistent with RCW 76.04.181; and

(g) Regulate and control the official actions of its employees, the wardens, and the rangers.

(4) The department may:

(a) Authorize all needful and proper expenditures for forest protection;

(b) Adopt rules consistent with this section for the prevention, control, and suppression of forest fires as it considers necessary including but not limited to: Fire equipment and materials; use of personnel; and fire prevention standards and operating conditions including a provision for reducing these conditions where justified by local factors such as location and weather;

(c) Remove at will the commission of any ranger or suspend the authority of any warden;

(d) Inquire into:

(i) The extent, kind, value, and condition of all timberlands within the state;

(ii) The extent to which timberlands are being destroyed by fire and the damage thereon;

(e) Provide fire detection, prevention, presuppression, or suppression services on nonforested public lands managed by the department or another state agency, but only to the extent that providing these services does not interfere with or detract from the obligations set forth in subsection (3) of this section. If the department provides fire detection, prevention, presuppression, or suppression services on nonforested public lands managed by another state agency, the department must be fully reimbursed for the work through a cooperative agreement as provided for in RCW 76.04.135(1).

(5) Any rules adopted under this section for the suppression of forest fires must include a mechanism by which a local fire mobilization radio frequency, consistent with RCW 43.43.963, is identified and made available during the initial response to any forest fire that crosses jurisdictional lines so that all responders have access to communications during the response. Different initial response frequencies may be identified and used as appropriate in different geographic response areas. If the fire radio communication needs escalate beyond the capability of the identified local radio frequency, the use of other available designated interoperability radio frequencies may be used.

(6) When the department considers it to be in the best interest of the state, it may cooperate with any agency of another state, the United States or any agency thereof, the Dominion of Canada or any agency or province thereof, and

any county, town, corporation, individual, or Indian tribe within the state of Washington in forest firefighting and patrol.

**Sec. 3.** RCW 70.94.6514 and 2009 c 118 s 103 are each amended to read as follows:

(1) Consistent with the policy of the state to reduce outdoor burning to the greatest extent practical, outdoor burning shall not be allowed in:

(a) Any area of the state where federal or state ambient air quality standards are exceeded for pollutants emitted by outdoor burning; or

(b) Any urban growth area as defined by RCW 36.70A.030, or any city of the state having a population greater than ten thousand people if such cities are threatened to exceed state or federal air quality standards, and alternative disposal practices consistent with good solid waste management are reasonably available or practices eliminating production of organic refuse are reasonably available.

(2) Notwithstanding any other provision of this section, outdoor burning may be allowed for the exclusive purpose of managing storm or flood-related debris. The decision to allow burning shall be made by the entity with permitting jurisdiction as determined under RCW 70.94.6534 or 70.94.6518. If outdoor burning is allowed in areas subject to subsection (1)(a) or (b) of this section, a permit shall be required, and a fee may be collected to cover the expenses of administering and enforcing the permit. All conditions and restrictions pursuant to RCW 70.94.6526(1) and 70.94.6512 apply to outdoor burning allowed under this section.

(3)(a) Outdoor burning that is normal, necessary, and customary to ongoing agricultural activities, that is consistent with agricultural burning authorized under RCW 70.94.6528 and 70.94.6532, is allowed within the urban growth area in accordance with RCW 70.94.6528(8)(a).

(b) Outdoor burning of cultivated orchard trees shall be allowed as an ongoing agricultural activity under this section in accordance with RCW 70.94.6528(8)(b).

(4) This section shall not apply to silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

(5) Notwithstanding any other provisions of this section, outdoor burning that reduces the risk of a wildfire, or is normal, necessary, and customary to ongoing silvicultural activities consistent with silvicultural burning authorized under RCW 70.94.6534(1), is allowed within the urban growth area in accordance with RCW 70.94.6534. Before issuing a burn permit within the urban growth area for any burn that exceeds one hundred tons of material, the department of natural resources shall consult with department of ecology and condition the issuance and use of such permits to comply with air quality standards established by the department of ecology.

**Sec. 4.** RCW 70.94.6524 and 2009 c 118 s 301 are each amended to read as follows:

(1) It shall be the responsibility and duty of the department of natural resources, department of ecology, department of agriculture, county fire marshals in consultation with fire districts, and local air pollution control authorities to establish, through regulations, ordinances, or policy, a limited burning permit program.

(2) The permit program shall apply to residential and land clearing burning in the following areas:

(a) In the nonurban areas of any county with an unincorporated population of greater than fifty thousand; and

(b) In any city and urban growth area that is not otherwise prohibited from burning pursuant to RCW 70.94.6514.

(3) The permit program shall apply only to land clearing burning in the nonurban areas of any county with an unincorporated population of less than fifty thousand.

(4) The permit program may be limited to a general permit by rule, or by verbal, written, or electronic approval by the permitting entity.

(5) Notwithstanding any other provision of this section, neither a permit nor the payment of a fee shall be required for outdoor burning for the purpose of disposal of tumbleweeds blown by wind. Such burning shall not be conducted during an air pollution episode or any stage of impaired air quality declared under RCW 70.94.715. This subsection (5) shall only apply within counties with a population less than two hundred fifty thousand.

(6) Burning shall be prohibited in an area when an alternate technology or method of disposing of the organic refuse is available, reasonably economical, and less harmful to the environment. It is the policy of this state to foster and encourage development of alternate methods or technology for disposing of or reducing the amount of organic refuse.

(7) Incidental agricultural burning must be allowed without applying for any permit and without the payment of any fee if:

(a) The burning is incidental to commercial agricultural activities;

(b) The operator notifies the local fire department within the area where the burning is to be conducted;

(c) The burning does not occur during an air pollution episode or any stage of impaired air quality declared under RCW 70.94.715; and

(d) Only the following items are burned:

(i) Orchard prunings;

(ii) Organic debris along fence lines or irrigation or drainage ditches; or

(iii) Organic debris blown by wind.

(8) As used in this section, "nonurban areas" are unincorporated areas within a county that are not designated as urban growth areas under chapter 36.70A RCW.

(9) Nothing in this section shall require fire districts to enforce air quality requirements related to outdoor burning, unless the fire district enters into an agreement with the department of ecology, department of natural resources, a local air pollution control authority, or other appropriate entity to provide such enforcement.

**Sec. 5.** RCW 70.94.6534 and 2010 1st sp.s. c 7 s 128 are each amended to read as follows:

(1) The department of natural resources (~~shall have the responsibility~~) is responsible for issuing and regulating burning permits required by it relating to the following activities for the protection of life or property (~~and/or~~) and for the public health, safety, and welfare:

(a) Abating or prevention of a forest fire hazard;

(b) (~~Prevention of a fire hazard~~) Reducing the risk of a wildfire under RCW 70.94.6514(5);

(c) Instruction of public officials in methods of forest firefighting;

(d) Any silvicultural operation to improve the forestlands of the state, including but not limited to forest health and resiliency, decreasing forest insect or disease susceptibility, maintaining or restoring native vegetation, or otherwise enhancing resiliency to fire; and

(e) Silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

(2) The department of natural resources shall not retain such authority, but it shall be the responsibility of the appropriate fire protection agency for permitting and regulating outdoor burning on lands where the department of natural resources does not have fire protection responsibility, except for the issuance of permits for reducing the risk of wildfire under RCW 70.94.6514(5). The department of natural resources may enter into cooperative agreements with local fire protection agencies to issue permits for reducing wildfire risk under RCW 70.94.6514(5).

(3) Permit fees shall be assessed for wildfire risk reduction and for silvicultural burning under the jurisdiction of the department of natural resources and collected by the department of natural resources as provided for in this section. All fees shall be deposited in the air pollution control account, created in RCW 70.94.015. The legislature shall appropriate to the department of natural resources funds from the air pollution control account to enforce and administer the program under this section and RCW 70.94.6536, 70.94.6538, and 70.94.6540. Fees shall be set by rule by the department of natural resources at the level necessary to cover the costs of the program after receiving recommendations on such fees from the public.

**Sec. 6.** RCW 70.94.6536 and 1995 c 143 s 1 are each amended to read as follows:

(1)(a) The department of natural resources shall administer a program to reduce statewide emissions from silvicultural forest burning so as to achieve the following minimum objectives:

~~((a))~~ (i) Twenty percent reduction by December 31, 1994, providing a ceiling for emissions until December 31, 2000; and

~~((b))~~ (ii) Fifty percent reduction by December 31, 2000, providing a ceiling for emissions thereafter.

(b) Reductions shall be calculated from the average annual emissions level from calendar years 1985 to 1989, using the same methodology for both reduction and base year calculations.

(2)(a) The department of natural resources, within twelve months after May 15, 1991, shall develop a plan, based upon the existing smoke management agreement to carry out the programs as described in this section in the most efficient, cost-effective manner possible. The plan shall be developed in consultation with the department of ecology, public and private landowners engaged in silvicultural forest burning, and representatives of the public.

(b) The plan shall recognize the variations in silvicultural forest burning including, but not limited to, a landowner's responsibility to abate an extreme fire hazard under chapter 76.04 RCW and other objectives of burning, including abating and preventing a fire hazard, geographic region, climate, elevation and slope, proximity to populated areas, ~~(and)~~ diversity of land ownership, improving forest health and resiliency, decreasing forest insect or disease susceptibility, maintaining or restoring native vegetation, or otherwise enhancing resiliency to fire. The plan shall establish priorities that the department of natural resources shall use to allocate allowable emissions, including but not limited to, forest health and resiliency, silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas. The plan shall also recognize the real costs of the emissions program and recommend equitable fees to cover the costs of the program.

(c) The emission reductions in this section are to apply to all forestlands including those owned and managed by the United States. If the United States does not participate in implementing the plan, the departments of natural resources and ecology shall use all appropriate and available methods or enforcement powers to ensure participation.

(d) The plan shall include a tracking system designed to measure the degree of progress toward the emission reductions goals set in this section. The department of natural resources shall report annually to the department of ecology and the legislature on the status of the plan, emission reductions and progress toward meeting the objectives specified in this section, and the goals of this chapter and chapter 76.04 RCW.

(3) If the December 31, 1994, emission reductions targets in this section are not met, the department of natural resources, in consultation with the department of ecology, shall use its authority granted in this chapter and chapter 76.04 RCW to immediately limit emissions from such burning to the 1994 target levels and limit silvicultural forest burning in subsequent years to achieve equal annual incremental reductions so as to achieve the December 31, 2000, target level. If, as a result of the program established in this section, the emission reductions are met in 1994, but are not met by December 31, 2000, the department of natural resources in consultation with the department of ecology shall immediately limit silvicultural forest burning to reduce emissions from such burning to the December 31, 2000, target level in all subsequent years.

(4) Emissions from silvicultural burning in eastern Washington that is conducted for the purpose of restoring forest health or preventing the additional deterioration of forest health are exempt from the reduction targets and calculations in this section if the following conditions are met:

(a) The landowner submits a written request to the department identifying the location of the proposed burning and the nature of the forest health problem to be corrected. The request shall include a brief description of alternatives to silvicultural burning and reasons why the landowner believes the alternatives not to be appropriate.

(b) The department determines that the proposed silvicultural burning operation is being conducted to restore forest health or prevent additional deterioration to forest health; meets the requirements of the state smoke management plan to protect public health, visibility, and the environment; and will not be conducted during an air pollution episode or during periods of impaired air quality in the vicinity of the proposed burn.

(c) Upon approval of the request by the department and before burning, the landowner is encouraged to notify the public in the vicinity of the burn of the general location and approximate time of ignition.

(5) The department of ecology may conduct a limited, seasonal ambient air quality monitoring program to measure the effects of forest health burning conducted under subsection (4) of this section. The monitoring program may be developed in consultation with the department of natural resources, private and public forest landowners, academic experts in forest health issues, and the general public.

**Sec. 7.** RCW 70.94.6538 and 2009 c 118 s 502 are each amended to read as follows:

The department of natural resources, in granting burning permits for fires for the purposes set forth in RCW 70.94.6534, shall condition the issuance and use of such permits to comply to the extent feasible with air quality standards established by the department of ecology (~~after full consultation with the department of natural resources~~). Such burning shall not cause the state air quality standards to be exceeded in the ambient air up to two thousand feet above ground level over critical areas designated by the

department of ecology, otherwise subject to air pollution from other sources. Air quality standards shall be established and published by the department of ecology which shall also establish a procedure for advising the department of natural resources when and where air contaminant levels exceed or threaten to exceed the ambient air standards over such critical areas. The air quality shall be quantitatively measured by the department of ecology or the appropriate local air pollution control authority at established monitoring stations over such designated areas. Further, such permitted burning shall not cause damage to public health or the environment. All permits issued under this section shall be subject to all applicable fees, permitting, penalty, and enforcement provisions of this chapter. The department of natural resources shall set forth smoke dispersal objectives designed consistent with this section to minimize any air pollution from such burning and the procedures necessary to meet those objectives.

The department of natural resources shall encourage more intense utilization in logging and alternative silviculture practices to reduce the need for burning. The department of natural resources shall, whenever practical, encourage landowners to develop and use alternative acceptable disposal methods subject to the following priorities: (1) Slash production minimization, (2) slash utilization, (3) nonburning disposal, (4) silvicultural burning. Such alternative methods shall be evaluated as to the relative impact on air, water, and land pollution, public health, and their financial feasibility.

The department of natural resources shall not issue burning permits and shall revoke previously issued permits at any time in any area where the department of ecology or local board has declared a stage of impaired air quality as defined in RCW 70.94.473.

**NEW SECTION. Sec. 8.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, line 1 of the title, after "prevention;" strike the remainder of the title and insert "amending RCW 76.06.200, 76.04.015, 70.94.6514, 70.94.6524, 70.94.6534, 70.94.6536, and 70.94.6538; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

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

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1784 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1784, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1784, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SECOND SUBSTITUTE HOUSE BILL NO. 1784, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 11, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTION HOUSE BILL NO. 1798 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Contact" means the operator or the operator's representative who is the point of contact for any short-term rental guest for the duration of the guest's stay in the short-term rental.

