2024

SESSION LAWS

OF THE

STATE OF WASHINGTON

2024 REGULAR SESSION
SIXTY-EIGHTH LEGISLATURE
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WASHINGTON SESSION LAWS
GENERAL INFORMATION

1. EDITIONS AVAILABLE.

   (a) *General Information.* The session laws are printed in a permanent softbound edition containing the accumulation of all laws adopted in the legislative session. The edition contains a subject index and tables indicating Revised Code of Washington sections affected.

   (b) *Where and how obtained - price.* The permanent session laws may be ordered from the Statute Law Committee, John L. O'Brien Building, P.O. Box 40552, Olympia, Washington 98504-0552. The edition costs $25.00 per set plus applicable state and local sales taxes and $7.00 shipping and handling. All orders must be accompanied by payment.

2. PRINTING STYLE - INDICATION OF NEW OR DELETED MATTER.

   The session laws are presented in the form in which they were enacted by the legislature. This style quickly and graphically portrays the current changes to existing law as follows:

   (a) In amendatory sections

   (i) underlined matter is new matter.

   (ii) deleted matter is ((~~lined out and bracketed between double parentheses~~)).

   (b) Complete new sections are prefaced by the words NEW SECTION.

3. PARTIAL VETOES.

   (a) Vetoed matter is ***printed in bold italics.***

   (b) Pertinent excerpts of the governor's explanation of partial vetoes are printed at the end of the chapter concerned.

4. EDITORIAL CORRECTIONS. Words and clauses inserted in the session laws under the authority of RCW 44.20.060 are enclosed in [brackets].

5. EFFECTIVE DATE OF LAWS.

   (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the effective date for the Laws of the 2024 regular session is June 6, 2024.

   (b) Laws that carry an emergency clause take effect immediately, or as otherwise specified, upon approval by the Governor.

   (c) Laws that prescribe an effective date take effect upon that date.

6. INDEX AND TABLES.

   A cumulative index and tables of all 2024 laws may be found at the back of the final volume.

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CHAPTER 1

[Engrossed House Bill 1964]

PRORATE AND FUEL TAX COLLECTION

AN ACT Relating to enhancing prorate and fuel tax collections by improving taxpayer compliance, providing additional enforcement mechanisms, and protecting confidential taxpayer information; amending RCW 46.87.020, 46.87.080, 46.87.350, 82.38.020, 82.38.072, 82.38.120, 82.38.140, 82.38.170, 82.38.220, 82.38.260, 82.38.270, 82.38.380, 82.42.118, and 82.42.210; reenacting and amending RCW 82.42.010; adding new sections to chapter 82.38 RCW; adding new sections to chapter 82.42 RCW; creating a new section; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.87.020 and 2015 c 228 s 2 are each amended to read as follows:

Provisions and terms used in this chapter have the meaning given to them in the international registration plan (IRP), in chapter 46.04 RCW, or as otherwise defined in this section. Definitions given to terms by the IRP prevail unless given a different meaning in this chapter or in rules adopted under authority of this chapter.

(1) "Adequate records" are records maintained by the owner of the fleet sufficient to enable the department to verify the distances reported in the owner's application for apportioned registration and to evaluate the accuracy of the owner's distance accounting system.

(2) "Apportionable vehicle" has the meaning given by the IRP, except that it does not include vehicles with a declared gross weight of ((~~twelve thousand~~)) 12,000 pounds or less.

(3) "Cab card" is a certificate of registration issued for a vehicle.

(4) "Credentials" means cab cards, apportioned plates, temporary operating authority, and validation tabs issued for proportionally registered vehicles.

(5) "Declared combined gross weight" means the total unladen weight of any combination of vehicles plus the maximum weight of the load to be carried on the combination of vehicles as declared by the registrant.

(6) "Declared gross weight" means the total unladen weight of any vehicle plus the maximum weight of the load to be carried on the vehicle as declared by the registrant. In the case of a bus, auto stage, or a passenger-carrying for hire vehicle with a seating capacity of more than six, the declared gross weight is determined by multiplying ((~~one hundred fifty~~)) 150 pounds by the number of seats in the vehicle, including the driver's seat, and adding this amount to the unladen weight of the vehicle. If the resultant gross weight is not listed in RCW 46.17.355, it must be increased to the next higher gross weight authorized in chapter 46.44 RCW.

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

(8) "Fleet" means one or more apportionable vehicles.

(9) "In-jurisdiction distance" means the total distance, in miles, accumulated in a jurisdiction during the reporting period by vehicles of the fleet while they were a part of the fleet.

(10) "IRP" means the international registration plan.

(11) "Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country.

(12) "Motor carrier" means an entity engaged in the transportation of goods or persons. "Motor carrier" includes a for-hire motor carrier, private motor carrier, exempt motor carrier, registrant licensed under this chapter, motor vehicle lessor, and motor vehicle lessee.

(13) "Owner" means a person or business who holds the legal title to a vehicle, or if a vehicle is the subject of an agreement for its conditional sale with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or if a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or if a mortgagor of a vehicle is entitled to possession, then the owner is deemed to be the person or business in whom is vested right of possession or control.

(((~~(13) [(14)]~~))) (14) "Person" means any individual, partnership, association, public or private corporation, limited liability company, or other type of legal or commercial entity, including its members, managers, partners, directors, or officers.

(((~~(14) [(15)]~~))) (15) "Prorate percentage" is the factor applied to the total proratable fees and taxes to determine the apportionable fees required for registration in a jurisdiction. It is determined by dividing the in-jurisdiction distance for a particular jurisdiction by the total distance.

(((~~(15) [(16)]~~))) (16) "Registrant" means a person, business, or corporation in whose name or names a vehicle or fleet of vehicles is registered.

(((~~(16) [(17)]~~))) (17) "Registration year" means the ((~~twelve~~)) 12-month period during which the credentials issued by the base jurisdiction are valid.

(((~~(17) [(18)]~~))) (18) "Reporting period" means the period of ((~~twelve~~)) 12 consecutive months immediately prior to July 1st of the calendar year immediately preceding the beginning of the registration year for which apportioned registration is sought. If the fleet registration period commences in October, November, or December, the reporting period is the period of ((~~twelve~~)) 12 consecutive months immediately preceding July 1st of the current calendar year.

(((~~(18) [(19)]~~))) (19) "Total distance" means all distance operated by a fleet of apportioned vehicles. "Total distance" includes the full distance traveled in all vehicle movements, both interjurisdictional and intrajurisdictional, including loaded, unladen, deadhead, and bobtail distances. Distance traveled by a vehicle while under a trip lease is considered to have been traveled by the lessor's fleet. All distance, both interstate and intrastate, accumulated by vehicles of the fleet is included in the fleet distance.

(20) "Deny" means to decline acceptance of an application for licensure or reinstatement.

(21) "Refuse" has the same meaning as "deny" in subsection (20) of this section.

(22) "Revoke" means to prohibit all authority granted by this chapter, including the display and use of credentials issued by the department for a period of one year or greater or for an indefinite period.

(23) "Suspend" means to restrict the grant of authority under this chapter for a period of less than one year.

Sec. 2. RCW 46.87.080 and 2015 c 228 s 10 are each amended to read as follows:

(1) Upon making satisfactory application and payment of fees and taxes for proportional registration under this chapter, the department must issue credentials. License plates must be displayed as required under RCW 46.16A.200(5). The license plates must be of a design determined by the department. The license plates must be treated with reflectorized material and clearly marked with the words "WASHINGTON" and "APPORTIONED," both words to appear in full and without abbreviation.

(2) The cab card is the certificate of registration for the vehicle. The cab card must contain the name and address of the registrant as maintained in the records of the department, the license plate number assigned to the vehicle, the vehicle identification number, and other information the department may require. The cab card must be signed by the registrant, or a designated person if the registrant is a business, and must always be carried in the vehicle.

(3) The apportioned license plates are not transferable. License plates must be legible and remain with the vehicle until the department requires them to be removed.

(4) Validation tab(s) of a design determined by the department must be affixed to the license plate(s) as prescribed by the department and indicate the month and year for which the vehicle is registered.

(5) A fleet vehicle properly registered is deemed to be fully registered in this state for any type of legal movement or operation. In instances in which a permit or grant of authority is required for interstate or intrastate operation, the vehicle must not be operated in interstate or intrastate commerce unless the owner is granted the appropriate operating authority and the vehicle is being operated in conformity with that permit or operating authority.

(6) The department may deny, suspend, or revoke the credentials authorized under subsection (1) of this section to any person: (a) Who formerly held any type of license, registration, credentials, or permit issued by the department pursuant to chapter 46.16A, 46.44, 46.85, ((~~46.87,~~)) or 82.38 RCW or this chapter that has been revoked for cause, which cause has not been removed; (b) who is a subterfuge for the real party in interest whose license, registration, credentials, or permit issued by the department pursuant to chapter 46.16A, 46.44, 46.85, ((~~46.87,~~)) or 82.38 RCW or this chapter and has been revoked for cause, which cause has not been removed; (c) who, as a person, individual licensee, or officer, partner, director, owner, or managing employee of a nonindividual licensee, has had a license, registration, or permit issued by the department pursuant to chapter 46.16A, 46.44, 46.85, ((~~46.87,~~)) or 82.38 RCW or this chapter that has been revoked for cause, which cause has not been removed; (d) who has an unsatisfied debt to the state assessed under either chapter 46.16A, 46.44, 46.85, ((~~46.87,~~)) 82.38, or 82.44 RCW or this chapter; or (e) who, as a person, individual licensee, officer, partner, director, owner, or managing employee of a nonindividual licensee, has been prohibited from operating as a motor carrier by the federal motor carrier safety administration or Washington state patrol and the cause for such prohibition has not been satisfied.

(7) ((~~Before such denial, suspension, or revocation under subsection (6) of this section~~)) Any action initiated under subsection (6) of this section may be immediately issued as a notice of the adverse action. Upon service of that notice, the applicant, registrant, or owner must be granted 30 calendar days to request a review by the department on the action. If a timely request to review is received,

the department must grant the applicant, registrant, or owner ((~~an informal hearing~~)) a review and at least ((~~ten~~)) 10 days written notice of the time ((~~and~~)), place, and method of the ((~~hearing~~)) review. If no request is received by the department, the action becomes final and subject to the provisions of RCW 46.87.300.

Sec. 3. RCW 46.87.350 and 2015 c 228 s 33 are each amended to read as follows:

If a person is delinquent in the payment of any obligation, the department may give notice of the amount of the delinquency, in person ((~~or~~)), by mail, or through electronic service, to persons having possession or control of credits or personal and real property belonging to the person, or owing any debts to the person. Any person notified may not transfer or dispose of credits, personal and real property, or debts without the consent of the department. A person notified must, within ((~~twenty~~)) 20 days after receipt of the notice, advise the department of any credits, personal and real property, or debts in his or her possession, under his or her control or owing by him or her, and must immediately deliver the credits, personal and real property, or debts to the department.

If a person fails to timely answer the notice, a court may render judgment by default against the person.

The notice and order to withhold and deliver constitutes a continuing lien on property of the person. The department must include in the notice to withhold and deliver "continuing lien." The effective date of a notice to withhold and deliver is the date of service.

Sec. 4. RCW 82.38.020 and 2013 c 225 s 102 are each amended to read as follows:

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

(1) "Blended fuel" means a mixture of fuel and another liquid, other than a de minimis amount of the liquid.

(2) "Blender" means a person who produces blended fuel outside the bulk transfer-terminal system.

(3) "Bond" means a bond duly executed with a corporate surety qualified under chapter 48.28 RCW payable to the state of Washington conditioned upon faithful performance of all requirements of this chapter.

(4) "Bulk transfer-terminal system" means the fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Fuel in a refinery, pipeline, vessel, or terminal is in the bulk transfer-terminal system.

(5) "Bulk transfer" means a transfer of fuel by pipeline or vessel.

(6) "Bulk storage" means the placing of fuel into a receptacle other than the fuel supply tank of a motor vehicle.

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

(8) "Distributor" means a person who acquires fuel outside the bulk transfer-terminal system for importation into Washington, from a terminal or refinery rack located within Washington for distribution within Washington, or for immediate export outside the state of Washington.

(9) "Dyed special fuel user" means a person authorized by the internal revenue code to operate a motor vehicle on the highway using dyed special fuel, in which the use is not exempt from the fuel tax.

(10) "Evasion" or "evade" means to diminish or avoid the computation, assessment, or payment of authorized taxes or fees through:

(a) A knowing: False statement; omission; misrepresentation of fact; or other act of deception;

(b) An intentional: Failure to file a return or report; or other act of deception; or

(c) The unlawful use of dyed special fuel.

(11) "Exempt sale" means the sale of fuel to a person whose use of fuel is exempt from the fuel tax.

(12) "Export" means to obtain fuel in this state for sales or distribution outside the state. Fuel distributed to a federally recognized Indian tribal reservation located within the state of Washington is not considered exported outside this state.

(13) "Exporter" means a person who purchases fuel physically located in this state at the time of purchase and directly exports the fuel by a means other than the bulk transfer-terminal system to a destination outside of the state. If the exporter of record is acting as an agent, the person for whom the agent is acting is the exporter. If there is no exporter of record, the owner of the fuel at the time of exportation is the exporter.

(14) "Fuel" means motor vehicle fuel or special fuel.

(15) "Fuel user" means a person engaged in uses of fuel that are not specifically exempted from the fuel tax imposed under this chapter.

(16) "Highway" means every way or place open to the use of the public, as a matter of right, for the purpose of vehicular travel.

(17) "Import" means to bring fuel into this state by a means of conveyance other than the fuel supply tank of a motor vehicle.

(18) "Importer" means a person who imports fuel into the state by a means other than the bulk transfer-terminal system. If the importer of record is acting as an agent, the person for whom the agent is acting is the importer. If there is no importer of record, the owner of the fuel at the time of importation is the importer.

(19) "International fuel tax agreement licensee" means a fuel user operating qualified motor vehicles in interstate commerce and licensed by the department under the international fuel tax agreement.

(20) "Licensee" means a person holding a license issued under this chapter.

(21) "Motor vehicle" means a self-propelled vehicle utilizing fuel as a means of propulsion.

(22) "Motor vehicle fuel" means gasoline and any other inflammable gas or liquid, by whatsoever name the gasoline, gas, or liquid may be known or sold the chief use of which is as a fuel for the propulsion of motor vehicles or vessels.

(23) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form.

(24) "Person" means any individual, partnership, association, public or private corporation, limited liability company, or any other type of legal or commercial entity, including their members, managers, partners, directors, or officers.

(25) "Position holder" means a person who holds the inventory position in fuel, as reflected by the records of the terminal operator. A person holds the inventory position if the person has a contractual agreement with the terminal for

the use of storage facilities and terminating services. "Position holder" includes a terminal operator that owns fuel in their terminal.

(26) "Rack" means a mechanism for delivering fuel from a refinery or terminal into a truck, trailer, railcar, or other means of nonbulk transfer.

(27) "Refiner" means a person who owns, operates, or otherwise controls a refinery.

(28) "Removal" means a physical transfer of fuel other than by evaporation, loss, or destruction.

(29) "Special fuel" means diesel fuel, propane, natural gas, kerosene, biodiesel, and any other combustible liquid or gas by whatever name the liquid or gas may be known or sold for the generation of power to propel a motor vehicle on the highways, except it does not include motor vehicle fuel.

(30) "Supplier" means a person who holds a federal certificate of registry issued under the internal revenue code and authorizes the person to engage in tax-free transactions of fuel in the bulk transfer-terminal system.

(31) "Terminal" means a fuel storage and distribution facility that has been assigned a terminal control number by the internal revenue service.

(32) "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

(33) "Two-party exchange" or "buy-sell agreement" means a transaction in which taxable fuel is transferred from one licensed supplier to another licensed supplier whereby the supplier that is the position holder agrees to deliver taxable fuel to the other supplier or the other supplier's customer at the terminal at which the delivering supplier is the position holder.

(34) "Deny" means to decline acceptance of an application for licensure or reinstatement.

(35) "Refuse" has the same meaning as "deny" in subsection (34) of this section.

(36) "Revoke" means to prohibit all authority granted by this chapter, including the display and use of credentials issued by the department for a period of one year or greater or for an indefinite period.

(37) "Suspend" means to restrict the grant of authority under this chapter for a period of less than one calendar year.

Sec. 5. RCW 82.38.072 and 2013 c 225 s 204 are each amended to read as follows:

(1) Unless the use is exempt from the special fuel tax, or expressly authorized by the federal internal revenue code and this chapter, a person having dyed special fuel in the fuel supply tank of a motor vehicle that is licensed or required to be licensed is subject to a civil penalty of ((~~ten dollars~~)) $10 for each gallon of dyed special fuel placed into the supply tank of the motor vehicle, or ((~~one thousand dollars~~)) $1,000, whichever is greater. The penalties must be collected and administered under this chapter.

(2) A person who maintains dyed special fuel in bulk storage for an intended sale or use in violation of this chapter is subject to a civil penalty of ((~~ten dollars~~)) $10 for each gallon of dyed special fuel, or ((~~one thousand dollars~~)) $1,000, whichever is greater, currently ((~~or~~)) and previously maintained in bulk storage by the person. The department may make an assessment based upon the calculated capacity of the bulk storage, which is presumptive unless evidence is provided supporting a lower quantity of dyed special fuel actually maintained in

violation of this chapter. The penalties must be collected and administered under this chapter.

(3) For the purposes of enforcement of this section, the director, the director's agents, the Washington state patrol, or other commercial vehicle safety alliance-certified officers may inspect, collect, and secure samples of special fuel used in the propulsion of a vehicle operated upon the highways of this state, or in any bulk storage device transported upon the highways of this state, to detect the presence of dye or other chemical compounds.