(2) "Department" means the department of revenue.

(3) "Dwelling unit" means a residential dwelling of any type, including a single-family residence, apartment, condominium, cooperative unit, or room, in which a person may obtain living accommodations for less than thirty days,

but not including duly licensed bed and breakfast, inn, hotel, motel, or timeshare property.

(4) "Fee" means remuneration or anything of economic value that is provided, promised, or donated primarily in exchange for services rendered.

(5) "Guest" means any person or persons renting a short-term rental unit.

(6) "Operator" or "short-term rental operator" means any person who receives payment for owning or operating a dwelling unit, or portion thereof, as a short-term rental unit.

(7) "Owner" means any person who, alone or with others, has title or interest in any building, property, dwelling unit, or portion thereof, with or without accompanying actual possession thereof, and including any person who as agent, executor, administrator, trustee, or guardian of an estate has charge, care, or control of any building, dwelling unit, or portion thereof. A person whose sole interest in any building, dwelling unit, or portion thereof is solely that of a lessee under a lease agreement is not considered an owner.

(8) "Person" has the same meaning as provided in RCW 82.04.030.

(9)(a) "Short-term rental" means a lodging use, that is not a hotel or motel or bed and breakfast, in which a dwelling unit, or portion thereof, that is offered or provided to a guest by a short-term rental operator for a fee for fewer than thirty consecutive nights.

(b) "Short-term rental" does not include any of the following:

(i) A dwelling unit that is occupied by the owner for at least six months during the calendar year and in which fewer than three rooms are rented at any time;

(ii) A dwelling unit, or portion thereof, that is used by the same person for thirty or more consecutive nights; or

(iii) A dwelling unit, or portion thereof, that is operated by an organization or government entity that is registered as a charitable organization with the secretary of state, state of Washington, or is classified by the federal internal revenue service as a public charity or a private foundation, and provides temporary housing to individuals who are being treated for trauma, injury, or disease, or their family members.

(10) "Short-term rental advertisement" means any method of soliciting use of a dwelling unit for short-term rental purposes.

(11) "Short-term rental platform" or "platform" means a person that provides a means through which an operator may offer a dwelling unit, or portion thereof, for short-term rental use, and from which the person or entity financially benefits. Merely publishing a short-term rental advertisement for accommodations does not make the publisher a short-term rental platform.

**NEW SECTION. Sec. 2. TAXES.** Short-term rental operators must remit all applicable local, state, and

federal taxes unless the platform does this on the operator's behalf. This includes occupancy, sales, lodging, and other taxes, fees, and assessments to which an owner or operator of a hotel or bed and breakfast is subject in the jurisdiction in which the short-term rental is located. If the short-term rental platform collects and remits an occupancy, sales, lodging, and other tax, fee, or assessment to which a short-term rental operator is subject on behalf of such operator, the platform must collect and remit such tax to the appropriate authorities.

**NEW SECTION. Sec. 3. CONSUMER SAFETY.**

(1) All short-term rental operators who offer dwelling units, or portions thereof, for short-term rental use in the state of Washington must:

(a) Provide contact information to all short-term rental guests during a guest's stay. The contact must be available to respond to inquiries at the short-term rental during the length of stay;

(b) Provide that their short-term rental is in compliance with RCW 19.27.530 and any rules adopted by the state building code council regarding the installation of carbon monoxide alarms; and

(c) Post the following information in a conspicuous place within each dwelling unit used as a short-term rental:

(i) The short-term rental street address;

(ii) The emergency contact information for summoning police, fire, or emergency medical services;

(iii) The floor plan indicating fire exits and escape routes;

(iv) The maximum occupancy limits; and

(v) The contact information for the operator or designated contact.

(2) Short-term rental platforms must provide short-term rental operators with a summary of the consumer safety requirements in subsection (1) of this section.

(3) For a first violation of this section, the city or county attorney must issue a warning letter to the owner or operator. An owner that violates this section after receiving a warning letter is guilty of a class 2 civil infraction under chapter 7.80 RCW.

**NEW SECTION. Sec. 4. SHORT-TERM RENTAL PLATFORMS.** (1) No short-term rental platform may engage in the business in the state of Washington unless the short-term rental platform is in compliance with the requirements of this chapter.

(2) A short-term rental platform must register with the department.

(3) Short-term rental platforms must inform all operators who use the platform of the operator's responsibilities to collect and remit all applicable local, state,

and federal taxes unless the platform does this on the operator's behalf.

(4) Short-term rental platforms must inform all operators who use the platform of short-term rental safety requirements required in this chapter.

(5) Short-term rental platforms must provide all operators who use the platform with written notice, delivered by mail or electronically, that the operator's personal insurance policy that covers their dwelling unit might not provide liability protection, defense costs, or first party coverage when their property is used for short-term rental stays.

**NEW SECTION. Sec. 5. LIABILITY INSURANCE.** A short-term rental operator must maintain primary liability insurance to cover the short-term rental dwelling unit in the aggregate of not less than one million dollars or conduct each short-term rental transaction through a platform that provides equal or greater primary liability insurance coverage. Nothing in this section prevents an operator or a platform from seeking contributions from any other insurer also providing primary liability insurance coverage for the short-term rental transaction to the extent of that insurer's primary liability coverage limits.

**NEW SECTION. Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 64 RCW."

On page 1, line 1 of the title, after "rentals;" strike the remainder of the title and insert "adding a new chapter to Title 64 RCW; and prescribing penalties."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1798 and advanced the bill as amended by the Senate to final passage.

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

Representatives Ryu and Vick spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1798, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute House Bill No. 1798, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 70; Nays, 24; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Callan, Chandler, Chapman, Chopp, Cody, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Kloba, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Slatter, Springer, Stanford, Stokesbary, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Wilcox, Wylie and Ybarra.

Voting nay: Representatives Boehnke, Caldier, Chambers, Corry, Dye, Eslick, Gildon, Goehner, Griffey, Harris, Klippert, Kraft, Kretz, Leavitt, MacEwen, McCaslin, Morris, Orcutt, Rude, Shea, Smith, Sutherland, Walsh and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SUBSTITUTE HOUSE BILL NO. 1798, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 10, 2019

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1803 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.150.222 and 2018 c 177 s 503 are each amended to read as follows:

(1) In addition to waivers authorized under RCW 28A.300.750, the superintendent of public instruction, in accordance with the criteria in subsection (2) of this section and criteria adopted by the state board of education under subsection (3) of this section, may grant waivers of the requirement for a one hundred eighty-day school year under RCW 28A.150.220 to school districts that propose to operate one or more schools on a flexible calendar for purposes of economy and efficiency as provided in this section. The requirement under RCW 28A.150.220 that school districts offer minimum instructional hours may not be waived.

(2) A school district seeking a waiver under this section must submit an application to the superintendent of public instruction that includes:

(a) A proposed calendar for the school day and school year that demonstrates how the instructional hour requirement will be maintained;

(b) An explanation and estimate of the economies and efficiencies to be gained from compressing the instructional hours into fewer than one hundred eighty days;

(c) An explanation of how monetary savings from the proposal will be redirected to support student learning;

(d) A summary of comments received at one or more public hearings on the proposal and how concerns will be addressed;

(e) An explanation of the impact on students who rely upon free and reduced-price school child nutrition services and the impact on the ability of the child nutrition program to operate an economically independent program;

(f) An explanation of the impact on employees in education support positions and the ability to recruit and retain employees in education support positions;

(g) An explanation of the impact on students whose parents work during the missed school day; and

(h) Other information that the superintendent of public instruction may request to assure that the proposed flexible calendar will not adversely affect student learning.

(3) The state board of education shall adopt rules establishing the criteria to evaluate waiver requests under this section. A waiver may be effective for up to three years and may be renewed for subsequent periods of three or fewer years. After each school year in which a waiver has been granted under this section, the superintendent of public instruction must analyze empirical evidence to determine whether the reduction is affecting student learning. If the superintendent of public instruction determines that student learning is adversely affected, the school district must discontinue the flexible calendar as soon as possible but not later than the beginning of the next school year after the superintendent of public instruction's determination.

(4) The superintendent of public instruction may grant waivers authorized under this section to ~~((five))~~ ten or fewer school districts with student populations of less than five hundred students. Of the ~~((five))~~ ten waivers that may be granted, two must be reserved for districts with student populations of less than one hundred fifty students.

NEW SECTION. **Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 3 of the title, after "year;" strike the remainder of the title and insert "amending RCW 28A.150.222; and declaring an emergency."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1803 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL

**AS SENATE AMENDED**

Representatives Orcutt and Paul spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 1803, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of House Bill No. 1803, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

HOUSE BILL NO. 1803, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

April 10, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1817 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Apprenticeable occupation" means an occupation for which an apprenticeship program has been approved by the Washington state apprenticeship and training council pursuant to chapter 49.04 RCW.

(2) "Department" means the department of labor and industries.

(3) "On-site work" does not include ship and rail car support activities; environmental inspection and testing;

security guard services; work which is performed by an original equipment manufacturer for warranty, repair, or maintenance on the vendor's equipment if required by the original equipment manufacturer's warranty agreement between the original equipment manufacturer and the owner; industrial cleaning not related to construction; safety services requiring professional safety certification; nonconstruction catalyst loading, regeneration, and removal; chemical purging and cleaning; refinery byproduct separation and recovery; inspection services not related to construction; and work performed that is not in an apprenticeable occupation.

(4) "Prevailing hourly wage rate" has the meaning provided for "prevailing rate of wage" in RCW 39.12.010.

(5) "Registered apprentice" means an apprentice registered in an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW.

(6) "Skilled and trained workforce" means a workforce that meets both of the following criteria:

(a) All the workers are either registered apprentices or skilled journeypersons; and

(b) The workforce meets the apprenticeship graduation and approved advanced safety training requirements established in section 3 of this act.

(7) "Skilled journeyperson" means a worker who meets all of the following criteria:

(a) The worker either graduated from an apprenticeship program for the applicable occupation that was approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW, or has at least as many hours of on-the-job experience in the applicable occupation that would be required to graduate from an apprenticeship program approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW; and

(b) The worker is being paid at least a rate commensurate with the wages typically paid for the occupation in the applicable geographic area, subject to the following provisions:

(i) The prevailing wage rate paid for a worker in the applicable occupation and geographic area on public works projects may be used to determine the appropriate rate of pay, however, this subsection (7)(b) does not require a contractor to pay prevailing wage rates; and

(ii) In no case may the worker be paid at a rate less than an hourly rate consistent with the seventy-fifth percentile in the applicable occupation and geographic area in the most recent occupational employment statistics published by the employment security department.

**NEW SECTION. Sec. 2.** (1) An owner or operator of a stationary source that is engaged in activities described in code 324110 or 325110 of the North American industry classification system, when contracting for the performance

of construction, alteration, demolition, installation, repair, or maintenance work at the stationary source, shall require that its contractors and any subcontractors use a skilled and trained workforce to perform all onsite work within an apprenticeable occupation in the building and construction trades. This section shall not apply to oil and gas extraction operations.

(2)(a) The department in consultation with the Washington state apprenticeship and training council shall approve a curriculum of in-person classroom and laboratory instruction for approved advanced safety training for workers at high hazard facilities.

(b) The safety training must be provided by a training provider, which may include a registered apprenticeship program, approved by the department. The department must periodically review and revise the curriculum to reflect current best practices.

(c) Upon receipt of certification from the approved training provider, the department must issue a certificate to a worker who completes the approved curriculum.

(d) The department may accept a certificate or other documentation issued by another state if the department finds that the curriculum and documentation of the other state meets the requirements of this subsection.

(3) This section applies to work performed under contracts awarded, contract extensions, and contract renewals occurring on or after the effective date of this section. This section shall also apply to work performed under a contract awarded before the effective date of this section if the work is performed more than one year after the effective date of this section.

(4) This section does not apply to:

(a) The employees of the owner or operator of the stationary source, nor does it prevent the owner or operator of the stationary source from using its own employees to perform any work that has not been assigned to contractors while the employees of the contractor are present and working;

(b) A contractor who has requested qualified workers from the local hiring halls or apprenticeship programs that dispatch workers in the apprenticeable occupation and who, due to workforce shortages, is unable to obtain sufficient qualified workers within forty-eight hours of the request, Saturdays, Sundays, and holidays excepted; and

(c) Emergencies that make compliance impracticable because they require immediate action to prevent harm to public health or safety or to the environment. This section applies as soon as the emergency is over or it becomes practicable for contractors to obtain a qualified workforce.

(5) The requirements under subsection (1) of this section apply to each individual contractor's and subcontractor's on-site workforce.

(6) The requirements of this section do not make the work described in subsection (1) of this section a public work within the meaning of RCW 39.04.010.

NEW SECTION. **Sec. 3.** The following implementation schedule must be complied with to meet the requirements of section 2 of this act for a skilled and trained workforce to perform all on-site work within an apprenticeable occupation in the building and construction trades:

(1)(a) By January 1, 2021, at least twenty percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council under chapter 49.04 RCW;

(b) By January 1, 2022, at least thirty-five percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council under chapter 49.04 RCW;

(c) By January 1, 2023, at least forty-five percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW; and

(d) By January 1, 2024, at least sixty percent of the skilled journeypersons must be graduates of an apprenticeship program for the applicable occupation approved by the Washington state apprenticeship and training council according to chapter 49.04 RCW; and

(2) By January 1, 2022, all workers in the skilled and trained workforce must have completed within the past three calendar years at least twenty hours of approved advanced safety training for workers at high hazard facilities.

NEW SECTION. **Sec. 4.** (1) Failure to comply with the skilled and trained workforce requirements of this chapter, except the requirement that a worker be paid at a rate commensurate with wages typically paid for the occupation, constitutes a violation of chapter 49.17 RCW.

(2) The wage rate requirement of section 1(7)(b) of this act constitutes a wage payment requirement as defined in RCW 49.48.082.