(4) RCW 43.05.110 does not apply to the civil penalties imposed under ((~~subsection (1) of~~)) this section.

(5) If one or more violations have been assessed under this section within the previous five years from the violation date, the civil penalties under subsections (1) and (2) of this section must be multiplied by the number of previously assessed violations plus one.

(6) Assessments under this section are subject to the provisions of RCW 82.38.170.

Sec. 6. RCW 82.38.120 and 2013 c 225 s 114 are each amended to read as follows:

(1) The department may refuse to issue to, or suspend or revoke a license of any licensee or applicant:

(a) Who formerly held a license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW which has been suspended or revoked for cause;

(b) Who is a subterfuge for the real party in interest whose license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW has been revoked for cause;

(c) Who, as an individual licensee, or partner, officer, director, owner, or managing employee of a licensee, has had a license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW denied, suspended, or revoked for cause;

(d) Who has an unsatisfied debt to the state assessed under either chapter 82.36, 82.38, 82.42, or 46.87 RCW;

(e) Who formerly held as an individual, partner, officer, director, owner, managing employee of a licensee, or subterfuge for a real party in interest, a license issued by the federal government or a state that allowed a person to buy or sell untaxed motor vehicle, special, or aircraft fuel, which has been suspended or revoked for cause;

(f) Who ((~~pled~~)) pleaded guilty to or was convicted as an individual, partner, officer, director, owner, or managing employee of a licensee in this or any other state, Canadian province, or in any federal jurisdiction of a gross misdemeanor or felony crime directly related to the fuel distribution business or has been subject to a civil judgment involving fraud, misrepresentation, conversion, or dishonesty, notwithstanding chapter 9.96A RCW;

(g) Who misrepresented or concealed a material fact in obtaining a license or reinstating a license;

(h) Who violated a statute or administrative rule regulating fuel taxation or distribution;

(i) Who failed to cooperate with the department's investigations by:

(i) Not furnishing papers or documents;

(ii) Not furnishing in writing a full and complete explanation regarding a matter under investigation by the department; or

(iii) Not responding to subpoenas issued by the department, whether or not the recipient of the subpoena is the subject of the proceeding;

(j) Who failed to comply with an order issued by the director; or

(k) Upon other sufficient cause being shown.

(2) Refusals, suspensions, and revocations under this section become final 30 days after notice is served upon the licensee or applicant of the intention to refuse, suspend, or revoke the authority granted in this chapter.

(3) Before a refusal, suspension, or revocation under this section becomes final, the department must ((~~grant~~)) offer the applicant a ((~~hearing~~)) review by the department and must grant the applicant at least ((~~twenty~~)) 20 days written notice of the time ((~~and~~)), place, and method thereof.

Sec. 7. RCW 82.38.140 and 2013 c 225 s 115 are each amended to read as follows:

(1) Every person importing, manufacturing, refining, transporting, blending, or storing fuel must keep for a period of five years open to inspection at all times during the business hours of the day to the department or its authorized representatives, a complete record of all fuel purchased or received and all fuel sold, delivered, or used by them. Records must show:

(a) The date of receipt;

(b) The name and address of the person from whom purchased or received;

(c) The number of gallons received at each place of business or place of storage in the state of Washington;

(d) The date of sale or delivery;

(e) The number of gallons sold, delivered, or used for taxable purposes;

(f) The number of gallons sold, delivered, or used for any purpose not subject to the fuel tax;

(g) The name, address, and fuel license number of the purchaser if the fuel tax is not collected on the sale or delivery;

(h) The physical inventories of fuel and petroleum products on hand at each place of business at the end of each month;

(i) Stocks of raw gasoline, gasoline stock, diesel oil, kerosene, kerosene distillates, casing head gasoline and other petroleum products which may be used in the compounding, blending, or manufacturing of fuel.

(2)(a) All international fuel tax agreement licensees and dyed special fuel users authorized to use dyed special fuel on highways in vehicles licensed for highway operation must maintain detailed mileage records on an individual vehicle basis.

(b) Operating records must show both on-highway and off-highway usage of special fuel on a daily basis for each vehicle.

(c) In the absence of operating records that show both on-highway and off-highway usage of special fuel on a daily basis for each vehicle, fuel consumption must be computed under RCW 82.38.060.

(3) The department may require a person other than a licensee engaged in the business of selling, purchasing, distributing, storing, transporting, or delivering fuel to submit periodic reports to the department regarding the disposition of the fuel. The reports must be on forms prescribed by the department and must contain such information as the department may require. Failure to report as the department requires subjects a person to the civil and criminal penalties under RCW 82.38.170 and 82.38.270.

(4) Every person operating any conveyance transporting fuel in bulk must possess during the entire time an invoice, bill of sale, or other statement showing the name, address, and license number of the seller or consigner, the destination, name, and address of the purchaser or consignee, license number, if applicable, and the number of gallons. The person transporting fuel must at the request of any law enforcement officer or authorized representative of the department, produce for inspection required records and must permit inspection of the contents of the vehicle.

Sec. 8. RCW 82.38.170 and 2013 c 225 s 118 are each amended to read as follows:

(1) If any person fails to pay any taxes due the state of Washington within the time prescribed by RCW 82.38.150 and 82.38.160, the person must pay a penalty of ((~~ten~~)) 10 percent of the tax due.

(2) If the tax reported by any licensee is deficient a penalty of ten percent of the deficiency must be assessed.

(3) If any licensee, whether or not licensed as such, fails, neglects, or refuses to file a required fuel tax report, the department must determine the tax liability and add the penalty provided in subsection (2) of this section to the liability. An assessment made by the department pursuant to this subsection or to subsection (2) of this section is presumed to be correct, and the burden is on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive.

(4) If any person, other than a licensee, fails, neglects, or refuses to file a required fuel tax report, or files a false or fraudulent report, the department must calculate and assess a penalty. The penalty under this subsection is $100 plus an additional five cents per gallon not properly reported or falsely reported. An assessment made by the department pursuant to this subsection is presumed to be correct, and the burden is on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive.

(5) If any ((~~licensee~~)) person establishes by a fair preponderance of evidence that failure to file a report or pay the proper amount of tax within the time prescribed was due to reasonable cause and was not intentional or willful, the department may waive the penalty prescribed in subsections (1) ((~~and~~)), (2), and (4) of this section.

(((~~(5)~~))) (6) If any licensee files a false or fraudulent report with intent to evade the tax imposed by this chapter, there is added to the amount of deficiency a penalty of ((~~twenty-five~~)) 25 percent of the deficiency, in addition to all other penalties prescribed by law.

(((~~(6)~~))) (7) If any person acts as a licensee without first securing the required license, all fuel tax liability incurred by that person becomes immediately due and payable. The department must determine the amount of the tax liability and must assess the person a penalty of ((~~one hundred~~)) 100 percent of the tax in addition to the tax owed.

(((~~(7)~~))) (8) Any fuel tax, penalties, and interest payable under this chapter shall bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion thereof should have been paid until the date of payment. The department may waive interest

when it determines the cost of processing the collection exceeds the amount of interest due.

(((~~(8)~~))) (9) Except in the case of filing a false or fraudulent report, if the department deems mitigation of penalties and interest to be reasonable and in the best interests of carrying out the purpose of this chapter, it may mitigate the assessments.

(((~~(9)~~))) (10) Except in the case of a fraudulent report or failure to file a report, deficiencies, penalties, and interest must be assessed within five years from the ((~~twenty-fifth~~)) 25 day of the next succeeding month following the reporting period for which the amount is determined or within five years after the return is filed, whichever period expires later.

(((~~(10)~~))) (11)(a) Any ((~~licensee~~)) person against whom an assessment is made under the provisions of subsections (1) ((~~and~~)), (2), and (4) of this section may petition for a reassessment within ((~~thirty~~)) 30 days after service upon the ((~~licensee~~)) person of the assessment. If such petition is not filed within such ((~~thirty~~)) 30 day period, the amount of the assessment becomes final.

(b) If a petition for reassessment is filed within the ((~~thirty~~)) 30 day period, the department must reconsider the assessment and, if the ((~~licensee~~)) person has requested in the petition, must grant ((~~an informal hearing~~)) a review by the department and give ((~~ten~~)) 10 days' notice of the time and place. The department may continue the ((~~hearing~~)) review as needed. The decision of the department upon a petition for reassessment becomes final ((~~thirty~~)) 30 days after service upon the ((~~licensee~~)) person.

(c) Every assessment made by the department becomes due and payable at the time it becomes final and if not timely paid to the department, a penalty of ((~~ten~~)) 10 percent of the amount of the tax is added to the assessment.

(((~~(11)~~))) (12) Any notice of assessment required by this section must be served by depositing such notice in the United States mail, postage prepaid addressed to the ((~~licensee~~)) person at the address shown in the records of the department.

(((~~(12)~~))) (13) Any licensee who has had a fuel license revoked must pay a ((~~one hundred dollar~~)) $100 penalty, submit an application for reinstatement on forms prescribed by the department, and must resolve all outstanding violations, noncompliance items, and debts owed under this chapter, and chapters 46.87 and 82.42 RCW to the satisfaction of the department, prior to the issuance of a new license.

(((~~(13)~~))) (14) Any person required to be licensed under RCW 82.38.090(1)(f) found operating without such license is subject to an assessment of $500 in addition to all other penalties prescribed by law.

(15) Any person who, upon audit or investigation by the department, is found to have not paid fuel taxes as required by this chapter is subject to cancellation of all vehicle registrations for vehicles utilizing special fuel as a means of propulsion. Any unexpired Washington tonnage on the vehicles in question may be transferred to a purchaser of the vehicles upon application to the department who will hold such tonnage in its custody until a sale of the vehicle is made or the tonnage has expired.

(16) RCW 43.05.110 does not apply to the civil penalties imposed under this section.

Sec. 9. RCW 82.38.220 and 2013 c 225 s 122 are each amended to read as follows:

(1) If a person is delinquent in the payment of any obligation, the department may give notice of the amount of delinquency to persons having possession or control of credits, personal and real property belonging to the person, or owing debts to the person. Any person notified may not transfer or dispose of credits, personal and real property, or debts without the consent of the department. A person notified must, within twenty days after receipt of notice, advise the department of any credits, personal and real property, or debts in their possession, under their control or owing by them, and must immediately deliver the credits, personal and real property, or debts to the department.

(2) The notice and order to withhold and deliver constitutes a continuing lien on property of the person. The department must include in the notice to withhold and deliver "continuing lien." The effective date of a notice to withhold and deliver is the date of mailing or electronic service.

(3) If a person fails to timely answer the notice, a court may render judgment, plus costs by default against the person.

Sec. 10. RCW 82.38.260 and 2013 c 225 s 126 are each amended to read as follows:

(1) The department may prescribe, adopt, and enforce reasonable rules relating to administration and enforcement of this chapter.

(2) The department or its authorized representative may examine the books, papers, records, and equipment of any person distributing, transporting, storing, or using fuel to determine whether all taxes due or refundable are properly reported, paid, or claimed. If books, papers, records, and equipment are not maintained in this state at the time of demand, the department does not lose any right of examination.

(3) The department may require additional reports from any licensee with reference to any of the matters herein concerned. Such reports must be made and filed on forms prepared by the department.

(4) For the purpose of any investigation or proceeding, the director or designee may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

(5) In the case of contumacy by or refusal to obey a subpoena issued to, any person, any court of competent jurisdiction upon application by the director, may issue to that person an order requiring appearance before the director or designee to produce testimony of other evidence regarding the matter under investigation or in question.

(6) The department must, upon request from officials responsible for enforcement of fuel tax laws of any state, the District of Columbia, the United States, its territories and possessions, the provinces or the dominion of Canada, forward information relative to the receipt, storage, delivery, sale, use, or other disposition of fuel by any person, if the other furnishes like information.

(7) The department may enter into a fuel tax cooperative agreement with another state, the District of Columbia, the United States, its territories and possessions, or Canadian province for the administration, collection, and enforcement of their respective fuel taxes.

(8) For the purposes of administration, collection, and enforcement of taxes imposed under this chapter, pursuant to another agreement under chapter 82.41 RCW, chapter 82.41 RCW controls to the extent of any conflict.

(9) The remedies of the state in this chapter are cumulative and no action taken by the department may be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this chapter.

(10) The director is charged with the enforcement of the provisions of this chapter and rules adopted hereunder. The director may, in the director's discretion, call on the state patrol or any peace officer in the state, who shall then aid in the enforcement of this chapter or any rules adopted hereunder.

Sec. 11. RCW 82.38.270 and 2013 c 225 s 127 are each amended to read as follows:

(1) It is unlawful for a person to:

(a) Have dyed special fuel in the fuel supply tank of a vehicle that is licensed or required to be licensed for highway use or maintain dyed special fuel in bulk storage for highway use, unless the person maintains an uncanceled dyed special fuel user license or is otherwise exempt under this chapter;

(b) Hold dyed special fuel for use, intended use, sale, or intended sale in a manner in violation of this chapter;

(c) Evade a tax or fee imposed under this chapter;

(d) File a false statement of a material fact regarding the administration and enforcement of this chapter or otherwise commit any fraud or make a false representation on a fuel tax license application, fuel tax refund application, fuel tax return, fuel tax record, or fuel tax refund claim;

(e) Act as a fuel licensee unless the person holds an uncanceled fuel license issued by the department authorizing the person to engage in that business;

(f) Knowingly assist another person to evade a tax or fee imposed by this chapter;

(g) Knowingly operate a conveyance for the purpose of hauling, transporting, or delivering fuel in bulk and not possess an invoice, bill of sale, or other statement showing the name, address, and tax license number of the seller or consignor, the destination, the name, address, and tax license number of the purchaser or consignee, and the number of gallons;

(h) Refuse to permit the department or its authorized representative to examine the person's books, papers, records, storage facilities, and equipment used in conjunction with the use, distribution, or sale of fuel;

(i) ((~~To display~~)) Display, or cause to permit to be displayed, or to have in possession, any fuel license knowing the same to be fictitious, or to have been suspended, canceled, revoked, or altered;

(j) ((~~To lend~~)) Lend to, or knowingly permit the use of, by one not entitled thereto, any fuel license issued to the person lending it or permitting it to be used;

(k) ((~~To display~~)) Display or to represent as one's own any fuel license not issued to the person displaying the same;

(l) ((~~To use~~)) Use or to conspire with any governmental official, agent, or employee for the use of any requisition, purchase order, or any card or any authority to which the person is not specifically entitled by government

regulations, for the purpose of obtaining any fuel or other inflammable petroleum products upon which the fuel tax has not been paid;

(m) ((~~To sell~~)) Sell or dispense natural gas or propane for their own use or the use of others into tanks of vehicles powered by this fuel when the vehicle does not display a valid decal or other identifying device as provided in RCW 82.38.075;

(n) Knowingly display, or cause to permit to be displayed, or possess, a fictitious or altered international fuel tax agreement decal or license;

(o) Fail to display, or improperly display, a valid international fuel tax agreement decal associated with a valid international fuel tax agreement license;

(p) Operate a motor vehicle as provided in RCW 82.38.090(3) without having first obtained a license as required by this chapter; and

(q) Offer for sale as taxed fuel, fuel which the seller knows or has reason to know to be untaxed.

(2)(a) A single violation of subsection (1)(a) and (b) of this section is a gross misdemeanor under chapter 9A.20 RCW.

(b) Multiple violations of subsection (1)(a) and (b) of this section and violations of subsection (1)(c) through (g) of this section are a class C felony under chapter 9A.20 RCW.

(3) Violations of subsection (1)(h) through (((~~(m)~~)) (q) of this section are a gross misdemeanor under chapter 9A.20 RCW.

(4) In addition to other penalties and remedies provided by law, the court must order a person or corporation found guilty of violating subsection (1)(c) through (g) of this section to:

(a) Pay the tax or fee evaded plus interest, commencing at the date the tax or fee was first due, at the rate of twelve percent per year, compounded monthly; and

(b) Pay a penalty of ((~~one hundred~~)) 100 percent of the tax evaded.

(5) The tax imposed by this chapter is held in trust by the licensee until paid to the department, and a licensee who appropriates the tax to ((~~his or her~~)) the licensee's own use or to any use other than the payment of the tax is guilty of a felony or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to pay to the department the tax is personally liable to the state for the amount of the tax.

Sec. 12. RCW 82.38.380 and 2013 c 225 s 135 are each amended to read as follows:

When the state patrol or the department has good reason to believe that fuel is being unlawfully imported, kept, sold, offered for sale, blended, or manufactured in violation of this chapter or rules adopted under it, the state patrol, or the department in consultation with the state patrol, may make an affidavit of that fact, describing the place or thing to be searched, before a judge of any court in this state, and the judge must issue a search warrant directed to the state patrol commanding the officer diligently to search any place or vehicle designated in the affidavit and search warrant, and to seize the fuel and conveyance so possessed and to hold them until disposed of by law, and to arrest the person in possession or control of them.

NEW SECTION. **Sec. 13.** A new section is added to chapter 82.38 RCW to read as follows:

(1) The department shall establish a prorate and fuel tax discovery team to detect and investigate violations of this chapter along with violations of chapters 46.87 and 82.42 RCW.

(2) Members of the prorate and fuel tax discovery team may be delegated authority to act as limited agents of the director and may exercise the authority to seek search warrants, issue subpoenas, perform inspections, and investigate and assess alleged civil violations of chapter 46.87 or 82.42 RCW or this chapter.

(3) The department must adopt rules necessary to implement this section.