NEW SECTION. **Sec. 5.** (1) The department in consultation with the Washington state apprenticeship and training council shall prioritize consideration of new apprenticeship programs for workers in high hazard facilities. The Washington state apprenticeship and training council shall issue a decision within six months of the acceptance of a completed application for consideration of a new state registered apprenticeship program for workers in high hazard facilities.

(2) This section expires December 31, 2023.

NEW SECTION. **Sec. 6.** The department may adopt rules necessary to implement this chapter.

NEW SECTION. **Sec. 7.** Sections 1 through 6 and 8 of this act constitute a new chapter in Title 49 RCW.

NEW SECTION. **Sec. 8.** This act takes effect January 1, 2020."

On page 1, line 2 of the title, after "facilities;" strike the remainder of the title and insert "adding a new chapter to Title 49 RCW; prescribing penalties; providing an effective date; and providing an expiration date."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1817 and advanced the bill as amended by the Senate to final passage.

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

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

Representative Mosbrucker spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1817, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1817, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 58; Nays, 36; Absent, 0; Excused, 4.

Voting yea: Representatives Bergquist, Blake, Callan, Chapman, Chopp, Cody, Davis, Doglio, Dolan, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hansen, Hudgins, Irwin, Jinkins, Kilduff, Kloba, Kretz, Leavitt, Lekanoff, Lovick, Macri, Maycumber, Mead, Morgan, Morris, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Sells, Senn, Slatter, Springer, Stanford, Stonier, Sullivan, Tarleton, Thai, Tharinger, Valdez, Walen and Wylie.

Voting nay: Representatives Barkis, Boehnke, Caldier, Chambers, Chandler, Corry, DeBolt, Dent, Dufault, Dye, Eslick, Gildon, Goehner, Griffey, Harris, Hoff, Jenkin, Klippert, Kraft, MacEwen, McCaslin, Mosbrucker, Orcutt, Schmick, Shea, Shewmake, Smith, Stokesbary, Sutherland,

Van Werven, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1817, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 12, 2019

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1879 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

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

(1) "Clinical practice guidelines" means a systemically developed statement to assist decision making by health care providers and patients about appropriate health care for specific clinical circumstances and conditions.

(2) "Clinical review criteria" means the written screening procedures, decision rules, medical protocols, and clinical practice guidelines used by a health carrier or prescription drug utilization management entity as an element in the evaluation of medical necessity and appropriateness of requested prescription drugs under a health plan.

(3) "Emergency fill" means a limited dispensed amount of medication that allows time for the processing of prescription drug utilization management.

(4) "Medically appropriate" means prescription drugs that under the applicable standard of care are appropriate: (a) To improve or preserve health, life, or function; (b) to slow the deterioration of health, life, or function; or (c) for the early screening, prevention, evaluation, diagnosis, or treatment of a disease, condition, illness, or injury.

(5) "Prescription drug utilization management" means a set of formal techniques used by a health carrier or prescription drug utilization management entity, that are designed to monitor the use of or evaluate the medical necessity, appropriateness, efficacy, or efficiency of prescription drugs including, but not limited to, prior authorization and step therapy protocols.

(6) "Prescription drug utilization management entity" means an entity affiliated with, under contract with,

or acting on behalf of a health carrier to perform prescription drug utilization management.

(7) "Prior authorization" means a mandatory process that a carrier or prescription drug utilization management entity requires a provider or facility to follow to determine if a service is a benefit and meets the requirements for medical necessity, clinical appropriateness, level of care, or effectiveness in relation to the applicable plan.

(8) "Step therapy protocol" means a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition will be covered by a health carrier.

NEW SECTION. Sec. 2. A new section is added to chapter 48.43 RCW to read as follows:

For health plans delivered, issued for delivery, or renewed on or after January 1, 2021, clinical review criteria used to establish a prescription drug utilization management protocol must be evidence-based and updated on a regular basis through review of new evidence, research, and newly developed treatments.

NEW SECTION. Sec. 3. A new section is added to chapter 48.43 RCW to read as follows:

For health plans delivered, issued for delivery, or renewed on or after January 1, 2021:

(1) When coverage of a prescription drug for the treatment of any medical condition is subject to prescription drug utilization management, the patient and prescribing practitioner must have access to a clear, readily accessible, and convenient process to request an exception through which the prescription drug utilization management can be overridden in favor of coverage of a prescription drug prescribed by a treating health care provider. A health carrier or prescription drug utilization management entity may use its existing medical exceptions process to satisfy this requirement. The process must be easily accessible on the health carrier and prescription drug utilization management entity's web site. Approval criteria must be clearly posted on the health carrier and prescription drug utilization management entity's web site. This information must be in plain language and understandable to providers and patients.

(2) Health carriers must disclose all rules and criteria related to the prescription drug utilization management process to all participating providers, including the specific information and documentation that must be submitted by a health care provider or patient to be considered a complete exception request.

(3) An exception request must be granted if the health carrier or prescription drug utilization management entity determines that the evidence submitted by the provider or patient is sufficient to establish that:

(a) The required prescription drug is contraindicated or will likely cause a clinically predictable adverse reaction by the patient;

(b) The required prescription drug is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen;

(c) The patient has tried the required prescription drug or another prescription drug in the same pharmacologic class or a drug with the same mechanism of action while under his or her current or a previous health plan, and such prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse event;

(d) The patient is currently experiencing a positive therapeutic outcome on a prescription drug recommended by the patient's provider for the medical condition under consideration while on his or her current or immediately preceding health plan, and changing to the required prescription drug may cause clinically predictable adverse reactions, or physical or mental harm to, the patient; or

(e) The required prescription drug is not in the best interest of the patient, based on documentation of medical appropriateness, because the patient's use of the prescription drug is expected to:

(i) Create a barrier to the patient's adherence to or compliance with the patient's plan of care;

(ii) Negatively impact a comorbid condition of the patient;

(iii) Cause a clinically predictable negative drug interaction; or

(iv) Decrease the patient's ability to achieve or maintain reasonable functional ability in performing daily activities.

(4) Upon the granting of an exception, the health carrier or prescription drug utilization management entity shall authorize coverage for the prescription drug prescribed by the patient's treating health care provider.

(5)(a) For nonurgent exception requests, the health carrier or prescription drug utilization management entity must:

(i) Within three business days notify the treating health care provider that additional information, as disclosed under subsection (2) of this section, is required in order to approve or deny the exception request, if the information provided is not sufficient to approve or deny the request; and

(ii) Within three business days of receipt of sufficient information from the treating health care provider as disclosed under subsection (2) of this section, approve a request if the information provided meets at least one of the conditions referenced in subsection (3) of this section or if deemed medically appropriate, or deny a request if the requested service does not meet at least one of the conditions referenced in subsection (3) of this section.

(b) For urgent exception requests, the health carrier or prescription drug utilization management entity must:

(i) Within one business day notify the treating health care provider that additional information, as disclosed under subsection (2) of this section, is required in order to approve

or deny the exception request, if the information provided is not sufficient to approve or deny the request; and

(ii) Within one business day of receipt of sufficient information from the treating health care provider as disclosed under subsection (2) of this section, approve a request if the information provided meets at least one of the conditions referenced in subsection (3) of this section or if deemed medically appropriate, or deny a request if the requested service does not meet at least one of the conditions referenced in subsection (3) of this section.

(c) If a response by a health carrier or prescription drug utilization management entity is not received within the time frames established under this section, the exception request is deemed granted.

(d) For purposes of this subsection, exception requests are considered urgent when an enrollee is experiencing a health condition that may seriously jeopardize the enrollee's life, health, or ability to regain maximum function, or when an enrollee is undergoing a current course of treatment using a nonformulary drug.

(6) Health carriers must cover an emergency supply fill if a treating health care provider determines an emergency fill is necessary to keep the patient stable while the exception request is being processed. This exception shall not be used to solely justify any further exemption.

(7) When responding to a prescription drug utilization management exception request, a health carrier or prescription drug utilization management entity shall clearly state in their response if the exception request was approved or denied. The health carrier must use clinical review criteria as referenced in section 2 of this act for the basis of any denial. Any denial must be based upon and include the specific clinical review criteria relied upon for the denial and include information regarding how to appeal denial of the exception request. If the exception request from a treating health care provider is denied for administrative reasons, or for not including all the necessary information, the health carrier or prescription drug utilization management entity must inform the provider what additional information is needed and the deadline for its submission.

(8) The health carrier or prescription drug utilization management entity must permit a stabilized patient to remain on a drug during an exception request process.

(9) A health carrier must provide sixty days' notice to providers and patients for any new policies or procedures applicable to prescription drug utilization management protocols. New health carrier policies or procedures may not be applied retroactively.

(10) This section does not prevent:

(a) A health carrier or prescription drug utilization management entity from requiring a patient to try an AB-rated generic equivalent or a biological product that is an interchangeable biological product prior to providing coverage for the equivalent branded prescription drug;

(b) A health carrier or prescription drug utilization management entity from denying an exception for a drug

that has been removed from the market due to safety concerns from the federal food and drug administration; or

(c) A health care provider from prescribing a prescription drug that is determined to be medically appropriate.

NEW SECTION. **Sec. 4.** The insurance commissioner shall adopt rules necessary for the implementation of this act."

On page 1, line 2 of the title, after "benefits;" strike the remainder of the title and insert "adding new sections to chapter 48.43 RCW; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

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

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1879 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1879, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1879, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1879, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

April 11, 2019

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1900 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.34.025 and 2018 c 284 s 1 are each amended to read as follows:

(1) The department and agencies shall develop methods for coordination of services to parents and children in child dependency cases. To the maximum extent possible under current funding levels, the department and agencies must:

(a) Coordinate and integrate services to children and families, using service plans and activities that address the children's and families' multiple needs, including ensuring that siblings have regular visits with each other, as appropriate. Assessment criteria should screen for multiple needs;

(b) Develop treatment plans for the individual needs of the client in a manner that minimizes the number of contacts the client is required to make; and

(c) Access training for department and agency staff to increase skills across disciplines to assess needs for mental health, substance abuse, developmental disabilities, and other areas.

(2) The department shall coordinate within the administrations of the department, and with contracted service providers, to ensure that parents in dependency proceedings under this chapter receive priority access to remedial services recommended by the department in its social study or ordered by the court for the purpose of correcting any parental deficiencies identified in the dependency proceeding that are capable of being corrected in the foreseeable future. Services may also be provided to caregivers other than the parents as identified in RCW 13.34.138.

(a) For purposes of this chapter, remedial services are those services defined in the federal adoption and safe families act as ~~((time limited))~~ family reunification services that facilitate the reunification of the child safely and appropriately within a timely fashion. Remedial services include individual, group, and family counseling; substance abuse treatment services; mental health services; assistance to address domestic violence; services designed to provide temporary child care and therapeutic services for families; and transportation to or from any of the above services and activities.

(b) The department shall provide funds for remedial services if the parent is unable to pay to the extent funding is appropriated in the operating budget or otherwise available to the department for such specific services. As a condition for receiving funded remedial services, the court may inquire into the parent's ability to pay for all or part of such services or may require that the parent make appropriate applications for funding to alternative funding sources for such services.

(c) If court-ordered remedial services are unavailable for any reason, including lack of funding, lack of services, or language barriers, the department shall promptly notify the court that the parent is unable to engage in the treatment due to the inability to access such services.

(d) This section does not create an entitlement to services and does not create judicial authority to order the provision of services except for the specific purpose of making reasonable efforts to remedy parental deficiencies identified in a dependency proceeding under this chapter.

Sec. 2. RCW 13.34.030 and 2018 c 284 s 3 and 2018 c 58 s 54 are each reenacted and amended to read as follows:

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

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" mean:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of children, youth, and families.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary of the department of social and health services to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Educational liaison" means a person who has been appointed by the court to fulfill responsibilities outlined in RCW 13.34.046.

(9) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031. These services may include placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(10) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(11) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(12) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such

proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(13) "Housing assistance" means appropriate referrals by the department or other agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or ~~((time-limited))~~ family reunification service as described in RCW 13.34.025(2).

(14) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(15) "Nonminor dependent" means any individual age eighteen to twenty-one years who is participating in extended foster care services authorized under RCW 74.13.031.

(16) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(17) "Parent" means the biological or adoptive parents of a child, or an individual who has established a parent-child relationship under RCW ~~((26.26.104))~~ 26.26A.100, unless the legal rights of that person have been terminated by a judicial proceeding pursuant to this chapter, chapter 26.33 RCW, or the equivalent laws of another state or a federally recognized Indian tribe.

(18) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs are not

remedial services or family reunification services as described in RCW 13.34.025(2).

~~((19))~~ "(Preventive)) Prevention services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child. Prevention services include, but are not limited to, prevention and family services and programs as defined in this section.

"(20) "Qualified residential treatment program" means a program licensed as a group care facility under chapter 74.15 RCW that also qualifies for funding under the federal family first prevention services act under 42 U.S.C. Sec. 672(k) and meets the requirements provided in section 3 of this act.

"(21) "Relative" includes persons related to a child in the following ways:

(a) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(b) Stepfather, stepmother, stepbrother, and stepsister;

(c) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(d) Spouses of any persons named in (a), (b), or (c) of this subsection, even after the marriage is terminated;

(e) Relatives, as named in (a), (b), (c), or (d) of this subsection, of any half sibling of the child; or

(f) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

~~((19))~~ "(22) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

~~((20))~~ "(23) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in RCW 13.38.040.

~~((21))~~ "(24) "Social study" means a written evaluation of matters relevant to the disposition of the case  
~~((and shall contain the following information:~~

~~(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;~~

~~(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;~~

~~(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;~~

~~(d) A statement of the likely harms the child will suffer as a result of removal;~~

~~(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and~~

~~(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary)) that contains the information required by section 4 of this act.~~

~~((22))~~ "(25) "Supervised independent living" includes, but is not limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. Supervised independent living settings must be approved by the department or the court.

~~((23))~~ "(26) "Voluntary placement agreement" means, for the purposes of extended foster care services, a written voluntary agreement between a nonminor dependent who agrees to submit to the care and authority of the department for the purposes of participating in the extended foster care program.