NEW SECTION. **Sec. 14.** A new section is added to chapter 82.38 RCW to read as follows:

(1) Reports submitted to the department under RCW 82.38.150 are personal information under RCW 42.56.230(4)(b) and are exempt from public inspection and copying.

(2) This section does not:

(a) Restrict the department from providing summary or aggregate data where the taxpayer's right to privacy or an unfair competitive disadvantage can reasonably be protected;

(b) Prevent the department from entering into data sharing agreements containing these records with a federal, state, or local agency;

(c) Restrict sharing with law enforcement for purposes of investigation or enforcement;

(d) Prevent the voluntary sharing of or authorization to access a taxpayer's own information to the taxpayer or their authorized representative; or

(e) Restrict sharing required under RCW 82.38.260(6).

NEW SECTION. **Sec. 15.** A new section is added to chapter 82.38 RCW to read as follows:

(1) The department or its duly authorized agent may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must:

(a) State that an order is sought pursuant to this subsection;

(b) Adequately specify the records, documents, or testimony; and

(c) Declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(2) Where the application under this subsection is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(3) The department or its duly authorized agent may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(4) This section does not preclude the use of other legally authorized means of obtaining records, nor preclude the assertion of any legally recognized privileges.

(5) The department may not disclose any return or tax information obtained in response to a subpoena issued under this section, except as authorized under this chapter.

(6) A third party may not be held civilly liable for any harm resulting from that person's compliance with a subpoena issued under the authority of this section.

(7) The entire court file of any proceeding instituted under this section must be sealed and is not open to public inspection by any person except upon order of the court as authorized by law.

Sec. 16. RCW 82.42.118 and 2013 c 225 s 404 are each amended to read as follows:

(1) If any licensee fails to pay any taxes due the state of Washington within the time prescribed in this chapter, the licensee must pay a penalty of ((~~ten~~)) 10 percent of the tax due.

(2) If the tax reported by any licensee is deficient a penalty of ((~~ten~~)) 10 percent of the deficiency must be assessed.

(3) If any licensee, whether or not licensed as such, fails, neglects, or refuses to file a required fuel tax report, the department must determine the tax liability and add the penalty provided in subsection (2) of this section to the liability. An assessment made by the department pursuant to this subsection or to subsection (2) of this section is presumed to be correct, and the burden is on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive.

(4) If any licensee establishes by a fair preponderance of evidence that failure to file a report or pay the proper amount of tax within the time prescribed was due to reasonable cause and was not intentional or willful, the department may waive the penalty prescribed in subsections (1) and (2) of this section.

(5) If any licensee files a false or fraudulent report with intent to evade the tax imposed by this chapter, a penalty of ((~~twenty-five~~)) 25 percent of the deficiency must be added to the amount of deficiency, which is in addition to all other penalties prescribed by law.

(6) If any person acts as a licensee without first securing the required license, all fuel tax liability incurred by that person becomes immediately due and payable. The department must determine the amount of the tax liability and must assess the person along with a penalty of ((~~one hundred~~)) 100 percent of the tax.

(7) Any fuel tax, penalties, and interest payable under this chapter bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion thereof should have been paid until the date of payment. The department may waive interest when it determines the cost of processing the collection exceeds the amount of interest due.

(8) Except in the case of violations of filing a false or fraudulent report, if the department deems mitigation of penalties and interest to be reasonable and in the best interests of carrying out the purpose of this chapter, it may mitigate the assessments.

(9) Except in the case of a fraudulent report or failure to file a report, deficiencies, penalties, and interest must be assessed within five years from the ((~~twenty-fifth~~)) 25 day of the next succeeding month following the reporting period for which the amount is determined or within five years after the return is filed, whichever period expires later.

(10)(a) Any licensee against whom an assessment is made under the provisions of subsection (2) or (3) of this section may petition for a reassessment within ((~~thirty~~)) 30 days after service upon the licensee of the assessment. If such petition is not filed within such ((~~thirty~~)) 30-day period, the amount of the assessment becomes final.

(b) If a petition for reassessment is filed within the ((~~thirty~~)) 30-day period, the department must reconsider the assessment and, if the licensee has requested in the petition, must grant ((~~an informal hearing~~)) a review by the department and give ((~~ten~~)) 10 days' notice of the time ((~~and~~)), place, and method of review. The department may continue the ((~~hearing~~)) review as needed. The decision of the department upon a petition for reassessment becomes final ((~~thirty~~)) 30 days after service upon the licensee.

(11) Every assessment made by the department becomes due and payable at the time it becomes final and if not timely paid to the department a penalty of ((~~ten~~)) 10 percent of the amount of the tax must be added to the assessment.

(12) Any notice of assessment required by this section must be served by depositing such notice in the United States mail, postage prepaid addressed to the licensee at the address shown in the records of the department.

(13) Any licensee who has had a fuel license revoked must pay a ((~~one hundred dollar~~)) $100 penalty, submit an application for reinstatement on forms as prescribed by the department, and must resolve all outstanding violations, noncompliance items, and debts owed under this chapter and chapters 46.87 and 82.38 RCW to the satisfaction of the department prior to the issuance of a new license.

Sec. 17. RCW 82.42.010 and 2013 c 225 s 301 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) "Air carrier" means any airline, air cargo carrier, air taxi, air commuter, or air charter operator, that provides routine air service to the general population for compensation or hire, and operates at least fifteen round trips per week between two or more points and publishes flight schedules which specify the times, days of the week, and points between which it operates. Where it is doubtful that an operation is for "compensation or hire," the test applied is whether the air service is merely incidental to the person's other business or is, in itself, a major enterprise for profit.

(2) "Aircraft" means every contrivance now known or hereafter invented, used or designed for navigation of or flight in the air, operated or propelled by the use of aircraft fuel.

(3) "Aircraft fuel" means gasoline and any other inflammable liquid, by whatever name such liquid is known or sold, the chief use of which is as fuel for the propulsion of aircraft, except gas or liquid, the chief use of which as determined by the director, is for purposes other than the propulsion of aircraft.

(4) "Dealer" means any person engaged in the retail sale of aircraft fuel.

(5) "Department" means the department of licensing.

(6) "Director" means the director of licensing.

(7) "Distributor" means any person engaged in the sale of aircraft fuel to any dealer and includes any dealer from whom the tax hereinafter imposed has not been collected.

(8) "Local service commuter" means an air taxi operator who operates at least five round-trips per week between two or more points; publishes flight schedules which specify the times, days of the week, and points between which it operates; and whose aircraft has a maximum capacity of ((~~sixty~~)) 60 passengers or ((~~eighteen thousand~~)) 18,000 pounds of useful load.

(9) "Person" means every natural person, firm, partnership, association, or private or public corporation.

(10) "Deny" means to decline acceptance of an application for licensure or reinstatement.

(11) "Refuse" has the same meaning as "deny" in subsection (10) of this section.

(12) "Revoke" means to prohibit all authority granted by this chapter, including the display and use of credentials issued by the department for a period of one year or greater or for an indefinite period.

(13) "Suspend" means to restrict the grant of authority under this chapter for a period of less than one year.

Sec. 18. RCW 82.42.210 and 2013 c 225 s 411 are each amended to read as follows:

(1) The department may refuse to issue to, or suspend or revoke a license of any licensee or applicant:

(a) Who formerly held a license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW which has been suspended or revoked for cause;

(b) Who is a subterfuge for the real party in interest whose license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW has been revoked for cause;

(c) Who, as an individual licensee, or partner, officer, director, owner, or managing employee of a licensee, has had a license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW denied, suspended, or revoked for cause;

(d) Who has an unsatisfied debt to the state assessed under either chapter 82.36, 82.38, 82.42, or 46.87 RCW;

(e) Who formerly held as an individual, partner, officer, director, owner, managing employee of a licensee, or subterfuge for a real party in interest, a license issued by the federal government or a state that allowed a person to buy or sell untaxed motor vehicle or special fuel, which, has been suspended or revoked for cause;

(f) Who ((~~pled~~)) pleaded guilty to or was convicted as an individual, partner, officer, director, owner, or managing employee of a licensee in this or any other state, Canadian province, or in any federal jurisdiction of a gross misdemeanor or felony crime directly related to the fuel distribution business or has been subject to a civil judgment involving fraud, misrepresentation, conversion, or dishonesty, notwithstanding chapter 9.96A RCW;

(g) Who misrepresented or concealed a material fact in obtaining a license or reinstating a license;

(h) Who violated a statute or administrative rule regulating fuel taxation or distribution;

(i) Who failed to cooperate with the department's investigations by:

(i) Not furnishing papers or documents;

(ii) Not furnishing in writing a full and complete explanation regarding a matter under investigation by the department; or

(iii) Not responding to subpoenas issued by the department, whether or not the recipient of the subpoena is the subject of the proceeding;

(j) Who failed to comply with an order issued by the director; or

(k) Upon other sufficient cause being shown.

(2) Refusals, suspensions, and revocations under this section become final 30 days after notice is served upon the licensee or applicant of the intention to refuse, suspend, or revoke the authority granted in this chapter.

(3) Before such refusal, suspension, or revocation under this section becomes final, the department must ((~~grant~~)) offer the applicant a ((~~hearing~~)) review by the department and must grant the applicant at least ((~~twenty~~)) 20 days' written notice of the time ((~~and~~)), place, and method thereof.

NEW SECTION. **Sec. 19.** A new section is added to chapter 82.42 RCW to read as follows:

(1) Reports submitted to the department under RCW 82.42.140 are personal information under RCW 42.56.230(4)(b) and are exempt from public inspection and copying.

(2) This section does not:

(a) Restrict the department from providing summary or aggregate data where the taxpayer's right to privacy or an unfair competitive disadvantage can reasonably be protected;

(b) Prevent the department from entering into data sharing agreements containing these records with a federal, state, or local agency;

(c) Restrict sharing with law enforcement for purposes of investigation or enforcement; or

(d) Prevent the voluntary sharing of or authorization to access a taxpayer's own information to the taxpayer or their authorized representative.

NEW SECTION. **Sec. 20.** A new section is added to chapter 82.42 RCW to read as follows:

(1) The department or its duly authorized agent may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must:

(a) State that an order is sought pursuant to this subsection;

(b) Adequately specify the records, documents, or testimony; and

(c) Declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(2) Where the application under this subsection is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(3) The department or its duly authorized agent may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(4) This section does not preclude the use of other legally authorized means of obtaining records, nor preclude the assertion of any legally recognized privileges.

(5) The department may not disclose any return or tax information obtained in response to a subpoena issued under this section, except as under this chapter.

(6) A third party may not be held civilly liable for any harm resulting from that person's compliance with a subpoena issued under the authority of this section.

(7) The entire court file of any proceeding instituted under this section must be sealed and is not open to public inspection by any person except upon order of the court as authorized by law.

NEW SECTION. **Sec. 21.** The department of licensing must evaluate the revenue impacts and costs of implementing and maintaining the prorate and fuel tax discovery team established in section 13 of this act. The evaluation must include the total amount of fuel taxes, fees, and penalties collected by the department as a result of the activities of the prorate and fuel tax discovery team, as well as all associated expenditures resulting from the department's expanded enforcement efforts. The department must submit a report with the results of this evaluation to the transportation committees of the legislature by November 1, 2028.

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.** This act takes effect July 1, 2024.

Passed by the House January 29, 2024.
Passed by the Senate February 6, 2024.
Approved by the Governor February 21, 2024.
Filed in Office of Secretary of State February 21, 2024.

CHAPTER 2

[House Bill 1950]

PUBLIC SERVICE LOAN FORGIVENESS PROGRAM—PUBLIC EMPLOYEES

AN ACT Relating to the public service loan forgiveness program; and amending RCW 41.04.045, 41.04.055, and 43.41.425.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.04.045 and 2022 c 248 s 4 are each amended to read as follows:

(1) As soon as available, a state agency shall provide the materials described in RCW 28B.77.009 in written or electronic form to:

(a) All employees annually;

(b) Newly hired employees within 30 days of the employee's first day of employment; and

(c) Separated employees upon separation.

(2) A state agency must certify employment for the purposes of the public service loan forgiveness program in accordance with the program established in RCW 43.41.425 beginning July 1, 2023.

(a) If a state agency does not directly certify employment with the United States department of education, the state agency must ((~~annually provide notice of renewal and a copy of the public service loan forgiveness form with employer information and employment certification sections of the form already completed reflecting at least the last 12 months of employment to:~~

~~(i) An employee who requests a public service loan forgiveness form;~~

~~(ii) Any current employee for whom the state agency has previously certified employment, unless the employee has opted out; and~~

~~(iii) An employee upon separation from service or employment, unless the employee has opted out. The notice of renewal and completed employer sections of the public service loan forgiveness form provided to a separated employee must be sent within 60 days of separation and are exempted from the annual requirement set forth in subsection (2)(a) of this section~~)) certify employment for any current or former employee who requests employment certification by providing a partially completed manual public student loan forgiveness form to the appropriate agency contact or by submitting a request to the appropriate agency contact through the federal public service loan forgiveness online help tool.

(b) A state agency must also send a notice to submit a public service loan forgiveness employment certification request to any current employee for whom the state agency has previously certified employment, one year after the last date employment was certified for that employee.

(c) A state agency shall not unreasonably delay in certifying employment.

(((~~(c)~~))) (d) A state agency must seek permission from its employees prior to certifying their employment.

(((~~(d)~~))) (e) Institutions of higher education must use the calculation established in RCW 41.04.055 and may apply it retroactively to determine whether a part-time academic employee is considered full time for the public service loan forgiveness program.

(((~~(e)~~))) (f) A state agency may send the information necessary for public service loan forgiveness employment certification to the United States department of education, or its agents, if the United States department of education permits public service employers to certify employment for past or present individual employees or groups of employees directly, notwithstanding other provisions of law.

(((~~(f)~~))) (g) The office of financial management is authorized to adopt rules for the purpose of this section.

(3) An employee of a state agency may opt out of the employment certification process established in RCW 43.41.425 at any time.

(4) For purposes of this section, the definitions in this subsection apply:

(a) "Certifying employment" means either completing the employer sections of the public service loan forgiveness form, completing the employer information requested through the federal public service loan forgiveness online help tool, or sharing data directly with the United States department of education

that corresponds to the information required for the public service loan forgiveness form.

(b) "Full time" has the same meaning as set forth in 34 C.F.R. Sec. 685.219.

(c) "Public service employer" includes the following:

(i) Any governmental entity including state, county, city, or other local government entity including political subdivisions, such as office, department, independent agency, school district, public college or university system, public library system, authority, or other body including the legislature and the judiciary;

(ii) Any employer that has received designation as a tax-exempt organization pursuant to Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended;

(iii) Any other entities identified as a public service job in Title 20 U.S.C. Sec. 1087e(m).

(d) "Public service loan forgiveness program" means the federal loan forgiveness program established pursuant to Title 20 U.S.C. Sec. 1087e(m) and 34 C.F.R. Sec. 685.219.

(e) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts.

Sec. 2. RCW 41.04.055 and 2022 c 248 s 5 are each amended to read as follows:

For the purpose of determining whether a part-time academic employee at an institution of higher education is considered full time for certifying employment for the public service loan forgiveness program, duties performed in support of, or in addition to, contractually assigned in-class teaching hours must be included. To calculate this, each hour of in-class teaching time ((~~shall~~)) must be multiplied by at least 3.35 hours. This section shall not supersede any calculation or adjustment established by a collective bargaining agreement or employer policy for additional work done outside of in-class teaching for any purposes other than certifying employment for the public service loan forgiveness program. An institution of higher education shall not treat any adjusted total hours worked differently from hours worked without an adjustment when determining whether an employee is full time. "Institution of higher education" has the same meaning as "institutions of higher education" in RCW 28B.10.016.

Sec. 3. RCW 43.41.425 and 2023 c 470 s 3016 are each amended to read as follows:

(1) The office shall:

(a) Develop a program for state agencies to certify employment for the purposes of the public service loan forgiveness program by July 1, 2023.

(b) Assist the student loan advocate in creating and distributing materials designed to increase awareness of the public service loan forgiveness program set forth in RCW 28B.77.009.

(c) Collaborate with the student achievement council, the employment security department, the department of retirement systems, the office of the superintendent of public instruction, nonprofit entities, local government representatives, and other public service employers in developing a statewide

initiative to improve access and remove barriers to the public service loan forgiveness program for all public service employees. The program established for state agencies in this section and the certification process in RCW 41.04.045 may be considered in the development of the initiative. A plan for a statewide initiative must be developed and submitted to the higher education committees of the legislature by December 1, 2024, in compliance with RCW 43.01.036.

(2) For purposes of this section, the definitions in this subsection apply:

(a) "Certifying employment" means either completing the employer sections of the public service loan forgiveness form or sharing data directly with the United States department of education that corresponds to the information required for the public service loan forgiveness form, as allowed by the United States department of education.

(b) "Public service employer" includes the following:

(i) Any governmental entity including state, county, city, or other local government entity including political subdivisions, such as office, department, independent agency, school district, public college or university system, public library system, authority, or other body including the legislature and the judiciary;

(ii) Any employer that has received designation as a tax-exempt organization pursuant to Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended;

(iii) Any other entities identified as a public service job in Title 20 U.S.C. Sec. 1087e(m).

(c) "Public service loan forgiveness program" means the federal loan forgiveness program established pursuant to Title 20 U.S.C. Sec. 1087e(m) and 34 C.F.R. Sec. 685.219.

(d) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts.

Passed by the House January 25, 2024.

Passed by the Senate February 19, 2024.

Approved by the Governor February 28, 2024.

Filed in Office of Secretary of State February 28, 2024.