NEW SECTION. Sec. 3. A new section is added to chapter 13.34 RCW to read as follows:

A qualified residential treatment program as defined in this chapter must meet the following requirements:

(1) Use a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances; and

(2) Be able to implement treatment for the child that is identified in an assessment that:

(a) Is completed by a trained professional or licensed clinician who is a "qualified individual" as that term is defined under the federal family first prevention services act;

(b) Assesses the strengths and needs of the child; and

(c) Determines whether the child's needs can be met with family members or through placement in a foster family home or, if not, which available placement setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the child's permanency plan.

**NEW SECTION. Sec. 4.** A new section is added to chapter 13.34 RCW to read as follows:

A social study as defined in this chapter must contain the following information:

(1) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(2) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(3) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the prevention services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(4)(a) If the child is placed, for at least thirty days, in a qualified residential treatment program as defined in this chapter, a copy of the assessment described in section 3 of this act.

(b) As long as the child remains placed in a qualified residential treatment program and the department anticipates that the child will remain in this placement for at least sixty days, or if the child has already been in this placement for at least sixty days, the social study must also include the following information sufficient for the juvenile court to determine at each status hearing concerning the child:

(i) Whether ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster family home;

(ii) Whether the child's placement provides the most effective and appropriate level of care in the least restrictive environment;

(iii) Whether the placement is consistent with the child's permanency plan;

(iv) What specific treatment or service needs will be met in the placement, and how long the child is expected to need the treatment or services; and

(v) What efforts the department has made to prepare the child to return home or be placed with a fit and willing relative as defined in RCW 13.34.030, a Title 13 RCW legal guardian, an adoptive parent, or in a foster family home;

(5) A statement of the likely harms the child will suffer as a result of removal;

(6) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(7) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

**Sec. 5.** RCW 26.44.020 and 2018 c 284 s 33 and 2018 c 171 s 3 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) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Child" or "children" means any person under the age of eighteen years of age.

(3) "Child forensic interview" means a developmentally sensitive and legally sound method of gathering factual information regarding allegations of child abuse, child neglect, or exposure to violence. This interview is conducted by a competently trained, neutral professional utilizing techniques informed by research and best practice as part of a larger investigative process.

(4) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In

determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(5) "Child protective services section" means the child protective services section of the department.

(6) "Child who is a candidate for foster care" means a child who the department identifies as being at imminent risk of entering foster care but who can remain safely in the child's home or in a kinship placement as long as services or programs that are necessary to prevent entry of the child into foster care are provided, and includes but is not limited to a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement. The term includes a child for whom there is reasonable cause to believe that any of the following circumstances exist:

(a) The child has been abandoned by the parent as defined in RCW 13.34.030 and the child's health, safety, and welfare is seriously endangered as a result;

(b) The child has been abused or neglected as defined in chapter 26.44 RCW and the child's health, safety, and welfare is seriously endangered as a result;

(c) There is no parent capable of meeting the child's needs such that the child is in circumstances that constitute a serious danger to the child's development;

(d) The child is otherwise at imminent risk of harm.

(7) "Children's advocacy center" means a child-focused facility in good standing with the state chapter for children's advocacy centers and that coordinates a multidisciplinary process for the investigation, prosecution, and treatment of sexual and other types of child abuse. Children's advocacy centers provide a location for forensic interviews and coordinate access to services such as, but not limited to, medical evaluations, advocacy, therapy, and case review by multidisciplinary teams within the context of county protocols as defined in RCW 26.44.180 and 26.44.185.

~~((7))~~ (8) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

~~((8))~~ (9) "Court" means the superior court of the state of Washington, juvenile department.

~~((9))~~ (10) "Department" means the department of children, youth, and families.

~~((10))~~ (11) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

~~((11))~~ (12) "Family assessment response" means a way of responding to certain reports of child abuse or neglect made under this chapter using a differential response approach to child protective services. The family assessment response shall focus on the safety of the child, the integrity and preservation of the family, and shall assess the status of the child and the family in terms of risk of abuse and neglect including the parent's or guardian's or other caretaker's capacity and willingness to protect the child and, if necessary, plan and arrange the provision of services to reduce the risk and otherwise support the family. No one is named as a perpetrator, and no investigative finding is entered in the record as a result of a family assessment.

~~((12))~~ (13) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

~~((13))~~ (14) "Inconclusive" means the determination following an investigation by the department of social and health services, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

~~((14))~~ (15) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

~~((15))~~ (16) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

~~((16))~~ (17) "Malice" or "maliciously" means an intent, wish, or design to intimidate, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

~~((17))~~ (18) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

~~((18))~~ (19) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

~~((19))~~ (20) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to

practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner. A person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

~~((20))~~ (21) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs are not remedial services or family reunification services as described in RCW 13.34.025(2).

(22) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

~~((21))~~ (23) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

~~((22))~~ (24) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

~~((23))~~ (25) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

~~((24))~~ (26) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

~~((25))~~ (27) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

~~((26))~~ (28) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

**Sec. 6.** RCW 26.44.030 and 2018 c 77 s 1 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of children, youth, and families, licensed or certified child care providers or their employees, employee of the department of social and health services, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, state family and children's ombuds or any volunteer in the ombuds's office, or host home program has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Organization" includes a sole proprietor, partnership, corporation, limited liability company, trust, association, financial institution, governmental entity, other than the federal government, and any other individual or group engaged in a trade, occupation, enterprise, governmental function, charitable function, or similar activity in this state whether or not the entity is operated as a nonprofit or for-profit entity.

(iii) "Reasonable cause" means a person witnesses or receives a credible written or oral report alleging abuse, including sexual contact, or neglect of a child.

(iv) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(v) "Sexual contact" has the same meaning as in RCW 9A.44.010.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11 and 13 RCW and this title, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees, including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.

(g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse,

shall report such incident to the proper law enforcement agency, including military law enforcement, if appropriate. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left

in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report that a child is a candidate for foster care as defined in RCW 26.44.020, the department may provide prevention and family services and programs to the child's parents, guardian, or caregiver. The department may not be held civilly liable for the decision regarding whether to provide prevention and family services and programs, or for the provision of those services and programs, for a child determined to be a candidate for foster care.

(11) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

~~((44))~~ (12)(a) Upon receiving a report of alleged abuse or neglect, the department shall use one of the following discrete responses to reports of child abuse or neglect that are screened in and accepted for departmental response:

- (i) Investigation; or
- (ii) Family assessment.

(b) In making the response in (a) of this subsection the department shall:

(i) Use a method by which to assign cases to investigation or family assessment which are based on an array of factors that may include the presence of: Imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics, such as the type of alleged maltreatment and the age of the alleged victim. Age of the alleged victim shall not be used as the sole criterion for determining case assignment;

(ii) Allow for a change in response assignment based on new information that alters risk or safety level;

(iii) Allow families assigned to family assessment to choose to receive an investigation rather than a family assessment;

(iv) Provide a full investigation if a family refuses the initial family assessment;

(v) Provide voluntary services to families based on the results of the initial family assessment. If a family refuses voluntary services, and the department cannot identify specific facts related to risk or safety that warrant assignment to investigation under this chapter, and there is not a history of reports of child abuse or neglect related to the family, then the department must close the family assessment response case. However, if at any time the department identifies risk or safety factors that warrant an investigation under this chapter, then the family assessment response case must be reassigned to investigation;

(vi) Conduct an investigation, and not a family assessment, in response to an allegation that, the department determines based on the intake assessment:

(A) ~~((Poses a risk of "imminent harm" consistent with the definition provided in RCW 13.34.050, which includes,))~~ Indicates a child's health, safety, and welfare will be seriously endangered if not taken into custody for reasons including, but ((is)) not limited to, sexual abuse and sexual exploitation of the child as defined in this chapter;

(B) Poses a serious threat of substantial harm to a child;

(C) Constitutes conduct involving a criminal offense that has, or is about to occur, in which the child is the victim;

(D) The child is an abandoned child as defined in RCW 13.34.030;

(E) The child is an adjudicated dependent child as defined in RCW 13.34.030, or the child is in a facility that is licensed, operated, or certified for care of children by the department under chapter 74.15 RCW.

(c) In addition, the department may use a family assessment response to assess for and provide prevention and family services and programs, as defined in RCW 26.44.020, for the following children and their families, consistent with requirements under the federal family first prevention services act and this section:

(i) A child who is a candidate for foster care, as defined in RCW 26.44.020; and

(ii) A child who is in foster care and who is pregnant, parenting, or both.

(d) The department may not be held civilly liable for the decision to respond to an allegation of child abuse or neglect by using the family assessment response under this section unless the state or its officers, agents, or employees acted with reckless disregard.

~~((42))~~ (13)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting

attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

~~((43))~~ (14) For reports of alleged abuse or neglect that are responded to through family assessment response, the department shall:

(a) Provide the family with a written explanation of the procedure for assessment of the child and the family and its purposes;

(b) Collaborate with the family to identify family strengths, resources, and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;

(c) Complete the family assessment response within forty-five days of receiving the report(~~(; however,)~~) except as follows:

(I) Upon parental agreement, the family assessment response period may be extended up to one hundred twenty days. The department's extension of the family assessment response period must be operated within the department's appropriations;

(II) For cases in which the department elects to use a family assessment response as authorized under subsection (12)(c) of this section, and upon agreement of the child's parent, legal guardian, legal custodian, or relative placement, the family assessment response period may be extended up to one year. The department's extension of the family assessment response must be operated within the department's appropriations.

(d) Offer services to the family in a manner that makes it clear that acceptance of the services is voluntary;

(e) Implement the family assessment response in a consistent and cooperative manner;

(f) Have the parent or guardian agree to participate in services before services are initiated. The department shall inform the parents of their rights under family assessment response, all of their options, and the options the department has if the parents do not agree to participate in services.

~~((44))~~ (15)(a) In conducting an investigation or family assessment of alleged abuse or neglect, the department or law enforcement agency:

(i) May interview children. If the department determines that the response to the allegation will be family assessment response, the preferred practice is to request a parent's, guardian's, or custodian's permission to interview the child before conducting the child interview unless doing so would compromise the safety of the child or the integrity

of the assessment. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. If the allegation is investigated, parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(ii) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(b) The Washington state school directors' association shall adopt a model policy addressing protocols when an interview, as authorized by this subsection, is conducted on school premises. In formulating its policy, the association shall consult with the department and the Washington association of sheriffs and police chiefs.

~~((45))~~ (16) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombuds of the contents of the report. The department shall also notify the ombuds of the disposition of the report.

~~((46))~~ (17) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

~~((47))~~ (18)(a) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(b) In the family assessment response, the department shall not make a finding as to whether child abuse or neglect occurred. No one shall be named as a perpetrator and no investigative finding shall be entered in the department's child abuse or neglect database.

~~((48))~~ (19) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor.

~~((49))~~ (20) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

~~((20))~~ (21) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

~~((21))~~ (22) The department shall make efforts as soon as practicable to determine the military status of parents whose children are subject to abuse or neglect allegations. If the department determines that a parent or guardian is in the military, the department shall notify a department of defense family advocacy program that there is an allegation of abuse and neglect that is screened in and open for investigation that relates to that military parent or guardian.

~~((22))~~ (23) The department shall make available on its public web site a downloadable and printable poster that includes the reporting requirements included in this section. The poster must be no smaller than eight and one-half by eleven inches with all information on one side. The poster must be made available in both the English and Spanish languages. Organizations that include employees or volunteers subject to the reporting requirements of this section must clearly display this poster in a common area. At a minimum, this poster must include the following:

- (a) Who is required to report child abuse and neglect;
- (b) The standard of knowledge to justify a report;
- (c) The definition of reportable crimes;
- (d) Where to report suspected child abuse and neglect; and
- (e) What should be included in a report and the appropriate timing.

**Sec. 7.** RCW 74.13.020 and 2018 c 284 s 36, 2018 c 58 s 51, and 2018 c 34 s 3 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) "Case management" means convening family meetings, developing, revising, and monitoring implementation of any case plan or individual service and safety plan, coordinating and monitoring services needed by the child and family, caseworker-child visits, family visits, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means:

- (a) A person less than eighteen years of age; or
- (b) A person age eighteen to twenty-one years who is eligible to receive the extended foster care services authorized under RCW 74.13.031.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Child who is a candidate for foster care" means a child who the department identifies as being at imminent risk of entering foster care but who can remain safely in the child's home or in a kinship placement as long as services or programs that are necessary to prevent entry of the child into foster care are provided, and includes but is not limited to a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement. The term includes a child for whom there is reasonable cause to believe that any of the following circumstances exist:

(a) The child has been abandoned by the parent as defined in RCW 13.34.030 and the child's health, safety, and welfare is seriously endangered as a result;

(b) The child has been abused or neglected as defined in chapter 26.44 RCW and the child's health, safety, and welfare is seriously endangered as a result;

(c) There is no parent capable of meeting the child's needs such that the child is in circumstances that constitute a serious danger to the child's development;

(d) The child is otherwise at imminent risk of harm.

(6) "Department" means the department of children, youth, and families.

~~((6))~~ (7) "Extended foster care services" means residential and other support services the department is authorized to provide to dependent children. These services include, but are not limited to, placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic

needs; independent living services; medical assistance; and counseling or treatment.

~~((7))~~ (8) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

~~((8))~~ (9) "Medical condition" means, for the purposes of qualifying for extended foster care services, a physical or mental health condition as documented by any licensed health care provider regulated by a disciplining authority under RCW 18.130.040.

~~((9))~~ (10) "Nonminor dependent" means any individual age eighteen to twenty-one years who is participating in extended foster care services authorized under RCW 74.13.031.

~~((10))~~ (11) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

~~((11))~~ (12) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

~~((12))~~ (13) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

~~((13))~~ (14) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs are not remedial services or family reunification services as described in RCW 13.34.025(2).

(15) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

~~((14))~~ (16) "Secretary" means the secretary of the department.

~~((15))~~ (17) "Supervised independent living" includes, but is not limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. Supervised independent living settings must be approved by the department or the court.