CHAPTER 3

[House Bill 1895]

WORKING FAMILIES' TAX CREDIT—MODIFICATION

AN ACT Relating to modifying the working families' tax credit by clarifying the refundable nature of the credit, the application requirements, and the eligibility verification process; reenacting and amending RCW 82.08.0206; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.08.0206 and 2023 c 456 s 1 and 2023 c 374 s 10 are each reenacted and amended to read as follows:

(1) A working families' tax credit, ((~~in the form of a refund of tax due under this chapter and chapter 82.12 RCW~~)) funded by sales and use tax imposed, is provided to eligible low-income persons for ((~~sales and use taxes paid under this~~

~~chapter and chapter 82.12 RCW~~)) calendar years beginning on or after January 1, 2022. The credit is refundable and is calculated as provided in this section.

(2) For purposes of the credit in this section, the following definitions apply:

(a)(i) "Eligible low-income person" means an individual who:

(A) Is eligible for the credit provided in Title 26 U.S.C. Sec. 32 of the internal revenue code; ((~~and~~))

(B) Properly files a federal income tax return for the prior federal tax year, and was a Washington resident during the year for which the credit is claimed; and

(C) Has paid either retail sales tax under this chapter or use tax under chapter 82.12 RCW, or both. There is a rebuttable presumption that a person paid either retail sales tax under this chapter or use tax under chapter 82.12 RCW, or both, if they were a Washington resident during the year for which the credit is claimed.

(ii) "Eligible low-income person" also means an individual who meets the requirements provided in (a)(i)(B) of this subsection and would otherwise qualify for the credit provided in Title 26 U.S.C. Sec. 32 of the internal revenue code except that one or any combination of the following conditions apply:

(A) The individual filed a federal income tax return for the prior federal tax year using a valid individual taxpayer identification number in lieu of a social security number, and the individual's spouse, if any, and all qualifying children, if any, have a valid individual taxpayer identification number or a social security number; or

(B) The individual filed their federal income tax return for the prior federal tax year under the married filing separately status. For purposes of the refund provided in this section, the special rule for separated spouse under Title 26 U.S.C. Sec. 32(d)(2)(B) of the internal revenue code does not apply.

(b) "Income" means earned income as defined by Title 26 U.S.C. Sec. 32 of the internal revenue code.

(c) "Individual" means an individual or an individual and that individual's spouse if they file a federal joint income tax return.

(d) "Internal revenue code" means the United States internal revenue code of 1986, as amended, as of June 9, 2022, or such subsequent date as the department may provide by rule consistent with the purpose of this section.

(e) "Maximum qualifying income" means the maximum federally adjusted gross income for the prior federal tax year.

(f) "Qualifying child" means a qualifying child as defined by Title 26 U.S.C. Sec. 32 of the internal revenue code, except the child may have a valid individual taxpayer identification number in lieu of a social security number.

(g) "Washington resident" means an individual who is physically present and residing in this state for at least 183 days. "Washington resident" also includes an individual who is not physically present and residing in this state for at least 183 days but is the spouse of a Washington resident. For purposes of this subsection, "day" means a calendar day or any portion of a calendar day.

(3)(a) Except as provided in (b) and (c) of this subsection, for calendar year 2023 and thereafter, the working families' tax credit refund amount for the prior calendar year is:

(i) $300 for eligible persons with no qualifying children;

(ii) $600 for eligible persons with one qualifying child;

(iii) $900 for eligible persons with two qualifying children; or

(iv) $1,200 for eligible persons with three or more qualifying children.

(b) Except as provided in (f) of this subsection, the refund amounts provided in (a) of this subsection will be reduced, rounded to the nearest dollar, as follows:

(i) For eligible persons with no qualifying children, beginning at $2,500 of income below the federal phase-out income for the prior federal tax year, by 18 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(ii) For eligible persons with one qualifying child, beginning at $5,000 of income below the federal phase-out income for the prior federal tax year, by 12 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(iii) For eligible persons with two qualifying children, beginning at $5,000 of income below the federal phase-out income for the prior federal tax year, by 15 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(iv) For eligible persons with three or more qualifying children, beginning at $5,000 of income below the federal phase-out income for the prior federal tax year, by 18 percent per additional dollar of income until the minimum credit amount as specified in (c) of this subsection is reached.

(c) If the refund for an eligible person as calculated in this section is greater than zero cents, but less than $50, the refund amount is $50.

(d) The refund amounts in this section shall be adjusted for inflation every year beginning January 1, 2024, based upon changes in the consumer price index that are published by November 15th of the previous year for the most recent 12-month period. The adjusted refund amounts must be rounded to the nearest $5.

(e) For purposes of this section, "consumer price index" means, for any 12-month period, the average consumer price index for that 12-month period for the Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(f) The percentage rate of remittance reductions in (b) of this subsection must be adjusted every year beginning January 1, 2023, based on calculations by the department that result in the minimum credit being received at the maximum qualifying income level.

(4) The working families' tax credit shall be administered as provided in this subsection.

(a) The refund paid under this section will be paid to eligible filers who apply pursuant to this subsection.

(i) Application must be made to the department in a form and manner determined by the department. If the application process is initially done electronically, the department must provide a paper application upon request. The application must include any information and documentation as required by the department. The department may use the information provided by the individual to calculate the refund amount. Income reported on the application may be rounded to the nearest dollar.

(ii) An individual applying for the credit under this section must keep records necessary for the department to verify eligibility under this section. Any

information provided by the individual is subject to audit verification by the department.

(iii) In addition to information provided on the application, the department may verify that an individual qualifies as a Washington resident through the use of automated verification tools or other reasonable means.

(iv)(A) Except as provided in (a)(((~~(ii)~~))) (iv)(B) of this subsection (4), application for a refund under this section must be made in the year following the year for which the federal tax return was filed, but in no case may any refund be provided for any period before January 1, 2022. ((~~The department must use the eligible person's most recent federal tax filing for the tax year for which the refund is being claimed to calculate the refund.~~))

(B)(I) A person may apply for any refund for which they were eligible but did not claim under (a)(((~~(ii)~~))) (iv)(A) of this subsection (4) for up to three additional years. A person must complete an application to claim this refund within the three calendar years after the end of the calendar year in which the federal income tax return for that tax year was legally due for federal income tax purposes, without regard to any federal extension.

(II) If a person seeks to increase the amount of a refund that has been made under this subsection (4), the person must apply for the amended refund within the nonclaims period established under RCW 82.32.060(1).

(((~~(III) For applications for refunds under this subsection (4)(a)(ii)(B), the department must use the federal tax filing for the tax year for which a refund is being claimed to calculate the refund.~~

~~(iii)~~))) (v) A person may not claim a credit on behalf of a deceased individual. No individual may claim a credit under this section for any year in a disallowance period under Title 26 U.S.C. Sec. 32(k)(1) of the internal revenue code or for any year for which the individual is ineligible to claim the credit in Title 26 U.S.C. Sec. 32 of the internal revenue code by reason of Title 26 U.S.C. Sec. 32(k)(2) of the internal revenue code.

(b) The department shall protect the privacy and confidentiality of personal data of refund recipients in accordance with chapter 82.32 RCW.

(c) The department shall, in conjunction with other agencies or organizations, design and implement a public information campaign to inform potentially eligible persons of the existence of, and requirements for, the credit provided in this section.

(d) The department must work with the internal revenue service of the United States to administer the credit on an automatic basis as soon as practicable.

(5) Receipt of a refund under this section may not be used in eligibility determinations for any state income support programs or in making public charge determinations.

(6) The department may adopt rules necessary to implement this section. This includes establishing a date by which applications will be accepted, with the aim of accepting applications as soon as possible.

(7) The department must review the application and determine eligibility for the working families' tax credit based on information provided by the applicant and through audit and other administrative records, including, when it deems it necessary, verification through information from the internal revenue service ((~~data~~)) of the United States, other federal agencies, Washington state agencies,

third-party entities, or other persons. The department may accept a signed attestation in a form and manner determined by the department from an individual to presumptively validate that an individual meets all the eligibility requirements as provided in this section. The signed attestation is subject to audit verification by the department to validate an individual's eligibility for the working families' tax credit.

(8) If, upon review of internal revenue service data or other information obtained by the department, it appears that an individual received a refund that the individual was not entitled to, or received a larger refund than the individual was entitled to, the department may assess against the individual the overpaid amount. The department may also assess such overpaid amount against the individual's spouse if the refund in question was based on both spouses filing a joint federal income tax return for the year for which the refund was claimed.

(a) Interest as provided under RCW 82.32.050 applies to assessments authorized under this subsection (8) starting six months after the date the department issued the assessment until the amount due under this subsection (8) is paid in full to the department. Except as otherwise provided in this subsection, penalties may not be assessed on amounts due under this subsection.

(b) If an amount due under this subsection is not paid in full by the date due, or the department issues a warrant for the collection of amounts due under this subsection, the department may assess the applicable penalties under RCW 82.32.090. Penalties under this subsection (8)(b) may not be made due until six months after the department's issuance of the assessment.

(c) If the department finds by clear, cogent, and convincing evidence that an individual knowingly submitted, caused to be submitted, or consented to the submission of, a fraudulent claim for refund under this section, the department must assess a penalty of 50 percent of the overpaid amount. This penalty is in addition to any other applicable penalties assessed in accordance with (b) of this subsection (8).

(9) If, within the period allowed for refunds under RCW 82.32.060, the department finds that an individual received a lesser refund than the individual was entitled to, the department must remit the additional amount due under this section to the individual.

(10) Interest does not apply to refunds provided under this section.

(11) Chapter 82.32 RCW applies to the administration of this section.

NEW SECTION. **Sec. 2.** This act applies both prospectively and retroactively to January 1, 2023.

Passed by the House January 29, 2024.

Passed by the Senate February 19, 2024.

Approved by the Governor February 28, 2024.

Filed in Office of Secretary of State February 28, 2024.

CHAPTER 4

[Initiative 2081]

PUBLIC SCHOOL EDUCATION—PARENT RIGHTS

AN ACT Relating to establishing the parents' bill of rights; and adding a new section to chapter 28A.605 RCW.

Be it enacted by the people of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.605 RCW to read as follows:

(1) The legislature finds that: (a) Parents are the primary stakeholders in their children's upbringing; (b) parental involvement is a significant factor in increasing student achievement; and (c) access to student information encourages greater parental involvement.

(2) Parents and legal guardians of public school children younger than 18 years old have all of the following rights:

(a) To examine the textbooks, curriculum, and supplemental material used in their child's classroom;

(b)(i) To inspect their child's public school records in accordance with RCW 28A.605.030, and to receive a copy of their child's records within 10 business days of submitting a written request, either electronically or on paper.

(ii) Parents or legal guardians must not be required to appear in person for the purposes of requesting or validating a request for their child's public school records.

(iii) No charge may be imposed on a parent or legal guardian to receive such records electronically. Any charges for a paper copy of such records must be reasonable and set forth in the official policies and procedures of the school district.

(iv) Public school records include all of the following:

(A) Academic records including, but not limited to, test and assessment scores in accordance with RCW 28A.230.195;

(B) Medical or health records;

(C) Records of any mental health counseling;

(D) Records of any vocational counseling;

(E) Records of discipline, including expulsions and suspensions under RCW 28A.600.015;

(F) Records of attendance, including unexcused absences in accordance with RCW 28A.225.020;

(G) Records associated with a child's screening for learning challenges, exceptionalities, plans for an individualized education program, or plan adopted under section 504 of the rehabilitation act of 1973; and

(H) Any other student-specific files, documents, or other materials that are maintained by the public school;

(c) To receive prior notification when medical services are being offered to their child, except where emergency medical treatment is required. In cases where emergency medical treatment is required, the parent and legal guardian must be notified as soon as practicable after the treatment is rendered;

(d) To receive notification when any medical service or medications have been provided to their child that could result in any financial impact to the parent's or legal guardian's health insurance payments or copays;

(e) To receive notification when the school has arranged directly or indirectly for medical treatment that results in follow-up care beyond normal school hours. Follow-up care includes monitoring the child for aches and pains, medications, medical devices such as crutches, and emotional care needed for the healing process;

(f) To receive immediate notification if a criminal action is deemed to have been committed against their child or by their child;

(g) To receive immediate notification if law enforcement personnel question their child, except in cases where the parent or legal guardian has been accused of abusing or neglecting the child;

(h) To receive immediate notification if their child is taken or removed from the public school campus without parental permission, including to stay at a youth shelter or "host home" as defined in RCW 74.15.020;

(i) To receive assurance their child's public school will not discriminate against their child based upon the sincerely held religious beliefs of the child's family in accordance with chapter 28A.642 RCW;

(j) To receive written notice and the option to opt their child out of any surveys, assignments, questionnaires, role-playing activities, recordings of their child, or other student engagements that include questions about any of the following:

(i) The child's sexual experiences or attractions;

(ii) The child's family beliefs, morality, religion, or political affiliations;

(iii) Any mental health or psychological problems of the child or a family member; and

(iv) All surveys, analyses, and evaluations subject to areas covered by the protection of pupil rights amendment of the family educational rights and privacy act;

(k) To receive written notice and have the option to opt their child out of instruction on topics associated with sexual activity in accordance with RCW 28A.300.475;

(l) To receive from the public school the annual school calendar, no later than 30 days prior to the beginning of the school year, and to be notified in writing as soon as feasible of any revisions to such calendar. Such calendar must be posted to the public school's website and must include, at a minimum, student attendance days and any event that requires parent or student attendance outside of normal school days or hours;

(m) To receive in writing each year or to view on the public school's website a comprehensive listing of any required fee and its purpose and use and a description of how economic hardships may be addressed;

(n) To receive in writing each year or to view on the school's website a description of the school's required dress code or uniform established pursuant to RCW 28A.320.140, if applicable, for students; and

(o) To be informed if their child's academic performance, including whether their child is provided a student learning plan under RCW 28A.655.270, is such that it could threaten the child's ability to be promoted to the next grade level and to be offered an in-person meeting with the child's classroom teacher and principal to discuss any resources or strategies available to support and encourage the child's academic improvement.

(3) Notwithstanding anything to the contrary, a public school shall not be required to release any records or information regarding a student's medical or health records or mental health counseling records to a parent during the pendency of an investigation of child abuse or neglect conducted by any law enforcement agency or the department of children, youth, and families where the

parent is the target of the investigation, unless the parent has obtained a court order.

(4) As used in this section "public school" has the same meaning as in RCW 28A.150.010.

Passed by the House March 4, 2024.
Passed by the Senate March 4, 2024.
Filed in Office of Secretary of State March 5, 2024.

CHAPTER 5

[Initiative 2111]

PERSONAL INCOME TAX PROHIBITION

AN ACT Relating to establishing that neither the state nor any of its political subdivisions may charge any individual person a tax based on personal income; and adding a new chapter to Title 1 RCW.

Be it enacted by the people of the State of Washington:

NEW SECTION. **Sec. 1.** Neither the state nor any county, city, or other local jurisdiction in the state of Washington may tax any individual person on any form of personal income. For the purposes of this chapter, "income" has the same meaning as "gross income" in 26 U.S.C. Sec. 61.

NEW SECTION. **Sec. 2.** Section 1 of this act constitutes a new chapter in Title 1 RCW.

Passed by the House March 4, 2024.
Passed by the Senate March 4, 2024.
Filed in Office of Secretary of State March 5, 2024.

CHAPTER 6

[Initiative 2113]

VEHICULAR PURSUITS

AN ACT Relating to restoring the authority of a peace officer to engage in a vehicular pursuit when there is reasonable suspicion a person has violated the law and the officer follows appropriate safety standards; and amending RCW 10.116.060.

Be it enacted by the people of the State of Washington:

Sec. 1. RCW 10.116.060 and 2023 c 235 s 1 are each amended to read as follows:

(1) A peace officer may not engage in a vehicular pursuit, unless:

(a) There is reasonable suspicion ((~~to believe that~~)) a person ((~~in the vehicle has committed or is committing:~~

~~(i) A violent offense as defined in RCW 9.94A.030;~~

~~(ii) A sex offense as defined in RCW 9.94A.030;~~

~~(iii) A vehicular assault offense under RCW 46.61.522;~~

~~(iv) An assault in the first, second, third, or fourth degree offense under chapter 9A.36 RCW only if the assault involves domestic violence as defined in RCW 10.99.020;~~

~~(v) An escape under chapter 9A.76 RCW; or~~

~~(vi) A driving under the influence offense under RCW 46.61.502~~)) has violated the law;

(b) The pursuit is necessary for the purpose of identifying or apprehending the person;

(c) The person poses a ((~~serious risk of harm to~~)) threat to the safety of others and the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicular pursuit under the circumstances; and

(d)(i) Except as provided in (d)(ii) of this subsection, the pursuing officer notifies a supervising officer immediately upon initiating the vehicular pursuit; there is supervisory oversight of the pursuit; and the pursuing officer, in consultation with the supervising officer, considers alternatives to the vehicular pursuit, the justification for the vehicular pursuit and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle;

(ii) For those jurisdictions with fewer than 15 commissioned officers, if a supervisor is not on duty at the time, the pursuing officer requests the on-call supervisor be notified of the pursuit according to the agency's procedures, and the pursuing officer considers alternatives to the vehicular pursuit, the justification for the vehicular pursuit, and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle.