~~((16))~~ (18) "Unsupervised" has the same meaning as in RCW 43.43.830.

~~((17))~~ (19) "Voluntary placement agreement" means, for the purposes of extended foster care services, a written voluntary agreement between a nonminor dependent who agrees to submit to the care and authority of the department for the purposes of participating in the extended foster care program.

**Sec. 8.** RCW 74.13.031 and 2018 c 284 s 37, 2018 c 80 s 1, and 2018 c 34 s 5 are each reenacted and amended to read as follows:

(1) The department shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) As provided in RCW 26.44.030(11), the department may respond to a report of child abuse or neglect by using the family assessment response.

(5) The department shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(6) The department shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced face-to-face visit in the caregiver's home per year. No caregiver will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department is encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

(7) The department shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(8) The department shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(9) The department shall have authority to purchase care for children.

(10) The department shall establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(11)(a) The department shall provide continued extended foster care services to nonminor dependents who are:

(i) Enrolled in a secondary education program or a secondary education equivalency program;

(ii) Enrolled and participating in a postsecondary academic or postsecondary vocational education program;

(iii) Participating in a program or activity designed to promote employment or remove barriers to employment;

(iv) Engaged in employment for eighty hours or more per month; or

(v) Not able to engage in any of the activities described in (a)(i) through (iv) of this subsection due to a documented medical condition.

(b) To be eligible for extended foster care services, the nonminor dependent must have been dependent at the time that he or she reached age eighteen years. If the dependency case of the nonminor dependent was dismissed pursuant to RCW 13.34.267, he or she may receive extended foster care services pursuant to a voluntary placement agreement under RCW 74.13.336 or pursuant to an order of dependency issued by the court under RCW 13.34.268. A nonminor dependent whose dependency case was dismissed by the court may request extended foster care services before reaching age twenty-one years. Eligible nonminor dependents may unenroll and reenroll in extended foster care through a voluntary placement agreement an unlimited number of times between ages eighteen and twenty-one.

(c) The department shall develop and implement rules regarding youth eligibility requirements.

(d) The department shall make efforts to ensure that extended foster care services maximize medicaid reimbursements. This must include the department ensuring that health and mental health extended foster care providers participate in medicaid, unless the condition of the extended foster care youth requires specialty care that is not available among participating medicaid providers or there are no participating medicaid providers in the area. The department shall coordinate other services to maximize federal resources and the most cost-efficient delivery of services to extended foster care youth.

(e) The department shall allow a youth who has received extended foster care services, but lost his or her eligibility, to reenter the extended foster care program an unlimited number of times through a voluntary placement agreement when he or she meets the eligibility criteria again.

(12) The department shall have authority to provide adoption support benefits, or relative guardianship subsidies on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a relative guardianship at age sixteen or older and who meet the criteria described in subsection (11) of this section.

(13) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(14) The department shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order. The purchase of such care is exempt from the requirements of chapter 74.13B RCW and may be purchased from the federally recognized Indian tribe or tribally licensed child-placing agency, and shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200, 43.185C.295, 74.13.035, and 74.13.036, or of this section all services to be provided by the department under subsections (4), (7), and (8) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(15) Within amounts appropriated for this specific purpose, the department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(16) The department shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained ~~((twenty one))~~ twenty-three years of age, who are or have been in ~~((foster))~~ the department's care and custody, or who are or were nonminor dependents.

(17) The department shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(18)(a) The department shall, within current funding levels, place on its public web site a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

- (i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;
- (ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);
- (iii) Parent-child visits;
- (iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

(19)(a) The department shall have the authority to purchase legal representation for parents or kinship caregivers, or both, of children who are at risk of being dependent, or who are dependent, to establish or modify a parenting plan under RCW 13.34.155 or chapter 26.09 or 26.26 RCW or secure orders establishing other relevant civil legal relationships authorized by law, when it is necessary for the child's safety, permanence, or well-being. The department's purchase of legal representation for kinship caregivers must be within the department's appropriations. This subsection does not create an entitlement to legal representation purchased by the department and does not create judicial authority to order the department to purchase legal representation for a parent or kinship caregiver. Such determinations are solely within the department's discretion. The term "kinship caregiver" as used in this section means a caregiver who meets the definition of "kin" in RCW 74.13.600(1), unless the child is an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903. For an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903, the term "kinship caregiver" as used in this section means a caregiver who is an "extended family member" as defined in RCW 13.38.040(8).

(b) The department is encouraged to work with the office of public defense parent representation program and the office of civil legal aid to develop a cost-effective system for providing effective civil legal representation for parents and kinship caregivers if it exercises its authority under this subsection.

**Sec. 9.** RCW 74.14C.020 and 1996 c 240 s 3 are each amended to read as follows:

(1) Intensive family preservation services shall have all of the following characteristics:

(a) Services are provided by specially trained service providers who have received at least forty hours of training from recognized intensive in-home services experts. Service providers deliver the services in the family's home, and other environments of the family, such as their neighborhood or schools;

(b) Caseload size averages two families per service provider unless paraprofessional services are utilized, in which case a provider may, but is not required to, handle an average caseload of five families;

(c) The services to the family are provided by a single service provider who may be assisted by paraprofessional workers, with backup providers identified to provide assistance as necessary;

(d) Services are available to the family within twenty-four hours following receipt of a referral to the program; and

(e) Except as provided in subsection (4) of this section, duration of service is limited to a maximum of forty days, unless paraprofessional workers are used, in which case the duration of services is limited to a maximum of ninety days. The department may authorize an additional provision of service through an exception to policy when the department and provider agree that additional services are needed.

(2) Family preservation services shall have all of the following characteristics:

(a) Services are delivered primarily in the family home or community;

(b) Services are committed to reinforcing the strengths of the family and its members and empowering the family to solve problems and become self-sufficient;

(c) Services are committed to providing support to families through community organizations including but not limited to school, church, cultural, ethnic, neighborhood, and business;

(d) Services are available to the family within forty-eight hours of referral unless an exception is noted in the file;

(e) Except as provided in subsection (4) of this section, duration of service is limited to a maximum of six months, unless the department requires additional follow-up on an individual case basis; ~~(and)~~

(f) Caseload size no more than ten families per service provider, which can be adjusted when paraprofessional workers are used or required by the department; and

(g) Support and retain foster families so they can provide quality family based settings for children in foster care.

(3) Preservation services shall include the following characteristics:

(a) Services protect the child and strengthen the family;

(b) Service providers have the authority and discretion to spend funds, up to a maximum amount specified by the department, to help families obtain necessary food, shelter, or clothing, or to purchase other goods or services that will enhance the effectiveness of intervention;

(c) Services are available to the family twenty-four hours a day and seven days a week;

(d) Services enhance parenting skills, family and personal self-sufficiency, functioning of the family, and reduce stress on families; and

(e) Services help families locate and use additional assistance including, but not limited to, the development and maintenance of community support systems, counseling and treatment services, housing, child care, education, job training, emergency cash grants, state and federally funded public assistance, and other basic support services.

(4) The department may offer or provide family preservation services or preservation services to families as remedial services pursuant to proceedings brought under chapter 13.34 RCW. If the department elects to do so, these services are not considered remedial services as defined in chapter 13.34 RCW, and the department may extend the duration of such services for a period of up to fifteen months following the return home of a child under chapter 13.34 RCW. The purpose for extending the duration of these services is to, whenever possible, facilitate safe and timely reunification of the family and to ensure the strength and stability of the reunification.

**Sec. 10.** RCW 74.15.020 and 2018 c 284 s 67 are each amended to read as follows:

The definitions in this section apply throughout this chapter and RCW 74.13.031 unless the context clearly requires otherwise.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers, or persons with developmental disabilities for services rendered:

(a) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(b) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility;

(c) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 43.185C.295 through 43.185C.310;

(d) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW;

(e) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(f) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis. "Group care facility" includes but is not limited to:

(i) Qualified residential treatment programs as defined in RCW 13.34.030;

(ii) Facilities specializing in providing prenatal, post-partum, or parenting supports for youth; and

(iii) Facilities providing high-quality residential care and supportive services to children who are, or who are at risk of becoming, victims of sex trafficking;

(g) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

(h) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(i) "Resource and assessment center" means an agency that provides short-term emergency and crisis care for a period up to seventy-two hours, excluding Saturdays, Sundays, and holidays to children who have been removed from their parent's or guardian's care by child protective services or law enforcement;

(j) "Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;

(k) "Service provider" means the entity that operates a community facility.

(2) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(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;

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection (2), even after the marriage is terminated;

(v) Relatives, as named in (a)(i), (ii), (iii), or (iv) of this subsection (2), of any half sibling of the child; or

(vi) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;

(d) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

(e) A person, partnership, corporation, or other entity that provides placement or similar services to international children who have entered the country by obtaining visas that meet the criteria for medical care as established by the United States citizenship and immigration services, or persons who have the care of such an international child in their home;

(f) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(g) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and assisted living facilities licensed under chapter 18.20 RCW;

(h) Licensed physicians or lawyers;

(i) Facilities approved and certified under chapter 71A.22 RCW;

(j) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(k) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(l) An agency operated by any unit of local, state, or federal government or an agency licensed by an Indian tribe pursuant to RCW 74.15.190;

(m) A maximum or medium security program for juvenile offenders operated by or under contract with the department;

(n) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(o) A host home program, and host home, operated by a tax exempt organization for youth not in the care of or receiving services from the department, if that program: (i) Recruits and screens potential homes in the program, including performing background checks on individuals over the age of eighteen residing in the home through the Washington state patrol or equivalent law enforcement agency and performing physical inspections of the home; (ii) screens and provides case management services to youth in the program; (iii) obtains a notarized permission slip or limited power of attorney from the parent or legal guardian of the youth authorizing the youth to participate in the program and the authorization is updated every six months when a youth remains in a host home longer than six months; (iv) obtains insurance for the program through an insurance provider authorized under Title 48 RCW; (v) provides mandatory reporter and confidentiality training; and (vi) registers with the secretary of state as provided in RCW 24.03.550. A host home is a private home that volunteers to host youth in need of temporary placement that is associated with a host home program. Any host home program that receives local, state, or government funding shall report the following information to the office of homeless youth prevention and protection programs annually by December 1st of each year: The number of children the program served, why the child was placed with a host home, and where the child went after leaving the host home, including but not limited to returning to the parents, running away, reaching the age of majority, or becoming a dependent of the state. A host home program shall not receive more than one hundred thousand dollars per year of public funding, including local, state, and federal funding. A host home shall not receive any local, state, or government funding.

(3) "Department" means the department of children, youth, and families.

(4) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(5) "Performance-based contracts" or "contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts may also include provisions that link the performance of the contractor to the level and timing of the reimbursement.

(6) "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.

(7) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(8) "Secretary" means the secretary of the department.

(9) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

(10) "Transitional living services" means at a minimum, to the extent funds are available, the following:

(a) Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;

(b) Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;

(c) Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;

(d) Individual and group counseling; and

(e) Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and training administration programs including the workforce innovation and opportunity act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

**Sec. 11.** RCW 13.34.065 and 2018 c 284 s 4 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary

purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) If it is likely that the child will remain in shelter care longer than seventy-two hours, the department shall submit a recommendation to the court as to the further need for shelter care in all cases in which the child will remain in shelter care longer than the seventy-two hour period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW

13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the department to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall determine what efforts have been made toward such a placement;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home. If the dependency petition or other information before the court alleges that homelessness or the lack of suitable housing was a significant factor contributing to the removal of the child, the court shall inquire as to whether housing assistance was provided to the family to prevent or eliminate the need for removal of the child or children;

(e) Is the placement proposed by the department the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in RCW 13.38.040, whether the provisions of the federal Indian child welfare act or chapter 13.38 RCW apply, and whether there is compliance with the federal Indian child welfare act and chapter 13.38 RCW, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's

parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. If such relative or other suitable person appears otherwise suitable and competent to provide care and treatment, the fingerprint-based background check need not be completed before placement, but as soon as possible after placement. The court must also determine whether placement with the relative or other suitable person is in the child's best interests. The relative or other suitable person must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the department's plan or is ordered by the court; and

(iii) Cooperate with the department in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative or other suitable person, and the court does not release the child to his or her parent, guardian, or legal custodian, the department shall make reasonable efforts to locate a relative or other suitable person pursuant to RCW 13.34.060(1). In determining placement, the court shall weigh the child's length of stay and attachment to the current provider in determining what is in the best interest of the child.

(d) If a relative or other suitable person is not available, the court shall order continued shelter care and shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other suitable person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or agency's case plan and compliance with court orders related to the care and supervision of the child including, but not

limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other suitable person, subject to review by the court.

(f) If the child is placed in a qualified residential treatment program as defined in this chapter, the court shall, within sixty days of placement, hold a hearing to:

(i) Consider the assessment required under section 3 of this act and submitted as part of the department's social study, and any related documentation;

(ii) Determine whether placement in foster care can meet the child's needs or if placement in another available placement setting best meets the child's needs in the least restrictive environment; and

(iii) Approve or disapprove the child's placement in the qualified residential treatment program.

(g) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative or other suitable person under (b) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

**Sec. 12.** RCW 13.34.130 and 2018 c 284 s 10 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition that maintains the child in his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose services to assist the parents in maintaining the child in the home, including housing assistance, if appropriate, that least interfere with family autonomy and are adequate to protect the child.

(b)(i) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person, the department, or agency responsible for supervision of the child's placement. If the court orders that the child be placed with a caregiver over the objections of the parent or the department, the court shall articulate, on the record, his or her reasons for ordering the placement. The court may not order an Indian child, as defined in RCW 13.38.040, to be removed from his or her home unless the court finds, by clear and convincing evidence including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(ii) The department has the authority to place the child, subject to review and approval by the court (A) with a relative as defined in RCW 74.15.020(2)(a), (B) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department to be suitable and competent to provide care for the child, or (C) in a foster

family home or group care facility licensed pursuant to chapter 74.15 RCW.

(iii) The department may also consider placing the child, subject to review and approval by the court, with a person with whom the child's sibling or half-sibling is residing or a person who has adopted the sibling or half-sibling of the child being placed as long as the person has completed all required criminal history background checks and otherwise appears to the department to be competent to provide care for the child.

(2) Absent good cause, the department shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260.

(3) The department may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a), including a placement provided for in subsection (1)(b)(iii) of this section, when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, the child shall be placed with a person who is willing, appropriate, and available to care for the child, and who is: (I) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or (II) a suitable person as described in subsection (1)(b) of this section. The court shall consider the child's existing relationships and attachments when determining placement.

(4) If the child is placed in a qualified residential treatment program as defined in this chapter, the court shall, within sixty days of placement, hold a hearing to:

(i) Consider the assessment required under section 3 of this act and submitted as part of the department's social study, and any related documentation;

(ii) Determine whether placement in foster care can meet the child's needs or if placement in another available placement setting best meets the child's needs in the least restrictive environment; and

(iii) Approve or disapprove the child's placement in the qualified residential treatment program.

(5) When placing an Indian child in out-of-home care, the department shall follow the placement preference characteristics in RCW 13.38.180.

~~((5))~~ (6) Placement of the child with a relative or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services, including housing assistance, that have been provided to the child and the child's parent, guardian, or legal custodian, and that ~~((preventive))~~ prevention services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

~~((6))~~ (7) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a stepbrother or stepsister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the stepsibling.

~~((7))~~ (8) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

~~((8))~~ (9) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

~~((9))~~ (10) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall remain in foster care and the court shall direct the department to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative or other person appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before

placement, but as soon as possible after placement. Any placements with relatives or other suitable persons, pursuant to this section, shall be contingent upon cooperation by the relative or other suitable person with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's or other suitable person's home, subject to review by the court.

**Sec. 13.** RCW 13.34.138 and 2018 c 284 s 14 are each amended to read as follows:

(1) The status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first. The purpose of the hearing shall be to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145(1)(a) or 13.34.134.

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision by the department shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The department may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the department must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not already a party to the dependency proceeding, create an entitlement to services or a duty on the part of the department to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025 or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether the department is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Within sixty days of the placement of a child in a qualified residential treatment program as defined in this chapter, and at each review hearing thereafter if the child remains in such a program, the following:

(A) Whether ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster family home;

(B) Whether the child's placement provides the most effective and appropriate level of care in the least restrictive environment;

(C) Whether the placement is consistent with the child's permanency plan;

(D) What specific treatment or service needs will be met in the placement, and how long the child is expected to need the treatment or services; and

(E) What efforts the department has made to prepare the child to return home or be placed with a fit and willing relative as defined in RCW 13.34.030, a Title 13 RCW legal guardian, an adoptive parent, or in a foster family home.

(vii) Whether a parent's homelessness or lack of suitable housing is a significant factor delaying permanency for the child by preventing the return of the child to the home of the child's parent and whether housing assistance should be provided by the department;

~~((viii))~~ (viii) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

~~((viiii))~~ (ix) Whether preference has been given to placement with the child's relatives if such placement is in the child's best interests;

~~((x))~~ (x) Whether both in-state and, where appropriate, out-of-state placements have been considered;

~~((xi))~~ (xi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

~~((xii))~~ (xii) Whether terms of visitation need to be modified;

~~((xiii))~~ (xiii) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

~~((xiv))~~ (xiv) Whether any additional court orders need to be made to move the case toward permanency; and

~~((xv))~~ (xv) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

(3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with the department's case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the department's case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(4) The court's authority to order housing assistance under this chapter is: (a) Limited to cases in which a parent's homelessness or lack of suitable housing is a significant factor delaying permanency for the child and housing assistance would aid the parent in providing an appropriate home for the child; and (b) subject to the availability of funds appropriated for this specific purpose. Nothing in this chapter shall be construed to create an entitlement to housing assistance nor to create judicial authority to order the provision of such assistance to any person or family if the assistance or funding are unavailable or the child or family are not eligible for such assistance.

(5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(6).

**NEW SECTION. Sec. 14.** A new section is added to chapter 13.34 RCW to read as follows:

If a child is placed in a qualified residential treatment program as defined in this chapter, the court shall, within sixty days of placement, hold a hearing to:

(1) Consider the assessment required under section 3 of this act and submitted as part of the department's social study, and any related documentation;

(2) Determine whether placement in foster care can meet the child's needs or if placement in another available placement setting best meets the child's needs in the least restrictive environment; and

(3) Approve or disapprove the child's placement in the qualified residential treatment program.

**Sec. 15.** RCW 13.34.145 and 2018 c 284 s 15 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed. Every effort shall be made to provide stability in long-term placement, and to avoid disruption of placement, unless the child is being returned home or it is in the best interest of the child.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) When the youth is at least age seventeen years but not older than seventeen years and six months, the department shall provide the youth with written documentation which explains the availability of extended foster care services and detailed instructions regarding how the youth may access such services after he or she reaches age eighteen years.

(4) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate. The court shall find, as of the date of the hearing, that the child's placement and plan of care is the best permanency plan for the child and provide compelling reasons why it continues to not be in the child's best interest to (i) return home; (ii) be placed for adoption; (iii) be placed with a legal guardian; or (iv) be placed with a fit and willing relative. If the child is present at the hearing, the court should ask the child about his or her desired permanency outcome.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding

the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the department and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to department staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the department to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

(c) Regardless of whether the primary permanency planning goal has been achieved, for a child who remains placed in a qualified residential treatment program as defined in this chapter for at least sixty days, and remains placed there at subsequent permanency planning hearings, the court shall establish in writing:

(i) Whether ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster family home;

(ii) Whether the child's placement provides the most effective and appropriate level of care in the least restrictive environment;

(iii) Whether the placement is consistent with the child's short and long-term goals as stated in the child's permanency plan;

(iv) What specific treatment or service needs will be met in the placement, and how long the child is expected to need the treatment or services; and

(v) What efforts the department has made to prepare the child to return home or be placed with a fit and willing relative as defined in RCW 13.34.030, a Title 13 RCW legal guardian, an adoptive parent, or in a foster family home.

(5) Following this inquiry, at the permanency planning hearing, the court shall order the department to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child.

(a) For purposes of this subsection, "good cause exception" includes but is not limited to the following:

(i) The child is being cared for by a relative;

(ii) The department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home;

(iii) The department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests;

(iv) The parent is incarcerated, or the parent's prior incarceration is a significant factor in why the child has been in foster care for fifteen of the last twenty-two months, the parent maintains a meaningful role in the child's life, and the department has not documented another reason why it would be otherwise appropriate to file a petition pursuant to this section;

(v) Where a parent has been accepted into a dependency treatment court program or long-term substance abuse or dual diagnoses treatment program and is demonstrating compliance with treatment goals; or

(vi) Where a parent who has been court ordered to complete services necessary for the child's safe return home files a declaration under penalty of perjury stating the parent's financial inability to pay for the same court-ordered services, and also declares the department was unwilling or unable to pay for the same services necessary for the child's safe return home.

(b) The court's assessment of whether a parent who is incarcerated maintains a meaningful role in the child's life may include consideration of the following:

(i) The parent's expressions or acts of manifesting concern for the child, such as letters, telephone calls, visits, and other forms of communication with the child;

(ii) The parent's efforts to communicate and work with the department or other individuals for the purpose of complying with the service plan and repairing, maintaining, or building the parent-child relationship;

(iii) A positive response by the parent to the reasonable efforts of the department;

(iv) Information provided by individuals or agencies in a reasonable position to assist the court in making this assessment, including but not limited to the parent's attorney, correctional and mental health personnel, or other individuals providing services to the parent;

(v) Limitations in the parent's access to family support programs, therapeutic services, and visiting opportunities, restrictions to telephone and mail services, inability to participate in foster care planning meetings, and difficulty accessing lawyers and participating meaningfully in court proceedings; and

(vi) Whether the continued involvement of the parent in the child's life is in the child's best interest.

(c) The constraints of a parent's current or prior incarceration and associated delays or barriers to accessing court-mandated services may be considered in rebuttal to a claim of aggravated circumstances under RCW 13.34.132(4)(h) for a parent's failure to complete available treatment.

(6)(a) If the permanency plan identifies independent living as a goal, the court at the permanency planning hearing shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care. The court will inquire whether the child has been provided information about extended foster care services.

(b) The permanency plan shall also specifically identify the services, including extended foster care services, where appropriate, that will be provided to assist the child to make a successful transition from foster care to independent living.

(c) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(7) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall:

(a) Enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(6), and 13.34.096; and

(b) If the department is recommending a placement other than the child's current placement with a foster parent,

relative, or other suitable person, enter a finding as to the reasons for the recommendation for a change in placement.

(8) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the department to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(9) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(10) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(11) If the court orders the child returned home, casework supervision by the department shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(12) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(13) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (12) of this section are met.

(14) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the department requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental

rights, establishing guardianship, or otherwise resolving the matter.

(15) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the department of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(16) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

**NEW SECTION. Sec. 16.** A new section is added to chapter 26.44 RCW to read as follows:

Nothing in this chapter may be construed to limit the department's authority to offer or provide prevention services or primary prevention services as defined in chapters 13.34 and 74.13 RCW, respectively.

**NEW SECTION. Sec. 17.** A new section is added to chapter 13.34 RCW to read as follows:

Nothing in this chapter may be construed to limit the department's authority to offer or provide prevention services or primary prevention services as defined in this chapter and chapter 74.13 RCW, respectively.

**NEW SECTION. Sec. 18.** A new section is added to chapter 74.13 RCW to read as follows:

Nothing in this chapter may be construed to limit the department's authority to offer or provide prevention services or primary prevention services as defined in chapter 13.34 RCW and this chapter, respectively.

**NEW SECTION. Sec. 19.** Sections 3, 4, and 10 through 15 of this act take effect October 1, 2019."

On page 1, line 3 of the title, after "families;" strike the remainder of the title and insert "amending RCW 13.34.025, 26.44.030, 74.14C.020, 74.15.020, 13.34.065, 13.34.130, 13.34.138, and 13.34.145; reenacting and amending RCW 13.34.030, 26.44.020, 74.13.020, and 74.13.031; adding new sections to chapter 13.34 RCW; adding a new section to chapter 26.44 RCW; adding a new section to chapter 74.13 RCW; and providing an effective date."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1900 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 1900, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1900, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

HOUSE BILL NO. 1900, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

March 29, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1919 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 16.52.117 and 2015 c 235 s 3 are each amended to read as follows:

(1) A person commits the crime of animal fighting if the person knowingly does any of the following or causes a minor to do any of the following:

(a) Owns, possesses, keeps, breeds, trains, buys, sells, or advertises or offers for sale any animal with the intent that the animal shall be engaged in an exhibition of fighting with another animal;

(b) Promotes, organizes, conducts, participates in, is a spectator of, advertises, prepares, or performs any service in the furtherance of, an exhibition of animal fighting, transports spectators to an animal fight, or provides or serves as a stakeholder for any money wagered on an animal fight;

(c) Keeps or uses any place for the purpose of animal fighting, or manages or accepts payment of admission to any place kept or used for the purpose of animal fighting;

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept, or used for the purpose of an exhibition of animal fighting; ~~((e))~~

(e) Steals, takes, leads away, possesses, confines, sells, transfers, or receives an animal with the intent of using the animal for animal fighting, or for training or baiting for the purpose of animal fighting; or

(f) Owns, possesses, buys, sells, transfers, or manufactures animal fighting paraphernalia for the purpose of engaging in, promoting, or facilitating animal fighting, or for baiting a live animal for the purpose of animal fighting.

(2)(a) Except as provided in (b) of this subsection, a person who violates this section is guilty of a class C felony punishable under RCW 9A.20.021;

(b) A person who intentionally mutilates an animal in furtherance of an animal fighting offense as described in subsection (1) of this section is guilty of a class B felony punishable under RCW 9A.20.021.

(3) Nothing in this section prohibits the following:

(a) The use of dogs in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of the livestock;

(b) The use of dogs in hunting as permitted by law; or

(c) The training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

(4) For the purposes of this section, "animal fighting paraphernalia" includes equipment, products, implements, or materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of animal fighting, and includes, but is not limited to: Cat mills; fighting pits; springpoles; unprescribed veterinary medicine; treatment supplies; and gaffs, slashers, heels, and any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.

**Sec. 2.** RCW 16.52.207 and 2011 c 172 s 5 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty~~((7))~~;

(a) The person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal; or

(b) The person takes control, custody, or possession of an animal that was involved in animal fighting as described in RCW 16.52.117 and knowingly, recklessly, or with criminal negligence abandons the animal, and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure;

(b) Under circumstances not amounting to animal cruelty in the second degree under (c) of this subsection, abandons the animal; or

(c) Abandons the animal and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm.

(3) Animal cruelty in the second degree is a gross misdemeanor.

(4) In any prosecution of animal cruelty in the second degree under subsection (1)(a) or (2)(a) of this section, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

**Sec. 3.** RCW 16.52.011 and 2017 c 65 s 2 are each amended to read as follows:

(1) Principles of liability as defined in chapter 9A.08 RCW apply to this chapter.

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

(a) "Abandons" means the knowing or reckless desertion of an animal by its owner, or by a person who has taken control, custody, or possession of an animal that was involved in animal fighting as described in RCW 16.52.117, or the causing of the animal to be deserted by its owner, in any place, without making provisions for the animal's adequate care.

(b) "Animal" means any nonhuman mammal, bird, reptile, or amphibian.

(c) "Animal care and control agency" means any city or county animal control agency or authority authorized to enforce city or county municipal ordinances regulating the care, control, licensing, or treatment of animals within the city or county, and any corporation organized under RCW 16.52.020 that contracts with a city or county to enforce the city or county ordinances governing animal care and control.