(2) In any vehicular pursuit under this section:

(a) The pursuing officer and the supervising officer, if applicable, shall comply with any agency procedures for designating the primary pursuit vehicle and determining the appropriate number of vehicles permitted to participate in the vehicular pursuit;

(b) The supervising officer, the pursuing officer, or dispatcher shall notify other law enforcement agencies or surrounding jurisdictions that may be impacted by the vehicular pursuit or called upon to assist with the vehicular pursuit, and the pursuing officer and the supervising officer, if applicable, shall comply with any agency procedures for coordinating operations with other jurisdictions, including available tribal police departments when applicable;

(c) The pursuing officer must be able to directly communicate with other officers engaging in the pursuit, the supervising officer, if applicable, and the dispatch agency, such as being on a common radio channel or having other direct means of communication;

(d) As soon as practicable after initiating a vehicular pursuit, the pursuing officer, supervising officer, if applicable, or responsible agency shall develop a plan to end the pursuit through the use of available pursuit intervention options, such as the use of the pursuit intervention technique, deployment of spike strips or other tire deflation devices, or other department authorized pursuit intervention tactics; and

(e) The pursuing officer must have completed an emergency vehicle operator's course, must have completed updated emergency vehicle operator training in the previous two years, where applicable, and must be certified in at least one pursuit intervention option. Emergency vehicle operator training must include training on performing the risk assessment analysis described in subsection (1)(c) of this section.

(3) A vehicle pursuit not meeting the requirements under this section must be terminated.

(4) A peace officer may not fire a weapon upon a moving vehicle unless necessary to protect against an imminent threat of serious physical harm resulting from the operator's or a passenger's use of a deadly weapon. For the purposes of this subsection, a vehicle is not considered a deadly weapon unless the operator is using the vehicle as a deadly weapon and no other reasonable means to avoid potential serious harm are immediately available to the officer.

(5) For purposes of this section, "vehicular pursuit" means an attempt by a uniformed peace officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle and the operator of the moving vehicle appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer.

Passed by the House March 4, 2024.
Passed by the Senate March 4, 2024.
Filed in Office of Secretary of State March 5, 2024.

CHAPTER 7

[Substitute House Bill 2136]

CONTRACTORS—PREVAILING WAGE SANCTIONS, PENALTIES, AND DEBARMENT

AN ACT Relating to prevailing wage sanctions, penalties, and debarment; amending RCW 39.12.010; adding a new section to chapter 39.12 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that government contracts should not be awarded to those that knowingly and intentionally violate Washington state's prevailing wage laws. The legislature also finds that businesses that follow the law and pay workers appropriately are placed at a competitive disadvantage to those that reduce costs by failing to pay prevailing wages or failing to file or falsely file with the Washington state department of labor and industries or sanctioned under RCW 39.12.055. In order to create a consistent, fair playing field for businesses and avoid taxpayer contracts going to those that repeatedly violate the law and illegally withhold money from workers, the state should amend the state prevailing wage laws to extend those businesses' sanctions to their substantially identical companies. These sanctions include penalties issued under chapter 39.12 RCW; findings of violations that the department of labor and industries count toward a bar on bidding on public works; and debarment, prohibiting bidding on public works.

Sec. 2. RCW 39.12.010 and 2019 c 242 s 2 are each amended to read as follows:

(1) The "prevailing rate of wage" is the rate of hourly wage, usual benefits, and overtime paid in the locality, as hereinafter defined, to the majority of workers, laborers, or mechanics, in the same trade or occupation. In the event that there is not a majority in the same trade or occupation paid at the same rate,

then the average rate of hourly wage and overtime paid to such laborers, workers, or mechanics in the same trade or occupation is the prevailing rate. If the wage paid by any contractor or subcontractor to laborers, workers, or mechanics on any public work is based on some period of time other than an hour, the hourly wage is mathematically determined by the number of hours worked in such period of time.

(2) The "locality" is the largest city in the county wherein the physical work is being performed.

(3) The "usual benefits" includes the amount of:

(a) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(b) The rate of costs to the contractor or subcontractor, which may be reasonably anticipated in providing benefits to workers, laborers, and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the workers, laborers, and mechanics affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of such benefits.

(4) An "interested party" includes a contractor, subcontractor, an employee of a contractor or subcontractor, an organization whose members' wages, benefits, and conditions of employment are affected by this chapter, and the director of labor and industries or the director's designee.

(5) An "inadvertent filing or reporting error" is a mistake and is made notwithstanding the use of due care by the contractor, subcontractor, or employer. An inadvertent filing or reporting error includes a contractor who, in good faith, relies on a written determination provided by the department of labor and industries and pays its workers, laborers, and mechanics accordingly, but is later found to have not paid the proper prevailing wage rate.

(6) "Unpaid prevailing wages" or "unpaid wages" means the employer fails to pay all of the prevailing rate of wages owed for any workweek by the regularly established payday for the period in which the workweek ends. Every employer must pay all wages, other than usual benefits, owing to its employees not less than once a month. Every employer must pay all usual benefits owing to its employees by the regularly established deadline for those benefits.

(7) "Rate of contribution" means the effective annual rate of usual benefit contributions for all hours, public and private, worked during the year by an employee (commonly referred to as "annualization" of benefits). The only exemption to the annualization requirements is for defined contribution pension plans that have immediate participation and vesting.

(8) "Contractor" means any prime contractor, subcontractor, or other employer as defined by rules adopted by the department of labor and industries. "Contractor" includes an entity, however organized, with substantially identical operations, corporate, or management structure to an entity that has been found

in violation under RCW 39.12.050, 39.12.055, or 39.12.065, or any associated rules. The nonexclusive factors used to determine substantial identity include an assessment of whether there is: Substantial continuity of the same business operation; use of the same machinery, equipment, or both tangible and intangible real or personal property; similarity of jobs and types of working conditions; continuity of supervisors; and similarity of product or services. An entity with operational, corporate, and management structures distinct from an entity that has been found in violation under RCW 39.12.050, 39.12.055, or 39.12.065, or any associated rules, shall not be deemed a substantially identical entity.

NEW SECTION. **Sec. 3.** A new section is added to chapter 39.12 RCW to read as follows:

(1) For the purposes of enforcing this chapter, if a contractor has substantially identical operations, corporate, or management structure to another entity that has been debarred or otherwise sanctioned under RCW 39.12.050, 39.12.055, 39.12.065, or any associated rule, then the contractor is subject to the same debarment or sanction as that other entity. These sanctions include: Penalties issued under this chapter; findings of violations that the department of labor and industries count toward a bar on bidding on public works; and debarment, prohibiting bidding on public works. The department of labor and industries may enforce this section under the enforcement provisions of this chapter and associated rules.

(2) The director may issue a notice of violation under this section to a contractor described in subsection (1) of this section to extend the sanctions of a debarred or sanctioned entity imposed through a final and binding order or agreement to the contractor. A hearing must be held following a timely appeal of the notice of violation in accordance with chapter 34.05 RCW. The director shall issue a written determination including his or her findings after the hearing unless a notice of violation is not timely appealed. A notice of violation not timely appealed is final and binding, and is not subject to further appeal.

NEW SECTION. **Sec. 4.** This act takes effect January 1, 2026.

Passed by the House February 9, 2024.
Passed by the Senate February 22, 2024.
Approved by the Governor March 7, 2024.
Filed in Office of Secretary of State March 7, 2024.

CHAPTER 8

[House Bill 1975]

UNEMPLOYMENT INSURANCE OVERPAYMENT ASSESSMENTS—RELIEF FROM INTEREST

AN ACT Relating to relieving individuals from paying interest on certain unemployment insurance overpayment assessments; amending RCW 50.20.190; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 50.20.190 and 2020 c 86 s 2 are each amended to read as follows:

(1) An individual who is paid any amount as benefits under this title to which ((~~he or she is~~)) they are not entitled shall, unless otherwise relieved

pursuant to this section, be liable for repayment of the amount overpaid. The department shall issue an overpayment assessment setting forth the reasons for and the amount of the overpayment. The amount assessed, to the extent not collected, may be deducted from any future benefits payable to the individual: PROVIDED, That in the absence of a back pay award, a settlement affecting the allowance of benefits, fraud, misrepresentation, or willful nondisclosure, every determination of liability shall be mailed or personally served not later than two years after the close of or final payment made on the individual's applicable benefit year for which the purported overpayment was made, whichever is later, unless the merits of the claim are subjected to administrative or judicial review in which event the period for serving the determination of liability shall be extended to allow service of the determination of liability during the six-month period following the final decision affecting the claim.

(2) The commissioner may waive an overpayment if the commissioner finds that the overpayment was not the result of fraud, misrepresentation, willful nondisclosure, or fault attributable to the individual and that the recovery thereof would be against equity and good conscience. When determining whether the recovery would be against equity and good conscience, the department must consider whether the employer or employer's agent failed to respond timely and adequately to a written request of the department for information relating to the claim or claims without establishing good cause for the failure pursuant to RCW 50.29.021(5). An overpayment waived under this subsection shall be charged against the individual's applicable entitlement for the eligibility period containing the weeks to which the overpayment was attributed as though such benefits had been properly paid.

(3) Any assessment herein provided shall constitute a determination of liability from which an appeal may be had in the same manner and to the same extent as provided for appeals relating to determinations in respect to claims for benefits: PROVIDED, That an appeal from any determination covering overpayment only shall be deemed to be an appeal from the determination which was the basis for establishing the overpayment unless the merits involved in the issue set forth in such determination have already been heard and passed upon by the appeal tribunal. If no such appeal is taken to the appeal tribunal by the individual within thirty days of the delivery of the notice of determination of liability, or within thirty days of the mailing of the notice of determination, whichever is the earlier, the determination of liability shall be deemed conclusive and final. Whenever any such notice of determination of liability becomes conclusive and final, the commissioner, upon giving at least twenty days' notice, using a method by which the mailing can be tracked or the delivery can be confirmed, may file with the superior court clerk of any county within the state a warrant in the amount of the notice of determination of liability plus a filing fee under RCW 36.18.012(10). The clerk of the county where the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the person(s) mentioned in the warrant, the amount of the notice of determination of liability, and the date when the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to, and any interest in, all real and personal property of the person(s) against whom the warrant is issued, the same as a

judgment in a civil case duly docketed in the office of such clerk. A warrant so docketed shall be sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law for a civil judgment. A copy of the warrant shall be mailed within five days of its filing with the clerk to the person(s) mentioned in the warrant using a method by which the mailing can be tracked or the delivery can be confirmed.

(4) On request of any agency which administers an employment security law of another state, the United States, or a foreign government and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law, the commissioner may collect the amount of such benefits from the claimant to be refunded to the agency. In any case in which under this section a claimant is liable to repay any amount to the agency of another state, the United States, or a foreign government, such amounts may be collected without interest by civil action in the name of the commissioner acting as agent for such agency if the other state, the United States, or the foreign government extends such collection rights to the employment security department of the state of Washington, and provided that the court costs be paid by the governmental agency benefiting from such collection.

(5) Any employer who is a party to a back pay award or settlement due to loss of wages shall, within thirty days of the award or settlement, report to the department the amount of the award or settlement, the name and social security number of the recipient of the award or settlement, and the period for which it is awarded. When an individual has been awarded or receives back pay, for benefit purposes the amount of the back pay shall constitute wages paid in the period for which it was awarded. For contribution purposes, the back pay award or settlement shall constitute wages paid in the period in which it was actually paid. The following requirements shall also apply:

(a) The employer shall reduce the amount of the back pay award or settlement by an amount determined by the department based upon the amount of unemployment benefits received by the recipient of the award or settlement during the period for which the back pay award or settlement was awarded;

(b) The employer shall pay to the unemployment compensation fund, in a manner specified by the commissioner, an amount equal to the amount of such reduction;

(c) The employer shall also pay to the department any taxes due for unemployment insurance purposes on the entire amount of the back pay award or settlement notwithstanding any reduction made pursuant to (a) of this subsection;

(d) If the employer fails to reduce the amount of the back pay award or settlement as required in (a) of this subsection, the department shall issue an overpayment assessment against the recipient of the award or settlement in the amount that the back pay award or settlement should have been reduced; and

(e) If the employer fails to pay to the department an amount equal to the reduction as required in (b) of this subsection, the department shall issue an assessment of liability against the employer which shall be collected pursuant to the procedures for collection of assessments provided herein and in RCW 50.24.110.

(6)(a) When an individual fails to repay an overpayment assessment that is due and fails to arrange for satisfactory repayment terms, the commissioner shall impose an interest penalty of one percent per month of the outstanding balance. Interest shall accrue immediately on overpayments assessed pursuant to RCW 50.20.070 and shall be imposed when the assessment becomes final. For any other overpayment, interest shall accrue when the individual has missed two or more of the individual's monthly payments either partially or in full.

(b) The department shall not charge interest on overpayment assessments for benefits paid for the week beginning February 2, 2020, through the week ending September 4, 2021, until January 1, 2025, unless the overpayment assessment is a result of a determination by the department that the individual was disqualified from receiving those benefits under RCW 50.20.070. If an individual had previously paid interest to the department on overpayment assessments for benefits paid for the week beginning February 2, 2020, through the week ending September 4, 2021, the department shall choose, in its sole discretion, one of the following options:

(i) Apply those payments toward any principal balance, penalties, or interest owed by the individual; or

(ii) Refund those payments to the individual.

(7) The department shall: (a) Conduct social security number cross-match audits or engage in other more effective activities that ensure that individuals are entitled to all amounts of benefits that they are paid; and (b) engage in other detection and recovery of overpayment and collection activities.

NEW SECTION. **Sec. 2.** This act applies retroactively to February 2, 2020.

Passed by the House February 8, 2024.
Passed by the Senate February 22, 2024.
Approved by the Governor March 7, 2024.
Filed in Office of Secretary of State March 7, 2024.

CHAPTER 9

[Substitute House Bill 1249]

CANNABIS PRODUCTS IN LIQUID FORM—INDIVIDUAL UNIT PACKAGING

AN ACT Relating to limits on the sale and possession of retail cannabis products; and amending RCW 69.50.360 and 69.50.4013.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 69.50.360 and 2022 c 16 s 72 are each amended to read as follows:

The following acts, when performed by a validly licensed cannabis retailer or employee of a validly licensed retail outlet in compliance with rules adopted by the board to implement and enforce chapter 3, Laws of 2013, do not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of cannabis concentrates, useable cannabis, or cannabis-infused products that have been properly packaged and labeled from a cannabis processor validly licensed under this chapter;

(2) Possession of quantities of cannabis concentrates, useable cannabis, or cannabis-infused products that do not exceed the maximum amounts established by the board under RCW 69.50.345(5);

(3) Delivery, distribution, and sale, on the premises of the retail outlet, of any combination of the following amounts of cannabis concentrates, useable cannabis, or cannabis-infused product to any person ((~~twenty-one~~)) 21 years of age or older:

(a) One ounce of useable cannabis;

(b) ((~~Sixteen~~)) 16 ounces of cannabis-infused product in solid form;

(c) ((~~Seventy-two~~)) 72 ounces of cannabis-infused product in liquid form unless the cannabis-infused product in liquid form is packaged in individual units containing no more than four milligrams of THC per unit; ((~~or~~))

(d) 200 milligrams of THC within a cannabis-infused product in liquid form if the product is packaged in individual units containing no more than four milligrams of THC per unit; or

(e) Seven grams of cannabis concentrate; and

(4) Purchase and receipt of cannabis concentrates, useable cannabis, or cannabis-infused products that have been properly packaged and labeled from a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under RCW 43.06.490.

Sec. 2. RCW 69.50.4013 and 2023 sp.s. c 1 s 2 are each amended to read as follows:

(1) Except as otherwise authorized by this chapter, it is unlawful for any person to:

(a) Knowingly possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice; or

(b) Knowingly use a controlled substance in a public place, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice.

(2)(a) Except as provided in RCW 69.50.4014 or 69.50.445, a violation of subsection (1)(a) or (b) of this section is a gross misdemeanor punishable by imprisonment of up to 180 days in jail, or by a fine of not more than $1,000, or by both such imprisonment and fine, however, if the defendant has two or more prior convictions under subsection (1)(a) or (b) of this section occurring after July 1, 2023, a violation of subsection (1)(a) or (b) of this section is punishable by imprisonment for up to 364 days, or by a fine of not more than $1,000, or by both such imprisonment and fine. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

(b) No person may be charged under both subsection (1)(a) and (b) of this section relating to the same course of conduct.

(c) In lieu of jail booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(3)(a) The possession, by a person 21 years of age or older, of useable cannabis, cannabis concentrates, or cannabis-infused products in amounts that

do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law.

(b) The possession of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized in accordance with RCW 69.50.382 and 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law.

(4)(a) The delivery by a person 21 years of age or older to one or more persons 21 years of age or older, during a single 24 hour period, for noncommercial purposes and not conditioned upon or done in connection with the provision or receipt of financial consideration, of any of the following cannabis products, is not a violation of this section, this chapter, or any other provisions of Washington state law:

(i) One-half ounce of useable cannabis;

(ii) Eight ounces of cannabis-infused product in solid form;

(iii) 36 ounces of cannabis-infused product in liquid form unless the cannabis-infused product in liquid form is packaged in individual units containing no more than four milligrams of THC per unit; ((~~or~~))

(iv) 100 milligrams of THC within a cannabis-infused product in liquid form if the product is packaged in individual units containing no more than four milligrams of THC per unit; or

(v) Three and one-half grams of cannabis concentrates.

(b) The act of delivering cannabis or a cannabis product as authorized under this subsection (4) must meet one of the following requirements:

(i) The delivery must be done in a location outside of the view of general public and in a nonpublic place; or

(ii) The cannabis or cannabis product must be in the original packaging as purchased from the cannabis retailer.

(5) No person under 21 years of age may manufacture, sell, distribute, or knowingly possess cannabis, cannabis-infused products, or cannabis concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

(6) The possession by a qualifying patient or designated provider of cannabis concentrates, useable cannabis, cannabis-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section, this chapter, or any other provision of Washington state law.