(d) "Animal control officer" means any individual employed, contracted, or appointed pursuant to RCW 16.52.025 by an animal care and control agency or humane society to aid in the enforcement of ordinances or laws regulating the care and control of animals. For purposes of this chapter, the term "animal control officer" shall be interpreted to include "humane officer" as defined in (h) of this subsection and RCW 16.52.025.

(e) "Dog" means an animal of the species *Canis lupus familiaris*.

(f) "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during the loss of consciousness.

(g) "Food" means food or feed appropriate to the species for which it is intended.

(h) "Humane officer" means any individual employed, contracted, or appointed by an animal care and control agency or humane society as authorized under RCW 16.52.025.

(i) "Law enforcement agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

(j) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, and bison.

(k) "Malice" has the same meaning as provided in RCW 9A.04.110, but applied to acts against animals.

(l) "Necessary food" means the provision at suitable intervals of wholesome foodstuff suitable for the animal's age, species, and condition, and that is sufficient to provide a reasonable level of nutrition for the animal and is easily accessible to the animal or as directed by a veterinarian for medical reasons.

(m) "Necessary shelter" means a structure sufficient to protect a dog from wind, rain, snow, cold, heat, or sun that has bedding to permit a dog to remain dry and reasonably clean and maintain a normal body temperature.

(n) "Necessary water" means water that is in sufficient quantity and of appropriate quality for the species for which it is intended and that is accessible to the animal or as directed by a veterinarian for medical reasons.

(o) "Owner" means a person who has a right, claim, title, legal share, or right of possession to an animal or a person having lawful control, custody, or possession of an animal.

(p) "Person" means individuals, corporations, partnerships, associations, or other legal entities, and agents of those entities.

(q) "Similar animal" means: (i) For a mammal, another animal that is in the same taxonomic order; or (ii) for an animal that is not a mammal, another animal that is in the same taxonomic class.

(r) "Substantial bodily harm" means substantial bodily harm as defined in RCW 9A.04.110.

(s) "Tether" means: (i) To restrain an animal by tying or securing the animal to any object or structure; and (ii) a device including, but not limited to, a chain, rope, cable, cord, tie-out, pulley, or trolley system for restraining an animal."

On page 1, line 1 of the title, after "abuse;" strike the remainder of the title and insert "amending RCW 16.52.117, 16.52.207, and 16.52.011; and prescribing penalties."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1919 and advanced the bill as amended by the Senate to final passage.

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

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1919, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1919, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland,

Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SUBSTITUTE HOUSE BILL NO. 1919, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 11, 2019

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1953 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** In 2016, the legislature directed state parks to develop options and recommendations to improve the consistency, equity, and simplicity in recreational access fee systems. This process identified the layering of park permit requirements that apply to sno-parks, and so the legislature intends to address this issue.

**Sec. 2.** RCW 79A.80.060 and 2011 c 320 s 7 are each amended to read as follows:

The discover pass or the day-use permit are not required, for persons who have a valid sno-park ~~((seasonal))~~ permit issued by the state parks and recreation commission, at designated sno-parks between November 1st through March 31st.

**Sec. 3.** RCW 79A.80.010 and 2013 2nd sp.s. c 23 s 22 are each amended to read as follows:

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

(1) "Agency" or "agencies" means the department of fish and wildlife, the department of natural resources, and the parks and recreation commission.

(2) "Annual natural investment permit" means the annual permit issued by the parks and recreation commission for the purpose of launching boats from the designated state parks boat launch sites.

(3) "Camper registration" means proof of payment of a camping fee on recreational lands managed by the parks and recreation commission.

(4) "Day-use permit" means the permit created in RCW 79A.80.030.

(5) "Discover pass" means the annual pass created in RCW 79A.80.020.

(6) "Motor vehicle" has the same meaning as defined in RCW 46.04.320 and which are required to be registered under chapter 46.16A RCW. "Motor vehicle" does not include those motor vehicles exempt from registration under RCW 46.16A.080, wheeled all-terrain vehicles registered for use under RCW 46.09.442, and state and publicly owned motor vehicles as provided in RCW 46.16A.170.

(7) "Recreation site or lands" means a state park, state lands and state forestlands as those terms are defined in RCW 79.02.010, natural resources conservation areas as that term is defined in RCW 79.71.030, natural area preserves as that term is defined in RCW 79.70.020, and fish and wildlife conservation sites including water access areas, boat ramps, wildlife areas, parking areas, roads, and trailheads.

(8) "Sno-park ~~((seasonal))~~ permit" means the ~~((seasonal))~~ permit issued by the parks and recreation commission for providing access to winter recreational facilities for the period of November 1st through March 31st.

(9) "Vehicle access pass" means the pass created in RCW 79A.80.040."

On page 1, line 2 of the title, after "sno-park;" strike the remainder of the title and insert "amending RCW 79A.80.060 and 79A.80.010; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1953 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Corry and Morgan spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1953, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1953, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan,

Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SUBSTITUTE HOUSE BILL NO. 1953, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 15, 2019

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1973 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.76 RCW to read as follows:

(1) The legislature recognizes that dual credit programs reduce both the cost and time of attendance to obtain a postsecondary degree. The legislature intends to reduce barriers and increase access to postsecondary educational opportunities for low-income students by removing the financial barriers for dual enrollment programs for students.

(2) The office, in consultation with the institutions of higher education and the office of the superintendent of public instruction, shall create the Washington dual enrollment scholarship pilot program. The office shall administer the Washington dual enrollment scholarship pilot program and may adopt rules as necessary.

(3) Eligible students are those who meet the following requirements:

(a) Qualify for the free or reduced-price lunch program;

(b) Are enrolled in one or more dual credit programs, as defined in RCW 28B.15.821, such as college in the high school and running start; and

(c) Have at least a 2.0 grade point average.

(4) Subject to availability of amounts appropriated for this specific purpose, beginning with the 2019-20 academic year, the office may award scholarships to eligible students. The scholarship award must be as follows:

(a) For eligible students enrolled in running start:

(i) Mandatory fees, as defined in RCW 28A.600.310(2), prorated based on credit load;

(ii) Course fees or laboratory fees as determined appropriate by college or university policies to pay for specified course related costs; and

(iii) A textbook voucher to be used at the institution of higher education's bookstore where the student is enrolled. For every credit per quarter the student is enrolled, the student shall receive a textbook voucher for ten dollars, up to a maximum of fifteen credits per quarter, or the equivalent, per year.

(b) An eligible student enrolled in a college in the high school program may receive a scholarship for tuition fees as set forth under RCW 28A.600.290(5)(a).

(5) The Washington dual enrollment scholarship pilot program must apply after the fee waivers for low-income students under RCW 28A.600.310 and subsidies under RCW 28A.600.290 are provided for.

**Sec. 2.** RCW 28A.600.310 and 2015 c 202 s 4 are each amended to read as follows:

(1)(a) Eleventh and twelfth grade students or students who have not yet received the credits required for the award of a high school diploma and are eligible to be in the eleventh or twelfth grades may apply to a participating institution of higher education to enroll in courses or programs offered by the institution of higher education.

(b) The course sections and programs offered as running start courses must also be open for registration to matriculated students at the participating institution of higher education and may not be a course consisting solely of high school students offered at a high school campus.

(c) A student receiving home-based instruction enrolling in a public high school for the sole purpose of participating in courses or programs offered by institutions of higher education shall not be counted by the school district in any required state or federal accountability reporting if the student's parents or guardians filed a declaration of intent to provide home-based instruction and the student received home-based instruction during the school year before the school year in which the student intends to participate in courses or programs offered by the institution of higher education. Students receiving home-based instruction under chapter 28A.200 RCW and students attending private schools approved under chapter 28A.195 RCW shall not be required to meet the student learning goals, obtain a certificate of academic achievement or a certificate of individual achievement to graduate from high school, or to master the essential academic learning requirements. However, students are eligible to enroll in courses or programs in participating universities only if the board of directors of the student's school district has decided to participate in the program. Participating institutions of higher education, in consultation with school districts, may establish admission standards for these students. If the institution of higher education accepts a secondary school pupil for enrollment under this section, the institution of higher education shall send written notice to the pupil and the pupil's school district within ten days of acceptance. The

notice shall indicate the course and hours of enrollment for that pupil.

(2)(a) In lieu of tuition and fees, as defined in RCW 28B.15.020 and 28B.15.041:

(i) Running start students shall pay to the community or technical college all other mandatory fees as established by each community or technical college and, in addition, the state board for community and technical colleges may authorize a fee of up to ten percent of tuition and fees as defined in RCW 28B.15.020 and 28B.15.041; and

(ii) All other institutions of higher education operating a running start program may charge running start students a fee of up to ten percent of tuition and fees as defined in RCW 28B.15.020 and 28B.15.041 in addition to technology fees.

(b) The fees charged under this subsection (2) shall be prorated based on credit load.

(c) Students may pay fees under this subsection with advanced college tuition payment program tuition units at a rate set by the advanced college tuition payment program governing body under chapter 28B.95 RCW.

(3)(a) The institutions of higher education must make available fee waivers for low-income running start students. ~~((Each institution must establish a written policy for the determination of low-income students before offering the fee waiver.))~~ A student shall be considered low income and eligible for a fee waiver upon proof that the student is currently qualified to receive free or reduced-price lunch. Acceptable documentation of low-income status may also include, but is not limited to, documentation that a student has been deemed eligible for free or reduced-price lunches in the last five years, or other criteria established in the institution's policy.

(b)(i) By the beginning of the 2020-21 school year, school districts, upon knowledge of a low-income student's enrollment in running start, must provide documentation of the student's low-income status, under (a) of this subsection, directly to institutions of higher education.

(ii) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction, in consultation with the Washington student achievement council, shall develop a centralized process for school districts to provide students' low-income status to institutions of higher education to meet the requirements of (b)(i) of this subsection.

(c) Institutions of higher education, in collaboration with relevant student associations, shall aim to have students who can benefit from fee waivers take advantage of these waivers. Institutions shall make every effort to communicate to students and their families the benefits of the waivers and provide assistance to students and their families on how to apply. Information about waivers shall, to the greatest extent possible, be incorporated into financial aid counseling, admission information, and individual billing statements. Institutions also shall, to the greatest extent possible, use all means of communication, including but not limited to web sites, online catalogues, admission and registration forms,

mass email messaging, social media, and outside marketing to ensure that information about waivers is visible, compelling, and reaches the maximum number of students and families that can benefit.

(4) The pupil's school district shall transmit to the institution of higher education an amount per each full-time equivalent college student at statewide uniform rates for vocational and nonvocational students. The superintendent of public instruction shall separately calculate and allocate moneys appropriated for basic education under RCW 28A.150.260 to school districts for purposes of making such payments and for granting school districts seven percent thereof to offset program related costs. The calculations and allocations shall be based upon the estimated statewide annual average per full-time equivalent high school student allocations under RCW 28A.150.260, excluding small high school enhancements, and applicable rules adopted under chapter 34.05 RCW. The superintendent of public instruction, participating institutions of higher education, and the state board for community and technical colleges shall consult on the calculation and distribution of the funds. The funds received by the institution of higher education from the school district shall not be deemed tuition or operating fees and may be retained by the institution of higher education. A student enrolled under this subsection shall be counted for the purpose of meeting enrollment targets in accordance with terms and conditions specified in the omnibus appropriations act.

NEW SECTION. Sec. 3. A new section is added to chapter 43.131 RCW to read as follows:

The Washington dual enrollment scholarship pilot program is terminated July 1, 2025, as provided in section 4 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2026:

Section 1 of this act."

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 28A.600.310; adding a new section to chapter 28B.76 RCW; and adding new sections to chapter 43.131 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1973 and advanced the bill as amended by the Senate to final passage.

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

Representatives Paul and McCaslin spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1973, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1973, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

SECOND SUBSTITUTE HOUSE BILL NO. 1973, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

April 13, 2019

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1996 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.18.200 and 2018 c 67 s 5 are each amended to read as follows:

(1) Special license plate series reviewed and approved by the department:

(a) May be issued in lieu of standard issue or personalized license plates for vehicles required to display one and two license plates unless otherwise specified;

(b) Must be issued under terms and conditions established by the department;

(c) Must not be issued for vehicles registered under chapter 46.87 RCW; and

(d) Must display a symbol or artwork approved by the department.

(2) The department approves and shall issue the following special license plates:

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
4-H	Displays the "4-H" logo.
Armed forces collection	Recognizes the contribution of veterans, active duty military personnel, reservists, and members of the national guard, and includes six separate designs, each containing a symbol representing a different branch of the armed forces to include army, navy, air force, marine corps, coast guard, and national guard.
Breast cancer awareness	Displays a pink ribbon symbolizing breast cancer awareness.
Endangered wildlife	Displays a symbol or artwork symbolizing endangered wildlife in Washington state.
Fred Hutch	Displays the Fred Hutch logo.
Gonzaga University alumni association	Recognizes the Gonzaga University alumni association.
Helping kids speak	Recognizes an organization that supports programs that provide no-cost speech pathology programs to children.
Keep kids safe	Recognizes efforts to prevent child abuse and neglect.
Law enforcement memorial	Honors law enforcement officers in Washington killed in the line of duty.
Music matters	Displays the "Music Matters" logo.

Professional firefighters and paramedics	Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.	Washington state wrestling	Promotes and supports college wrestling in the state of Washington.
<u>San Juan Islands</u>	<u>Displays a symbol or artwork recognizing the San Juan Islands.</u>	Washington tennis	Builds awareness and year-round opportunities for tennis in Washington state. Displays a symbol or artwork recognizing tennis in Washington state.
Seattle Mariners	Displays the "Seattle Mariners" logo.	Washington's fish collection	Recognizes Washington's fish.
Seattle Seahawks	Displays the "Seattle Seahawks" logo.	Washington's national park fund	Builds awareness of Washington's national parks and supports priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.
Seattle Sounders FC	Displays the "Seattle Sounders FC" logo.		
Seattle University	Recognizes Seattle University.		
Share the road	Recognizes an organization that promotes bicycle safety and awareness education.		
Ski & ride Washington	Recognizes the Washington snowsports industry.	Washington's wildlife collection	Recognizes Washington's wildlife.
State flower	Recognizes the Washington state flower.	We love our pets	Recognizes an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets to reduce pet overpopulation.
Volunteer firefighters	Recognizes volunteer firefighters.		
Washington farmers and ranchers	Recognizes farmers and ranchers in Washington state.		
Washington lighthouses	Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.	Wild on Washington	Symbolizes wildlife viewing in Washington state.
Washington state aviation	Displays a Stearman biplane in the foreground with an image of Mount Rainier in the background.		
Washington state parks	Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.		