(7) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

(8) For the purposes of this section, "use a controlled substance" means to introduce the substance into the human body by injection, inhalation, ingestion, or any other means.

Passed by the House February 10, 2024.

Passed by the Senate February 22, 2024.

Approved by the Governor March 7, 2024.

Filed in Office of Secretary of State March 7, 2024.

CHAPTER 10

[House Bill 1455]

MARRIAGE BY MINORS—ELIMINATION

AN ACT Relating to eliminating child marriage; amending RCW 26.04.010, 26.04.130, and 26.04.210; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 26.04.010 and 2012 c 3 s 1 are each amended to read as follows:

(1) Marriage is a civil contract between two persons who have each attained the age of ((~~eighteen~~)) 18 years, and who are otherwise capable.

(2) Every marriage entered into in which either person has not attained the age of ((~~seventeen~~)) 18 years is void ((~~except where this section has been waived by a superior court judge of the county in which one of the parties resides on a showing of necessity~~)).

(3) Where necessary to implement the rights and responsibilities of spouses under the law, gender-specific terms such as husband and wife used in any statute, rule, or other law must be construed to be gender neutral and applicable to spouses of the same sex.

(4) No regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of any religious organization is required to solemnize or recognize any marriage. A regularly licensed or ordained minister or priest, imam, rabbi, or similar official of any religious organization shall be immune from any civil claim or cause of action based on a refusal to solemnize or recognize any marriage under this section. No state agency or local government may base a decision to penalize, withhold benefits from, or refuse to contract with any religious organization on the refusal of a person associated with such religious organization to solemnize or recognize a marriage under this section.

(5) No religious organization is required to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

(6) A religious organization shall be immune from any civil claim or cause of action, including a claim pursuant to chapter 49.60 RCW, based on its refusal to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

(7) For purposes of this section:

(a) "Recognize" means to provide religious-based services that:

(i) Are delivered by a religious organization, or by an individual who is managed, supervised, or directed by a religious organization; and

(ii) Are designed for married couples or couples engaged to marry and are directly related to solemnizing, celebrating, strengthening, or promoting a marriage, such as religious counseling programs, courses, retreats, and workshops; and

(b) "Religious organization" includes, but is not limited to, churches, mosques, synagogues, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion.

Sec. 2. RCW 26.04.130 and Code 1881 s 2381 are each amended to read as follows:

When either party to a marriage shall be incapable of consenting thereto, for want of ((~~legal age or~~)) a sufficient understanding, or when the consent of either party shall be obtained by force or fraud, such marriage is voidable, but only at the suit of the party laboring under the disability, or upon whom the force or fraud is imposed.

Sec. 3. RCW 26.04.210 and 2003 c 53 s 166 are each amended to read as follows:

(1) The county auditor, before a marriage license is issued, upon the payment of a license fee as fixed in RCW 36.18.010 shall require each applicant therefor to make and file in the auditor's office upon blanks to be provided by the county for that purpose, an affidavit showing that if an applicant is afflicted with any contagious sexually transmitted disease, the condition is known to both applicants, and that the applicants are the age of ((~~eighteen~~)) 18 years or over. ((~~If the consent in writing is obtained of the father, mother, or legal guardian of the person for whom the license is required, the license may be granted in cases where the female has attained the age of seventeen years or the male has attained the age of seventeen years.~~)) Such affidavit may be subscribed and sworn to before any person authorized to administer oaths.

(2) Anyone knowingly swearing falsely to any of the statements contained in the affidavits mentioned in this section is guilty of perjury under chapter 9A.72 RCW.

(3) The affidavit form shall be designed to require a statement that no contagious sexually transmitted disease is present or that the condition is known to both applicants, without requiring the applicants to state whether or not either or both of them are afflicted by such disease.

(4) Any person knowingly violating this section is guilty of a class C felony and shall be punished by a fine of not more than ((~~one thousand dollars~~)) $1,000, or by imprisonment in a state correctional facility for a period of not more than three years, or by both such fine and imprisonment.

NEW SECTION. **Sec. 4.** This act applies to any marriage entered into on or after the effective date of this section.

Passed by the House January 8, 2024.
Passed by the Senate February 23, 2024.
Approved by the Governor March 7, 2024.
Filed in Office of Secretary of State March 7, 2024.

CHAPTER 11

[House Bill 1530]

LAW ENFORCEMENT AND PROSECUTING ATTORNEYS—EMPLOYMENT OF PERMANENT RESIDENTS

AN ACT Relating to expanding eligibility for employment to lawful permanent residents for positions with general authority Washington law enforcement agencies, limited authority Washington law enforcement agencies, and prosecuting attorney offices; amending RCW 36.27.040; and adding a new section to chapter 10.93 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 10.93 RCW to read as follows:

A general authority Washington law enforcement agency or limited authority Washington law enforcement agency may consider the application of a citizen of the United States or a lawful permanent resident for any office, place, position, or employment within the agency.

Sec. 2. RCW 36.27.040 and 2009 c 549 s 4047 are each amended to read as follows:

The prosecuting attorney may appoint one or more deputies who shall have the same power in all respects as their principal. Each appointment shall be in writing, signed by the prosecuting attorney, and filed in the county auditor's office. Each deputy thus appointed shall have the same qualifications required of the prosecuting attorney, except that such deputy need not be a resident of the county in which he or she serves nor a qualified elector therein. Each deputy appointed must be a citizen of the United States or a lawful permanent resident. The prosecuting attorney may appoint one or more special deputy prosecuting attorneys upon a contract or fee basis whose authority shall be limited to the purposes stated in the writing signed by the prosecuting attorney and filed in the county auditor's office. Such special deputy prosecuting attorney shall be admitted to practice as an attorney before the courts of this state but need not be a resident of the county in which he or she serves and shall not be under the legal disabilities attendant upon prosecuting attorneys or their deputies except to avoid any conflict of interest with the purpose for which he or she has been engaged by the prosecuting attorney. The prosecuting attorney shall be responsible for the acts of his or her deputies and may revoke appointments at will.

Two or more prosecuting attorneys may agree that one or more deputies for any one of them may serve temporarily as deputy for any other of them on terms respecting compensation which are acceptable to said prosecuting attorneys. Any such deputy thus serving shall have the same power in all respects as if he or she were serving permanently.

The provisions of chapter 39.34 RCW shall not apply to such agreements.

The provisions of RCW 41.56.030(((~~(2)~~))) (12) shall not be interpreted to permit a prosecuting attorney to alter the at-will relationship established between the prosecuting attorney and his or her appointed deputies by this section for a period of time exceeding his or her term of office. Neither shall the provisions of RCW 41.56.030(((~~(2)~~))) (12) require a prosecuting attorney to alter the at-will relationship established by this section.

Passed by the House January 25, 2024.
Passed by the Senate February 22, 2024.
Approved by the Governor March 7, 2024.
Filed in Office of Secretary of State March 7, 2024.

CHAPTER 12

[House Bill 1890]

JOINT HOUSING AUTHORITIES—FORMATION

AN ACT Relating to housing authorities; and amending RCW 35.82.300.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 35.82.300 and 2002 c 258 s 1 are each amended to read as follows:

This section applies to all cities and counties.

(1) Joint housing authorities are hereby authorized when the legislative authorities of one or more counties and the legislative authorities of any city or cities within any of those counties or in another county or counties have authorized such joint housing authority by ordinance. For legislative authorities that have created housing authorities prior to the effective date of this section, a joint housing authority may be formed by two or more city governments without county legislative authority authorization.

((~~(2)~~)) The ordinances creating a joint housing authority must: (a) Provide for the creation of a new public body corporate and politic; or (b) Provide that a housing authority created under this chapter and previously activated by resolution of one of the legislative authorities creating the joint housing authority will be converted to, and will thereafter operate as, a joint housing authority.

(3) The ordinances enacted by the legislative authorities creating the joint housing authority shall prescribe the number of commissioners, the method for their appointment and length of their terms, the election of officers, and the method for removal of commissioners.

((~~(3)~~)) (4) The ordinances enacted by the legislative authorities creating the joint housing authority shall prescribe the allocation of all costs of the joint housing authority and any other matters necessary for the operation of the joint housing authority.

((~~(4)~~)) (5) A joint housing authority shall have all the powers as prescribed by this chapter for any housing authority. The area of operation of a joint housing authority shall be the combined areas, defined by RCW 35.82.020(6), of the housing authorities created in each city and county authorizing the joint housing authority.

((~~(5)~~)) (6) The provisions of RCW 35.82.040 and 35.82.060 shall not apply to a joint housing authority created pursuant to this section.

(7) Unless a delayed date is specified in the ordinances providing for the creation of a joint housing authority, the creation of, or conversion to, a joint housing authority will take effect upon the latest effective date of the ordinances providing for its creation.

Passed by the House February 6, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 7, 2024.
Filed in Office of Secretary of State March 7, 2024.

CHAPTER 13

[House Bill 1920]

PUBLIC ACCOUNTANCY ACT—VARIOUS PROVISIONS

AN ACT Relating to modifying the public accountancy act; amending RCW 18.04.015, 18.04.025, 18.04.105, 18.04.180, 18.04.183, 18.04.195, 18.04.205, 18.04.215, 18.04.295, 18.04.345, 18.04.350, 18.04.380, 18.04.390, 18.04.405, and 18.04.430; and decodifying RCW 18.04.910 and 18.04.911.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.04.015 and 2022 c 85 s 1 are each amended to read as follows:

(((~~(1)~~))) It is the policy of this state and the purpose of this chapter:

(((~~(a)~~))) (1) To promote the dependability of information which is used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private or governmental; and

(((~~(b)~~))) (2) To protect the public interest by requiring that:

(((~~(i)~~))) (a) Persons who hold themselves out as licensees conduct themselves in a competent, ethical, and professional manner;

(((~~(ii)~~))) (b) A public authority be established that is competent to prescribe and assess the qualifications of certified public accountants;

(((~~(iii)~~))) (c) Persons other than licensees refrain from using the words "audit," "review," and "compilation" when designating a report customarily prepared by someone knowledgeable in accounting;

(((~~(iv)~~))) (d) A public authority be established to provide for consumer alerts and public protection information to be published regarding persons or firms who violate the provisions of chapter 294, Laws of 2001 or board rule and to provide general consumer protection information to the public; and

(((~~(v)~~))) (e) The use of accounting titles likely to confuse the public be prohibited. However as of June 30, 2024, an individual holding a CPA-inactive certificate must be designated as a licensee with an inactive status.

(((~~(2) The purpose of chapter 294, Laws of 2001 is to make revisions to chapter 234, Laws of 1983 and chapter 103, Laws of 1992 to: Fortify the public protection provisions of chapter 294, Laws of 2001; establish one set of qualifications to be a licensee; revise the regulations of certified public accountants; make revisions in the ownership of certified public accounting firms; assure to the greatest extent possible that certified public accountants from Washington state are substantially equivalent with certified public accountants in other states and can therefore perform the duties of certified public accountants in as many states and countries as possible; assure certified public accountants from other states and countries have met qualifications that are substantially equivalent to the certified public accountant qualifications of this state; and clarify the authority of the board of accountancy with respect to the activities of persons holding licenses and certificates under this chapter. It is not the intent of chapter 294, Laws of 2001 to in any way restrict or limit the activities of persons not holding licenses or certificates under this chapter except as otherwise specifically restricted or limited by chapter 234, Laws of 1983 and chapter 103, Laws of 1992.~~

~~(3) A purpose of chapter 103, Laws of 1992, revising provisions of chapter 234, Laws of 1983, is to clarify the authority of the board of accountancy with respect to the activities of persons holding certificates under this chapter. Furthermore, it is not the intent of chapter 103, Laws of 1992 to in any way restrict or limit the activities of persons not holding certificates under this chapter except as otherwise specifically restricted or limited by chapter 234, Laws of 1983.~~))

Sec. 2. RCW 18.04.025 and 2022 c 85 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) "Attest" means providing the following services:

(a) Any audit or other engagement to be performed in accordance with the statements on auditing standards;

(b) Any review of a financial statement to be provided in accordance with the statements on standards for accounting and review services;

(c) Any engagement to be performed in accordance with the statements on standards for attestation engagements; and

(d) Any engagement to be performed in accordance with the public company accounting oversight board auditing standards.

(2) "Board" means the board of accountancy created by RCW 18.04.035.

(3) "Certificate" means an alternative license type issued by the board indicating that the certificate holder had passed the CPA examination, but has not verified the certificate holder's experience and was not fully licensed as a certified public accountant to practice public accounting. The board must allow renewal of certificates until June 30, 2024, at which time any then current and valid certificates automatically convert to a CPA license in an inactive status. As of July 1, 2024, board-issued certificates are no longer a recognized form of licensure.

(4) "Certified public accountant" or "CPA" means a person holding a certified public accountant license or certificate.

(5) "Compilation" means providing a service to be performed in accordance with statements on standards for accounting and review services that is presenting in the form of financial statements, information that is the representation of management (owners) without undertaking to express any assurance on the statements.

(6) "CPE" means continuing professional education.

(7) "Firm" or "CPA firm" means a sole proprietorship, a corporation, ((~~or~~)) a partnership, or any other form of organization issued a license under RCW 18.04.195. "Firm" or "CPA firm" also means a limited liability company formed under chapter 25.15 RCW.

(8) "Holding out" means any representation to the public by the use of restricted titles as set forth in RCW 18.04.345 by a person or firm that the person or firm holds a license under this chapter and that the person or firm offers to perform any professional services to the public as a licensee. "Holding out" shall not affect or limit a person or firm not required to hold a license under this chapter from engaging in practices identified in RCW ((~~18.04.350~~)) 18.04.345.

(9) "Inactive" means the status of a license that is prohibited from practicing public accounting. A person holding an inactive license may apply to the board to return the license to an active status through an approval process established by the board.

(10) "Individual" means a living, human being.

(11) "License" means a license to practice public accountancy issued to an individual under this chapter, or a license issued to a firm under this chapter.

(12) "Licensee" means the holder of a license to practice public accountancy issued under this chapter.

(13) "Manager" means a manager of a limited liability company licensed as a firm under this chapter.

(14) "NASBA" means the national association of state boards of accountancy.

(15) "Peer review" means a study, appraisal, or review of one or more aspects of the attest or compilation work of a licensee or licensed firm in the practice of public accountancy, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed, including a peer review, or any internal review or inspection intended to comply with quality control policies and procedures, but not including a quality assurance review.

(16) "Person" means any individual, nongovernmental organization, or business entity regardless of legal form, including a sole proprietorship, firm, partnership, corporation, limited liability company, association, or not-for-profit organization, and including the sole proprietor, partners, members, and, as applied to corporations, the officers.

(17) "Practice of public accounting" means performing or offering to perform by a person or firm holding itself out to the public as a licensee, for a client or potential client, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of "reports," or one or more kinds of management advisory, or consulting services, or the preparation of tax returns, or the furnishing of advice on tax matters. "Practice of public accounting" shall not include practices that are permitted under the provisions of RCW ((~~18.04.350(10)~~)) 18.04.345(9)(b) by persons or firms not required to be licensed under this chapter.

(18) "Practice privilege" means an authorization permitting the practice of public accounting in Washington under RCW 18.04.350.

(19) "Principal place of business" means the office location designated by the licensee for purposes of substantial equivalency and reciprocity.

((~~(19)~~)) (20) "Quality assurance review" means a process established by and conducted at the direction of the board of study, appraisal, or review of one or more aspects of the attest or compilation work of a licensee or licensed firm in the practice of public accountancy, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed.

((~~(20)~~)) (21) "Report," when used with reference to any attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of the attested information or compiled financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in the practice of public accounting. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is involved in the practice of public accounting, or from the language of the report itself. "Report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled financial statements referred to and/or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance and/or such special knowledge or competence. "Report" does not include services referenced in RCW ((~~18.04.350 (10) or (11)~~)) 18.04.345(9) (b) and (c) provided by persons not holding a license under this chapter as provided in RCW ((~~18.04.350(14)~~)) 18.04.345(2)(b).

(((~~(21)~~))) (22) "Review committee" means any person carrying out, administering or overseeing a peer review authorized by the reviewee.

(((~~(22)~~))) (23) "Rule" means any rule adopted by the board under authority of this chapter.

(((~~(23) "Sole proprietorship" means a legal form of organization owned by one person meeting the requirements of RCW 18.04.195.~~)))

(24) "State" includes the states of the United States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands at such time as the board determines that the Commonwealth of the Northern Mariana Islands is issuing licenses under the ((~~substantially equivalent~~)) substantial equivalency standards in RCW 18.04.350(((~~(2)~~))) (1)(a).

(25) "Substantial equivalency" ((~~or "substantially equivalent"~~)) means a determination by the board or its designee that the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination, and experience requirements contained in this chapter or that an individual CPA's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained in this chapter. In ascertaining substantial equivalency ((~~and substantially equivalent~~)) as used in this chapter the board shall take into account the qualifications without regard to the sequence in which experience, education, or examination requirements were attained.

Sec. 3. RCW 18.04.105 and 2022 c 85 s 5 are each amended to read as follows:

(1) A license to practice public accounting shall be granted by the board to any person:

(a) Who is of good character. Good character, for purposes of this section, means lack of a history of dishonest or felonious acts. The board may refuse to grant a license on the ground of failure to satisfy this requirement only if there is a substantial connection between the lack of good character of the applicant and the professional and ethical responsibilities of a licensee and if the finding by the board of lack of good character is supported by a preponderance of evidence. When an applicant is found to be unqualified for a license because of a lack of good character, the board shall furnish the applicant a statement containing the findings of the board and a notice of the applicant's right of appeal;

(b) Who has met the educational standards established by rule as the board determines to be appropriate;

(c) Who has passed an examination;

(d) Who has ((~~had one year of experience~~)) met the experience requirements established by rule by the board as it deems appropriate, which is gained:

(i) Through the use of accounting, issuing reports, management advisory, financial advisory, tax, tax advisory, or consulting skills;

(ii) While employed in government, industry, academia, or public practice; and

(iii) Meeting the competency requirements in a manner as determined by the board to be appropriate and established by board rule; and

(e) Who has paid appropriate application fees as established by rule by the board.

(2) The examination described in subsection (1)(c) of this section shall test the applicant's knowledge of the subjects of accounting and auditing, and other related fields the board may specify by rule. The time for holding the examination is fixed by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and taking the examination, including methods for grading examinations and determining a passing grade required of an applicant for a license. The board shall to the extent possible see to it that the grading of the examination, and the passing grades, are uniform with those applicable to all other states. The board may make use of all or a part of the uniform certified public accountant examination and advisory grading service of the American Institute of Certified Public Accountants and may contract with third parties to perform administrative services with respect to the examination as the board deems appropriate to assist it in performing its duties under this chapter. The board shall establish by rule provisions for transitioning to a new examination structure or to a new media for administering the examination.

(3) The board shall charge each applicant an examination fee for the initial examination or for reexamination. The applicable fee shall be paid ((~~by the person~~)) at the time ((~~he or she~~)) an individual applies for examination, reexamination, or evaluation of educational qualifications. Fees for examination, reexamination, or evaluation of educational qualifications shall be determined by the board under this chapter. There is established in the state treasury an account to be known as the certified public accountants' account. All fees received from candidates to take any or all sections of the certified public accountant examination shall be used only for costs related to the examination.

(4) Individuals whose certificates are current and valid on June 30, 2024, will automatically be converted to a licensee in an inactive status. To activate a license and become an active licensee, the individual must apply to the board to activate ((~~his or her~~)) the license and ((~~must meet the following requirements~~)):

(a) For applications to activate, the licensees must submit to the board documentation that they have gained one year of experience through the use of accounting, issuing reports, management advisory, financial advisory, tax, tax advisory, or consulting skills, without regard to the eight-year limitation set forth in (b) of this subsection, while employed in government, industry, academia, or public practice((~~.~~));

(b) For applications submitted to the board before January 1, 2024, the individual must provide documentation to the board that they have one year of experience acquired within eight years prior to applying for a license through the use of accounting, issuing reports, management advisory, financial advisory, tax, tax advisory, or consulting skills in government, industry, academia, or public practice((~~.~~));

(c) Meet competency requirements in a manner as determined by the board to be appropriate and established by board rule((~~.~~));

(d) Submit to the board satisfactory proof of having completed an accumulation of one hundred twenty hours of CPE during the thirty-six months preceding the date of filing the petition((~~.~~));

(e) Pay the appropriate fees established by rule by the board.

(5) Individuals who did not hold a valid certificate on the conversion date of June 30, 2024, and who wish to apply for a license must apply as a new licensee

and meet the requirements under subsection (1) of this section for initial licensure.

(6) ((~~Any licensee~~)) Licensees in good standing may request to have ((~~his or her~~)) their license placed on inactive status. All licensees in inactive status, including those who converted from certificate to a license, are subject to the following conditions:

(a) The licensee is prohibited from practicing public accounting;

(b) The licensee must pay a renewal fee to maintain this status;

(c) The licensee must comply with the applicable CPE requirements;

(d) The licensee is subject to the requirements of this chapter and the rules adopted by the board.

Sec. 4. RCW 18.04.180 and 2022 c 85 s 6 are each amended to read as follows:

(1) The board shall issue a license to a holder of a valid certificate((~~/valid~~)) or license issued by another state that entitles the holder to practice public accountancy, provided that:

(a) Such state makes similar provision to grant reciprocity to a holder of a valid certificate or license in this state;

(b) The applicant meets the CPE requirements of RCW 18.04.215(4);

(c) The applicant meets the good character requirements of RCW 18.04.105(1)(a); and

(d) The applicant passed the examination required for issuance of ((~~his or her~~)) a certificate or license with grades that would have been passing grades at that time in this state and meets all current requirements in this state for issuance of a license at the time application is made; or at the time of the issuance of the applicant's license in the other state, met all the requirements then applicable in this state; or has three years of experience within the five years immediately preceding application or had five years of experience within the ten years immediately preceding application in the practice of public accountancy that meets the requirements prescribed by the board.

(2) The board may accept NASBA's designation of the applicant as ((~~substantially equivalent~~)) having substantial equivalency to national standards as meeting the requirement of subsection (1)(d) of this section.

(3) A licensee who has been granted a license under the reciprocity provisions of this section shall notify the board within thirty days if the license or certificate issued in the other jurisdiction has lapsed or if the status of the license or certificate issued in the other jurisdiction becomes otherwise invalid.

Sec. 5. RCW 18.04.183 and 2001 c 294 s 9 are each amended to read as follows:

The board shall grant a license as a certified public accountant to a holder of a permit, license, or certificate issued by a foreign country's board, agency, or institute, provided that:

(1) The foreign country where the foreign permit, license, or certificate was issued is a party to an agreement on trade with the United States that encourages the mutual recognition of licensing and certification requirements for the provision of covered services by the parties under the trade agreement;

(2) Such foreign country's board, agency, or institute makes similar provision to allow a person who holds a valid license issued by this state to obtain such foreign country's comparable permit, license, or certificate;

(3) The foreign permit, license, or certificate:

(a) Was duly issued by such foreign country's board, agency, or institute that regulates the practice of public accountancy; and

(b) Is in good standing at the time of the application; and

(c) Was issued upon the basis of educational, examination, experience, and ethical requirements ((~~substantially equivalent~~)) that have substantial equivalency currently or at the time of issuance of the foreign permit, license, or certificate to those in this state;

(4) The applicant has within the thirty-six months prior to application completed an accumulation of one hundred twenty hours of CPE as required under RCW 18.04.215(((~~5~~))) (4). The board shall provide for transition from existing to new CPE requirements;

(5) The applicant's foreign permit, license, or certificate was the type of permit, license, or certificate requiring the most stringent qualifications if, in the foreign country, more than one type of permit, license, or certificate is issued. This state's board shall decide which are the most stringent qualifications;

(6) The applicant has passed a written examination or its equivalent, approved by the board, that tests knowledge in the areas of United States accounting principles, auditing standards, commercial law, income tax law, and Washington state rules of professional ethics; and

(7) The applicant has within the eight years prior to applying for a license under this section, demonstrated, in accordance with the rules issued by the board, ((~~one year of~~)) public accounting experience, within the foreign country where the foreign permit, license, or certificate was issued, equivalent to the experience required under RCW 18.04.105(1)(d) or such other experience or employment which the board in its discretion regards as ((~~substantially equivalent~~)) having substantial equivalency.

The board may adopt by rule new CPE standards that differ from those in subsection (4) of this section or RCW 18.04.215 if the new standards are consistent with the CPE standards of other states so as to provide to the greatest extent possible, consistent national standards.

A licensee who has been granted a license under the reciprocity provisions of this section shall notify the board within thirty days if the permit, license, or certificate issued in the other jurisdiction has lapsed or if the status of the permit, license, or certificate issued in the other jurisdiction becomes otherwise invalid.

Sec. 6. RCW 18.04.195 and 2022 c 85 s 8 are each amended to read as follows:

(1) The board shall grant or renew licenses to practice as a CPA firm to applicants that demonstrate their qualifications therefore in accordance with this section.

(a) The following must hold a license issued under this section:

(i) Any firm with an office in this state performing or offering to perform attest services as defined in RCW 18.04.025(1) or compilations as defined in RCW 18.04.025(5); or

(ii) Any firm that does not have an office in this state but offers or renders attest services described in RCW 18.04.025 in this state, unless it meets each of the following requirements:

(A) Complies with the qualifications described in subsection (((~~(3)(c), (4)(a), or (5)(c)~~))) (2)(a) of this section;

(B) Meets the board's quality assurance review program requirements authorized by RCW 18.04.055(9) and the rules implementing such section;

(C) Performs such services through an individual with practice privileges under RCW 18.04.350(((~~2~~))); and

(D) Can lawfully do so in the state where said individuals with practice privileges have their principal place of business.

(b) A firm that is not subject to the requirements of ((~~subsection (1)~~))(a) of this subsection may perform compilation services described in RCW 18.04.025(5) and other nonattest professional services while using the title "CPA" or "CPA firm" in this state without a license issued under this section only if:

(i) The firm performs such services through an individual with practice privileges under RCW 18.04.350(((~~2~~))); and

(ii) The firm can lawfully do so in the state where said individuals with practice privileges have their principal place of business.

(2) ((~~A sole proprietorship that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 is required to obtain a license under subsection (1) of this section and shall license, as a firm, every three years with the board.~~

~~(a) The sole proprietor shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215, or, in the case of a sole proprietorship that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);~~

~~(b) Each resident individual in charge of an office located in this state shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215; and~~

~~(c) The licensed firm must meet requirements established by rule by the board.~~

~~(3)~~))) A ((~~partnership~~)) CPA firm that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 is required to obtain a license under subsection (1) of this section, shall license as a firm every three years with the board, and shall meet the following requirements:

(a) ((~~At least one general partner of the partnership shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215, or, in the case of a partnership that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);~~

~~(b) Each resident individual in charge of an office in this state shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215;~~

~~(c) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all partners or owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state. The principal partner of the partnership and any partner having authority over issuing reports shall hold a license under this chapter or issued by another state; and~~

~~(d) The licensed firm must meet requirements established by rule by the board.~~

~~(4) A corporation that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 is required to obtain a license under subsection (1) of this section, shall license as a firm every three years with the board, and shall meet the following requirements:~~

~~(a) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all shareholders or owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state and is principally employed by the corporation or actively engaged in its business. The principal officer of the corporation and any officer or director having authority over issuing reports shall hold a license under this chapter or issued by another state;~~

~~(b) At least one shareholder of the corporation shall hold a license under RCW 18.04.105 and 18.04.215, or, in the case of a corporation that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);~~

~~(c) Each resident individual in charge of an office located in this state shall hold and renew a license under RCW 18.04.105 and 18.04.215;~~

~~(d) A written agreement shall bind the corporation or its shareholders to purchase any shares offered for sale by, or not under the ownership or effective control of, a qualified shareholder, and bind any holder not a qualified shareholder to sell the shares to the corporation or its qualified shareholders. The agreement shall be noted on each certificate of corporate stock. The corporation may purchase any amount of its stock for this purpose, notwithstanding any impairment of capital, as long as one share remains outstanding;~~

~~(e) The corporation shall comply with any other rules pertaining to corporations practicing public accounting in this state as the board may prescribe; and~~

~~(f) The licensed firm must meet requirements established by rule by the board.~~

~~(5) A limited liability company that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 is required to obtain a license under subsection (1) of this section, shall license as a firm every three years with the board, and shall meet the following requirements:~~

~~(a) At least one member of the limited liability company shall hold a license under RCW 18.04.105 and 18.04.215, or, in the case of a limited liability company that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);~~

~~(b) Each resident manager or member in charge of an office located in this state shall hold and renew a license under RCW 18.04.105 and 18.04.215;~~

~~(c) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state. The principal member or manager of the limited liability company and any member having authority over issuing reports shall hold a license under this chapter or issued by another state; and~~

~~(d) The licensed firm must meet requirements established by rule by the board.~~

~~(6)~~)) A simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers, shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215, or be a licensee of another state who meets the requirements in RCW 18.04.350;

(b) All owners of a CPA firm, including nonlicensee owners, must comply with rules promulgated by the board;

(c) The principal member, manager, officer, or partner of a CPA firm having authority over issuing reports shall hold a license under this chapter or be a licensee of another state who meets the requirements in RCW 18.04.350; and

(d) Compliance with the requirements of RCW 18.04.205.

(3) Application for a license as a firm with an office in this state shall be made upon the affidavit of ((~~the proprietor or individual designated as managing partner, member, or shareholder for Washington. This individual shall hold~~)) an individual holding a license under RCW 18.04.215.

(((~~7~~))) (4) In the case of a firm licensed in another state and required to obtain a license under subsection (1)(a)(((~~iii~~))) (ii) of this section, the application for the firm license shall be made upon the affidavit of an individual who qualifies for practice privileges in this state under RCW 18.04.350(((~~2~~))) who has been authorized by the applicant firm to make the application. The board shall determine in each case whether the applicant is eligible for a license.

(((~~8~~))) (5) The board shall be given notification within ninety days after the admission or withdrawal of a partner, shareholder, or member engaged in this state in the practice of public accounting from any partnership, corporation, or limited liability company so licensed.

(((~~9~~))) (6) Licensed firms that fall out of compliance with the provisions of this section due to changes in firm ownership, after receiving or renewing a license, shall notify the board in writing within ninety days of its falling out of compliance and propose a time period in which they will come back into compliance. The board may grant a reasonable period of time for a firm to be in compliance with the provisions of this section. Failure to bring the firm into compliance within a reasonable period of time, as determined by the board, may result in suspension, revocation, or imposition of conditions on the firm's license.

(((~~10~~))) (7) Fees for the license as a firm and for notification of the board of the admission or withdrawal of a partner, shareholder, or member shall be determined by the board. Fees shall be paid by the firm at the time the license application form or notice of admission or withdrawal of a partner, shareholder, or member is filed with the board.

(((~~11) Nonlicensee owners of licensed firms are~~)) (8) Any CPA firm licensed under this chapter may include nonlicensee owners provided that the nonlicensee owner is:

(a) Required to fully comply with the provisions of this chapter and board rules;

(b) Required to be an individual;

(c) Required to be of good character, as defined in RCW 18.04.105(1)(a), and an active individual participant in the licensed firm or affiliated entities as these terms are defined by board rule; and

(d) Subject to discipline by the board for violation of this chapter.

(((~~(12)~~))) (9) Resident nonlicensee owners of licensed firms are required to meet:

(a) The ethics examination, registration, and fee requirements as established by the board rules; and

(b) The ethics CPE requirements established by the board rules.

(((~~(13)~~))) (10)(a) Licensed firms must notify the board within thirty days after:

(i) Sanction, suspension, revocation, or modification of their professional license or practice rights by the securities exchange commission, internal revenue service, or another state board of accountancy;

(ii) Sanction or order against the licensee or nonlicensee firm owner by any federal or other state agency related to the licensee's practice of public accounting or violation of ethical or technical standards established by board rule; or

(iii) The licensed firm is notified that it has been charged with a violation of law that could result in the suspension or revocation of the firm's license by a federal or other state agency, as identified by board rule, related to the firm's professional license, practice rights, or violation of ethical or technical standards established by board rule.

(b) The board must adopt rules to implement this subsection and may also adopt rules specifying requirements for licensees to report to the board sanctions or orders relating to the licensee's practice of public accounting or violation of ethical or technical standards entered against the licensee by a nongovernmental professionally related standard-setting entity.

Sec. 7. RCW 18.04.205 and 2019 c 71 s 4 are each amended to read as follows:

(1) Each office established or maintained in this state for the purpose of offering to issue or issuing reports in this state shall register with the board under this chapter every three years.

(2) ((~~Each office~~)) The practice of public accounting in each office of a CPA firm established or maintained in this state shall ((~~be~~)) take place under the direct supervision of a resident licensee holding a license under RCW 18.04.105 and 18.04.215, except that the supervisory requirements of this subsection shall not preclude a nonlicensee from being in charge of a CPA firm.

(3) The board shall by rule prescribe the procedure to be followed to register and maintain offices established in this state for the purpose of offering to issue or issuing attest or compilation reports.

(4) Fees for the registration of offices shall be determined by the board. Fees shall be paid by the applicant at the time the registration form is filed with the board.

Sec. 8. RCW 18.04.215 and 2022 c 85 s 10 are each amended to read as follows:

(1) Three-year licenses shall be issued by the board:

(a) To persons meeting the requirements of RCW 18.04.105(1), 18.04.180, or 18.04.183.

(b) To firms under RCW 18.04.195, meeting the requirements of RCW 18.04.205.

(2) The board shall, by rule, provide for a system of license renewal and reinstatement. Applicants for renewal or reinstatement shall, at the time of filing their applications, list with the board all states and foreign jurisdictions in which they hold or have applied for certificates, permits or licenses to practice.

(3) A license is issued every three years with renewal subject to requirements of CPE and payment of fees, prescribed by the board. Failure to renew the license shall cause the license to lapse and become subject to reinstatement. Persons holding a lapsed license are prohibited from using the title "CPA," "certified public accountant," "CPA-inactive," or "CPA-retired." Persons holding a lapsed license are prohibited from practicing public accountancy. The board shall adopt rules providing for fees and procedures for issuance, renewal, and reinstatement of licenses.

(4) The board shall adopt rules providing for CPE for active or inactive licensees and certificate holders. The rules shall:

(a) Provide that an active licensee shall verify to the board that ((~~he or she~~)) the licensee has completed at least an accumulation of one hundred twenty hours of CPE during the last three-year period to maintain the active license;

(b) Provide that an individual with an inactive license must verify to the board that ((~~he or she~~)) the inactive licensee has completed a board-approved ethics course for CPE during the last three-year period to maintain the inactive license;

(c) Establish CPE requirements; and

(d) Establish when new licensees shall verify that they have completed the required CPE.

(5) A certified public accountant who holds a license issued by another state, and applies for a license in this state, may practice in this state from the date of filing a completed application with the board, until the board has acted upon the application provided the application is made prior to holding out as a certified public accountant in this state and no sanctions or investigations, deemed by the board to be pertinent to public accountancy, by other jurisdictions or agencies are in process.