(3) Applicants for initial and renewal professional firefighters and paramedics special license plates must show proof of eligibility by providing a certificate of current membership from the Washington state council of firefighters.

(4) Applicants for initial volunteer firefighters special license plates must (a) have been a volunteer firefighter for at least ten years or be a volunteer firefighter for one or more years and (b) have documentation of service from the district of the appropriate fire service. If the volunteer firefighter leaves firefighting service before ten years of service have been completed, the volunteer firefighter shall surrender the license plates to the department on the registration renewal date. If the volunteer firefighter stays in service for at least ten years and then

leaves, the license plate may be retained by the former volunteer firefighter and as long as the license plate is retained for use the person will continue to pay the future registration renewals. A qualifying volunteer firefighter may have no more than one set of license plates per vehicle, and a maximum of two sets per applicant, for their personal vehicles. If the volunteer firefighter is convicted of a violation of RCW 46.61.502 or a felony, the license plates must be surrendered upon conviction.

**Sec. 2.** RCW 46.17.220 and 2018 c 67 s 4 are each amended to read as follows:

In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter 46.16A RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

PLATE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(1) 4-H	\$ 40.00	\$ 30.00	RCW 46.68.420
(2) Amateur radio license	\$ 5.00	N/A	RCW 46.68.070
(3) Armed forces	\$ 40.00	\$ 30.00	RCW 46.68.425
(4) Breast cancer awareness	\$ 40.00	\$ 30.00	RCW 46.68.425
(5) Collector vehicle	\$ 35.00	N/A	RCW 46.68.030
(6) Collegiate	\$ 40.00	\$ 30.00	RCW 46.68.430
(7) Endangered wildlife	\$ 40.00	\$ 30.00	RCW 46.68.425
(8) Fred Hutch	\$ 40.00	\$ 30.00	RCW 46.68.420
(9) Gonzaga University alumni association	\$ 40.00	\$ 30.00	RCW 46.68.420
(10) Helping kids speak	\$ 40.00	\$ 30.00	RCW 46.68.420
(11) Horseless carriage	\$ 35.00	N/A	RCW 46.68.030
(12) Keep kids safe	\$ 45.00	\$ 30.00	RCW 46.68.425
(13) Law enforcement memorial	\$ 40.00	\$ 30.00	RCW 46.68.420
(14) Military affiliate radio system	\$ 5.00	N/A	RCW 46.68.070
(15) Music matters	\$ 40.00	\$ 30.00	RCW 46.68.420

(16) Professional firefighters and paramedics	\$ 40.00	\$ 30.00	RCW 46.68.420
(17) Purple Heart	\$ 40.00	\$ 30.00	RCW 46.68.425
(18) Ride share	\$ 25.00	N/A	RCW 46.68.030
(19) <u>San Juan Islands</u>	\$ 40.00	\$ 30.00	<u>RCW 46.68.420</u>
<u>(20)</u> Seattle Mariners	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((20))</del> <u>(21)</u> Seattle Seahawks	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((21))</del> <u>(22)</u> Seattle Sounders FC	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((22))</del> <u>(23)</u> Seattle University	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((23))</del> <u>(24)</u> Share the road	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((24))</del> <u>(25)</u> Ski & ride Washington	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((25))</del> <u>(26)</u> Square dancer	\$ 40.00	N/A	RCW 46.68.070
<del>((26))</del> <u>(27)</u> State flower	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((27))</del> <u>(28)</u> Volunteer firefighters	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((28))</del> <u>(29)</u> Washington farmers and ranchers	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((29))</del> <u>(30)</u> Washington lighthouses	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((30))</del> <u>(31)</u> Washington state aviation	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((31))</del> <u>(32)</u> Washington state parks	\$ 40.00	\$ 30.00	RCW 46.68.425
<del>((32))</del> <u>(33)</u> Washington state wrestling	\$ 40.00	\$ 30.00	RCW 46.68.420

<p><del>((33))</del>      <u>(34)</u> \$ 40.00 \$ 30.00      RCW 46.68.420                  Washington tennis</p>	<p>Helping kids speak</p>	<p>Provide free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development</p>
<p><del>((34))</del>      <u>(35)</u> \$ 40.00 \$ 30.00      RCW 46.68.425                  Washington's fish collection</p>	<p>Law enforcement memorial</p>	<p>Provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers</p>
<p><del>((35))</del>      <u>(36)</u> \$ 40.00 \$ 30.00      RCW 46.68.420                  Washington's national parks</p>	<p>Lighthouse environmental programs</p>	<p>Support selected Washington state lighthouses that are accessible to the public and staffed by volunteers; provide environmental education programs; provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration; encourage and support interpretive programs by lighthouse docents</p>
<p><del>((36))</del>      <u>(37)</u> \$ 40.00 \$ 30.00      RCW 46.68.425                  Washington's wildlife collection</p>	<p>Music matters awareness</p>	<p>Promote music education in schools throughout Washington</p>
<p><del>((37))</del> <u>(38)</u> We love \$ 40.00 \$ 30.00      RCW 46.68.420                  our pets</p>	<p><u>San Juan Islands programs</u></p>	<p><u>Provide funds to the Madrona institute</u></p>
<p><del>((38))</del> <u>(39)</u> Wild on \$ 40.00 \$ 30.00      RCW 46.68.425                  Washington</p>	<p>Seattle Mariners</p>	<p>Provide funds to the sports mentoring program and to support the Washington world fellows program in the following manner: (a) Seventy-five percent to the office of the lieutenant governor solely to administer the sports mentoring program established under RCW 43.15.100, to encourage youth who have economic needs or face adversities to experience spectator sports or get involved in youth sports, and (b) up to twenty-five percent to the office of the lieutenant governor solely to</p>

**Sec. 3.** RCW 46.68.420 and 2018 c 67 s 2 are each amended to read as follows:

(1) The department shall:

(a) Collect special license plate fees established under RCW 46.17.220;

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fee amounts for each special license plate to the following appropriate account as created in this section in the custody of the state treasurer:

ACCOUNT	CONDITIONS FOR USE OF FUNDS
4-H programs	Support Washington 4-H programs
Fred Hutch	Support cancer research at the Fred Hutchinson cancer research center
Gonzaga University alumni association	Scholarship funds to needy and qualified students attending or planning to attend Gonzaga University

	administer the Washington world fellows program, an equity focused program	Seattle University	Fund scholarships for students attending or planning to attend Seattle University
Seattle Seahawks	Provide funds to InvestED and to support the Washington world fellows program in the following manner: (a) Seventy-five percent, to InvestED, to encourage secondary students who have economic needs to stay in school, return to school, or get involved within their learning community; and (b) twenty-five percent to the office of the lieutenant governor solely to administer the Washington world fellows program, including the provision of fellowships	Share the road  Ski & ride Washington	Promote bicycle safety and awareness education in communities throughout Washington  Promote winter snowsports, such as skiing and snowboarding, and related programs, such as ski and ride safety programs, underprivileged youth ski and ride programs, and active, healthy lifestyle programs
Seattle Sounders FC	Provide funds to Washington state mentors and the association of Washington generals created in RCW 43.15.030 in the following manner: (a) Seventy percent and the remaining proceeds, if any, to Washington state mentors, to increase the number of mentors in the state by offering mentoring grants throughout Washington state that foster positive youth development and academic success, with up to twenty percent of these proceeds authorized for program administration costs; and (b) up to thirty percent, not to exceed forty-thousand dollars annually as adjusted for inflation by the office of financial management, to the association of Washington generals, to develop Washington state educational, veterans, international relations, and civics projects and to recognize the outstanding public service of individuals or groups in the state of Washington	State flower  Volunteer firefighters  Washington farmers and ranchers  Washington state aviation  Washington state council of firefighters benevolent fund  Washington state wrestling	Support Meerkerk Rhododendron Gardens and provide for grants to other qualified nonprofit organizations' efforts to preserve rhododendrons  Receive and disseminate funds for purposes on behalf of volunteer firefighters, their families, and others deemed in need  Provide funds to the Washington FFA Foundation for educational programs in Washington state  Provide funds to the department of transportation to support infrastructure improvements at public use airports in Washington state  Receive and disseminate funds for charitable purposes on behalf of members of the Washington state council of firefighters, their families, and others deemed in need  Provide funds to the Washington state wrestling foundation to fund new and existing college wrestling programs

Washington tennis

Provide funds to cities to assist in the construction and maintenance of a public tennis facility with at least four indoor tennis courts. A city is eligible for construction funds if the city does not already have a public or private facility with at least four indoor tennis courts. Funds for construction must first be made available to the most populous eligible city, according to the most recent census, for a time period not to exceed five years after January 1, 2017. After the five-year time period, the funds for construction must be made available to the next most populous eligible city. Funds for the maintenance of a public tennis facility with at least four indoor tennis courts must first be made available to the first eligible city that utilizes funds for construction provided by chapter 16, Laws of 2016

(4) Except as otherwise provided in this section, funds in the special license plate accounts described in subsection (2) of this section must be disbursed subject to the conditions described in subsection (2) of this section and under contract between the department and qualified nonprofit organizations that provide the services described in subsection (2) of this section.

(5) Funds from the Seattle Seahawks account may be provided to the lieutenant governor solely for the purpose of administering the Washington world fellows program. Of the amounts received by the lieutenant governor's office under this subsection, at least ninety percent must be provided as fellowships under the program.

(6) Beginning January 1, 2019, funds from the Seattle Mariners account may be provided to the office of lieutenant governor solely for the purpose of administering the sports mentoring program. Of the amounts received by the office of lieutenant governor, at least ninety percent must be applied towards services directly provided to youth participants.

(7) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation operating in Washington that has received a determination of tax exempt status under 26 U.S.C. Sec. 501(c)(3). The qualified nonprofit organization must meet all the requirements under RCW 46.18.100(1).

NEW SECTION. **Sec. 4.** A new section is added to chapter 46.04 RCW to read as follows:

"San Juan Islands license plates" means license plates issued under RCW 46.18.200 that display a symbol or artwork recognizing the San Juan Islands in Washington state.

NEW SECTION. **Sec. 5.** This act takes effect October 1, 2019."

On page 1, line 1 of the title, after "Islands" strike the remainder of the title and insert "special license plate; amending RCW 46.18.200, 46.17.220, and 46.68.420; adding a new section to chapter 46.04 RCW; and providing an effective date."

Washington's national park fund

Build awareness of Washington's national parks and support priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks

and the same is herewith transmitted.

Brad Hendrickson, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1996 and advanced the bill as amended by the Senate to final passage.

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

We love our pets

Support and enable the Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington state pets in order to reduce pet population

(3) Except as otherwise provided in this section, only the director or the director's designee may authorize expenditures from the accounts described in subsection (2) of this section. The accounts are subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1996, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1996, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Barkis, Bergquist, Blake, Boehnke, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, DeBolt, Dent, Doglio, Dolan, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gildon, Goehner, Goodman, Gregerson, Griffey, Hansen, Harris, Hoff, Hudgins, Irwin, Jenkin, Jinkins, Kilduff, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, Mead, Morgan, Morris, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Pellicciotti, Peterson, Pettigrew, Pollet, Ramos, Reeves, Riccelli, Robinson, Rude, Ryu, Santos, Schmick, Sells, Senn, Shea, Shewmake, Slatter, Smith, Springer, Stanford, Stokesbary, Stonier, Sullivan, Sutherland, Tarleton, Thai, Tharinger, Valdez, Van Werven, Vick, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Young.

Excused: Representatives Appleton, Graham, Kirby and Steele.

ENGROSSED HOUSE BILL NO. 1996, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

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

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

### INTRODUCTION & FIRST READING

HB 2173 by Representative Ormsby

AN ACT Relating to fiscal matters.

Referred to Committee on Appropriations.

HB 2174 by Representative Ormsby

AN ACT Relating to state government.

Referred to Committee on Appropriations.

HB 2175 by Representative Ormsby

AN ACT Relating to education.

Referred to Committee on Appropriations.

HB 2176 by Representative Ormsby

AN ACT Relating to fiscal matters.

Referred to Committee on Appropriations.

HB 2177 by Representative Tharinger

AN ACT Relating to the capital budget.

Referred to Committee on Capital Budget.

HB 2178 by Representatives Tharinger and DeBolt

AN ACT Relating to state general obligation bonds and related accounts.

Referred to Committee on Capital Budget.

HB 2179 by Representative Pellicciotti

AN ACT Relating to transferring the unclaimed property program administration to the office of the state treasurer; amending RCW 43.08.010, 63.29.030, 63.29.040, 63.29.135, 63.29.170, 63.29.180, 63.29.190, 63.29.192, 63.29.193, 63.29.194, 63.29.195, 63.29.200, 63.29.210, 63.29.220, 63.29.230, 63.29.240, 63.29.250, 63.29.260, 63.29.270, 63.29.280, 63.29.290, 63.29.300, 63.29.310, 63.29.320, 63.29.330, 63.29.340, 63.29.350, 63.29.370, 63.29.380, and 63.29.900; reenacting and amending RCW 63.29.010; creating a new section; and providing an effective date.

Referred to Committee on State Government & Tribal Relations.

HB 2180 by Representative Fitzgibbon

AN ACT Relating to greenhouse gas emission reductions.

Referred to Committee on Appropriations.

There being no objection, the bills listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated.

There being no objection, the House adjourned until 9:00 a.m., April 19, 2019, the 96th Day of the Regular Session.

FRANK CHOPP, Speaker

BERNARD DEAN, Chief Clerk