(6)(a) A licensee shall submit to the board satisfactory proof of having completed an accumulation of one hundred twenty hours of CPE recognized and approved by the board during the preceding three years. Failure to furnish this evidence as required shall make the license lapse and subject to reinstatement procedures, unless the board determines the failure to have been due to retirement or reasonable cause.

(b) The board in its discretion may renew a license despite failure to furnish evidence of compliance with requirements of CPE upon condition that the applicant follow a particular program of CPE. In issuing rules and individual orders with respect to CPE requirements, the board, among other considerations, may rely upon guidelines and pronouncements of recognized educational and professional associations, may prescribe course content, duration, and organization, and may take into account the accessibility of CPE to licensees and instances of individual hardship.

(7) Fees for renewal or reinstatement of licenses in this state shall be determined by the board under this chapter. Fees shall be paid by the applicant at the time the application form is filed with the board. The board, by rule, may provide for proration of fees for licenses issued between normal renewal dates.

(8)(a) Licensees and nonlicensee owners must notify the board within thirty days after:

(i) Sanction, suspension, revocation, or modification of their professional license or practice rights by the securities exchange commission, internal revenue service, or another state board of accountancy;

(ii) Sanction or order against the licensee or nonlicensee owner by any federal or other state agency related to the licensee's practice of public accounting or the licensee's or nonlicensee owner's violation of ethical or technical standards established by board rule; or

(iii) The licensee or nonlicensee owner is notified that ((~~he or she has~~)) they have been charged with a violation of law that could result in the suspension or revocation of a license by a federal or other state agency, as identified by board rule, related to the licensee's or nonlicensee owner's professional license, practice rights, or violation of ethical or technical standards established by board rule.

(b) The board must adopt rules to implement this subsection and may also adopt rules specifying requirements for licensees and nonlicensee owners to report to the board sanctions or orders relating to the licensee's practice of public accounting or the licensee's or nonlicensee owner's violation of ethical or technical standards entered against the licensee or nonlicensee owner by a nongovernmental professionally related standard-setting entity.

Sec. 9. RCW 18.04.295 and 2022 c 85 s 11 are each amended to read as follows:

The board shall have the power to: Revoke, suspend, or refuse to issue, renew, or reinstate a license; impose a fine in an amount not to exceed thirty thousand dollars plus the board's investigative and legal costs in bringing charges against a certified public accountant, a licensee, a licensed firm, an applicant, a non-CPA violating the provisions of RCW 18.04.345, or a nonlicensee holding an ownership interest in a licensed firm; may impose full restitution to injured parties; may impose conditions precedent to renewal of a license; or may prohibit a nonlicensee from holding an ownership interest in a licensed firm, for any of the following causes:

(1) ((~~Fraud~~)) Dishonesty, fraud, or deceit in obtaining a license, or in any filings with the board;

(2) Dishonesty, fraud, or negligence while representing oneself as a nonlicensee owner holding an ownership interest in a licensed firm or a licensee;

(3) A violation of any provision of this chapter;

(4) A violation of a rule of professional conduct promulgated by the board under the authority granted by this chapter;

(5) Conviction of a crime or an act constituting a crime under:

(a) The laws of this state;

(b) The laws of another state, and which, if committed within this state, would have constituted a crime under the laws of this state; or

(c) Federal law;

(6) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant by any other state for any cause other than failure to pay a fee or to meet the requirements of CPE in the other state;

(7) Suspension or revocation of the right to practice matters relating to public accounting before any state or federal agency;

For purposes of subsections (6) and (7) of this section, a certified copy of such revocation, suspension, or refusal to renew shall be prima facie evidence;

(8) Failure to maintain compliance with the requirements for issuance, renewal, or reinstatement of a license, or to report changes to the board;

(9) Failure to cooperate with the board by:

(a) Failure to furnish any papers or documents requested or ordered by the board;

(b) Failure to furnish in writing a full and complete explanation covering the matter contained in the complaint filed with the board or the inquiry of the board;

(c) Failure to respond to subpoenas issued by the board, whether or not the recipient of the subpoena is the accused in the proceeding;

(10) Failure by a nonlicensee owner of a licensed firm to comply with the requirements of this chapter or board rule; ((~~and~~))

(11) Failure to comply with an order of the board;

(12) Performance of any fraudulent act while holding a license or privilege issued under this chapter; and

(13) Making any false or misleading statement or certification, in support of an application for a license filed by another.

Sec. 10. RCW 18.04.345 and 2022 c 85 s 15 are each amended to read as follows:

(1)(a) No individual may assume or use the designation "certified public accountant-inactive" or "CPA-inactive" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a certified public accountant-inactive or CPA-inactive unless the individual holds a license in an inactive status. Individuals holding only an inactive license may not practice public accounting.

(b) Nothing contained in this chapter prohibits any person who holds only a valid license in an inactive status from assuming or using the designation "certified public accountant-inactive" or "CPA-inactive" or any other title, designation, words, letters, sign, card, or device tending to indicate the person is in an inactive status, provided, that such person does not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports or of one or more kinds of management advisory, financial advisory, consulting services, the preparation of tax returns, or the furnishing of advice on tax matters.

(2)(a) No individuals may hold ((~~himself or herself~~)) themselves out to the public or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a certified public accountant or CPA unless the individual qualifies for the privileges authorized by RCW 18.04.350(((~~(2)~~))) or holds a license under RCW 18.04.105 and 18.04.215.

(b) Nothing in this chapter prohibits the use of the title "accountant" by any person regardless of whether the person holds a license under this chapter.

Nothing in this chapter prohibits the use of the title "enrolled agent" or the designation "EA" by any person regardless of whether the person holds a license under this chapter if the person is properly authorized at the time of use to use the title or designation by the United States department of the treasury. The board shall by rule allow the use of other titles by any person regardless of whether the person holds a license under this chapter if the person using the titles or designations is authorized at the time of use by a nationally recognized entity sanctioning the use of board-authorized titles.

(c) Nothing in this chapter prohibits any individual not holding a license and not qualified for the practice privileges authorized by RCW 18.04.350 from serving as an employee of a firm licensed under RCW 18.04.195 and 18.04.215. However, the employee shall not issue any report, as defined in this chapter, on the information of any other persons, firms, or governmental units over the employee's name.

(3)(a) No firm with an office in this state may perform or offer to perform attest services as defined in RCW 18.04.025(1) or compilation services as defined in RCW 18.04.025(5) unless the firm is licensed under RCW 18.04.195 and all offices of the firm in this state are maintained and registered under RCW 18.04.205. This subsection does not limit the services permitted under ((~~RCW 18.04.350(10)~~)) subsection(9)(b) of this section by persons not required to be licensed under this chapter.

(b) Nothing in this subsection prohibits any act of or the use of any words by a public official or a public employee in the execution of their duties when performing services as described in RCW 18.04.025 (1) and (5).

(4)(a) No firm may perform the services defined in RCW 18.04.025(1) in this state unless the firm is licensed under RCW 18.04.195, renews the firm license as required under RCW 18.04.215, and all offices of the firm in this state are maintained and registered under RCW 18.04.205.

(b) Nothing in this subsection prohibits any act of or the use of any words by a public official or a public employee in the execution of their duties when performing services as described in RCW 18.04.025(1).

(5) No individuals, partnership, limited liability company, or corporation offering public accounting services to the public may hold ((~~himself, herself,~~)) themselves or itself out to the public, or assume or use along, or in connection with ((~~his, hers,~~)) their or its name, or any other name the title or designation "certified accountant," "chartered accountant," "licensed accountant," "licensed public accountant," "public accountant," or any other title or designation likely to be confused with "certified public accountant" or any of the abbreviations "CA," "LA," "LPA," or "PA," or similar abbreviations likely to be confused with "CPA."

(6) No licensed firm may operate under an alias, a firm name, title, or "DBA" that differs from the firm name that is registered with the board.

(7)(a) No individual with an office in this state may sign, affix, or associate ((~~his or her~~)) the individual's name or any trade or assumed name used by the individual in ((~~his or her~~)) the person's business to any report prescribed by professional standards unless the individual holds a license to practice under RCW 18.04.105 and 18.04.215, a firm holds a license under RCW 18.04.195, and all of the individual's offices in this state are registered under RCW 18.04.205.

(b) Nothing in this chapter prohibits any officer, employee, partner, or principal of any organization:

(i) From affixing the person's signature to any statement or report in reference to the affairs of the organization with any wording designating the position, title, or office which the individual holds in the organization; or

(ii) From using the position, title, or office held by the individual in such organization to describe the individual.

(8) No individual licensed in another state may sign, affix, or associate a firm name to any report prescribed by professional standards, or associate a firm name in conjunction with the title certified public accountant, unless the individual:

(a) Qualifies for the practice privileges authorized by RCW 18.04.350(((~~(2)~~))); or

(b) Is licensed under RCW 18.04.105 and 18.04.215, and all of the individual's offices in this state are maintained and registered under RCW 18.04.205.

(9)(a) No individuals, partnership, limited liability company, ((~~or~~)) corporation, or firm not holding a license to practice under RCW 18.04.105 and 18.04.215, or firm not licensed under RCW 18.04.195 or firm not registering all of the firm's offices in this state under RCW 18.04.205, or not qualified for the practice privileges authorized by RCW 18.04.350(((~~(2)~~))), may hold ((~~himself, herself,~~)) themselves or itself out to the public as an "auditor" with or without any other description or designation by use of such word on any sign, card, letterhead, or in any advertisement or directory.

(((~~(10)~~))) (b) Nothing in this chapter prohibits any person or firm composed of persons not holding a license under this chapter from offering or rendering to the public bookkeeping, accounting, tax services, the devising and installing of financial information systems, management advisory, or consulting services, the preparation of tax returns, or the furnishing of advice on tax matters, or similar services, provided that persons or firms not holding a license who offer or render these services do not designate any written statement as a report as defined in RCW 18.04.025 or use any language in any statement relating to the financial affairs of a person or entity which is conventionally used by licensees in reports or any attest service as defined in this chapter.

(c) Nothing in this chapter prohibits any person or firm composed of persons not holding a license under this chapter from offering or rendering to the public the preparation of financial statements, or written statements describing how such financial statements were prepared, provided that persons or firms not holding a license who offer or render these services do not designate any written statement as a report as defined in RCW 18.04.025, do not issue any written statement that purports to express or disclaim an opinion on financial statements that have been audited, and do not issue any written statement that expresses assurance on financial statements that have been reviewed. The board may prescribe, by rule, language for the written statement describing how such financial statements were prepared for use by persons not holding a license under this chapter.

(d) Nothing in this subsection (9) prohibits any act of or the use of any words by a public official or a public employee in the performance of the person's duties as such.

(10)(a) Nothing in this chapter prohibits a licensee, a licensed firm, any of their employees, or persons qualifying for practice privileges under RCW 18.04.350 from disclosing any data in confidence to other certified public accountants, quality assurance or peer review teams, partnerships, limited liability companies, or corporations of certified public accountants or to the board or any of its employees while engaged in conducting quality assurance or peer reviews, or any one of their employees in connection with quality or peer reviews of that accountant's accounting and auditing practice conducted under the auspices of recognized professional associations.

(b) Nothing in this chapter prohibits a licensee, a licensed firm, any of their employees, or persons qualifying for practice privileges under RCW 18.04.350 from disclosing any data in confidence to any employee, representative, officer, or committee member of a recognized professional association, or to the board, or any of its employees or committees in connection with a professional investigation held under the auspices of recognized professional associations or the board.

(11) A licensee of this state offering or rendering services or using their CPA title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. Notwithstanding RCW 18.04.295 and this section, the board shall cooperate with and investigate any complaint made by the board of accountancy of another state or jurisdiction.

(12) For purposes of this section, because individuals practicing using practice privileges under RCW 18.04.350((~~(2)~~)) are deemed ((~~substantially equivalent~~)) to have substantial equivalency to licensees under RCW 18.04.105 and 18.04.215, every word, term, or reference that includes the latter shall be deemed to include the former, provided the conditions of such practice privilege, as set forth in RCW 18.04.350 (((~~(4)~~))) (3) and (((~~(5)~~))) (4) are maintained.

(((~~(11)~~))) (13) Notwithstanding anything to the contrary in this section, it is not a violation of this section for a firm that does not hold a valid license under RCW 18.04.195 and that does not have an office in this state to use the title "CPA" or "certified public accountant" as part of the firm's name and to provide its professional services in this state, and licensees and individuals with practice privileges may provide services on behalf of such firms so long as it complies with the requirements of RCW 18.04.195(1). An individual or firm authorized under this subsection to use practice privileges in this state must comply with the requirements otherwise applicable to licensees in this section.

Sec. 11. RCW 18.04.350 and 2022 c 85 s 17 are each amended to read as follows:

(1) ((~~Nothing in this chapter prohibits any individual not holding a license and not qualified for the practice privileges authorized by subsection (2) of this section from serving as an employee of a firm licensed under RCW 18.04.195 and 18.04.215. However, the employee shall not issue any report as defined in this chapter, on the information of any other persons, firms, or governmental units over his or her name.~~

(~~2~~))) An individual whose principal place of business is not in this state shall be presumed to have qualifications ((~~substantially equivalent~~)) having substantial equivalency to this state's requirements and shall have all the

privileges of licensees of this state without the need to obtain a license under RCW 18.04.105 if the individual:

(a) Holds a valid license or certificate as a certified public accountant from any state or jurisdiction of the United States that requires, as a condition of licensure, that an individual((:

~~(i) Have at least one hundred fifty semester hours of college or university education including a baccalaureate or higher degree conferred by a college or university;~~

~~(ii) Achieve a passing grade on the uniform certified public accountant examination; and~~

~~(iii) Possess at least one year of experience including service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, all of which was verified by a licensee~~)) meets requirements which have substantial equivalency to those requirements set forth by the board for licensees of this state; or

(b) Holds a valid license or certificate as a certified public accountant from any state ((~~that does not meet the requirements of (a) of this subsection, but such individual's qualifications are substantially equivalent to those requirements~~)) or jurisdiction of the United States whose licensing requirements do not meet the requirements of (a) of this subsection, but the individual's qualifications have substantial equivalency to the requirements of this state. Any individual who passed the uniform certified public accountant examination and holds a valid license issued by any other state prior to January 1, 2012, may be exempt from the education requirements in (a)(((~~(i)~~))) of this subsection for purposes of this section.

(((~~(3)~~))) (2) Notwithstanding any other provision of law, an individual who qualifies for the practice privilege under ((~~subsection (2) of~~)) this section may offer or render professional services, whether in person or by mail, telephone, or electronic means, and no notice, fee, or other submission shall be provided by any such individual. Such an individual shall be subject to the requirements of subsection (((~~(4)~~))) (3) of this section.

(((~~(4)~~))) (3) Any individual licensee of another state exercising the privilege afforded under ((~~subsection (2) of~~)) this section and the firm that employs that licensee simultaneously consent, as a condition of exercising this privilege:

(a) To the personal and subject matter jurisdiction and disciplinary authority of the board;

(b) To comply with this chapter and the board's rules;

(c) That in the event the license from the state of the individual's principal place of business is no longer valid, the individual will cease offering or rendering professional services in this state individually and on behalf of a firm; and

(d) To the appointment of the state board which issued the certificate or license as their agent upon whom process may be served in any action or proceeding by this state's board against the certificate holder or licensee.

(((~~(5)~~))) (4) An individual who qualifies for practice privileges under ((~~subsection (2) of~~)) this section who performs any attest service described in RCW 18.04.025(1) may only do so through a firm which has obtained a license under RCW 18.04.195 and 18.04.215 or which meets the requirements for an

exception from the firm licensure requirements under RCW 18.04.195(1) (a)(ii) or (b).

(((~~(6) A licensee of this state offering or rendering services or using their CPA title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. Notwithstanding RCW 18.04.295 and this section, the board shall cooperate with and investigate any complaint made by the board of accountancy of another state or jurisdiction.~~

~~(7) Nothing in this chapter prohibits a licensee, a licensed firm, any of their employees, or persons qualifying for practice privileges by this section from disclosing any data in confidence to other certified public accountants, quality assurance or peer review teams, partnerships, limited liability companies, or corporations of certified public accountants or to the board or any of its employees engaged in conducting quality assurance or peer reviews, or any one of their employees in connection with quality or peer reviews of that accountant's accounting and auditing practice conducted under the auspices of recognized professional associations.~~

~~(8) Nothing in this chapter prohibits a licensee, a licensed firm, any of their employees, or persons qualifying for practice privileges by this section from disclosing any data in confidence to any employee, representative, officer, or committee member of a recognized professional association, or to the board, or any of its employees or committees in connection with a professional investigation held under the auspices of recognized professional associations or the board.~~

~~(9) Nothing in this chapter prohibits any officer, employee, partner, or principal of any organization:~~

~~(a) From affixing his or her signature to any statement or report in reference to the affairs of the organization with any wording designating the position, title, or office which he or she holds in the organization; or~~

~~(b) From describing himself or herself by the position, title, or office he or she holds in such organization.~~

~~(10) Nothing in this chapter prohibits any person or firm composed of persons not holding a license under this chapter from offering or rendering to the public bookkeeping, accounting, tax services, the devising and installing of financial information systems, management advisory, or consulting services, the preparation of tax returns, or the furnishing of advice on tax matters, or similar services, provided that persons, partnerships, limited liability companies, or corporations not holding a license who offer or render these services do not designate any written statement as a report as defined in RCW 18.04.025(20) or use any language in any statement relating to the financial affairs of a person or entity which is conventionally used by licensees in reports or any attest service as defined in this chapter.~~

~~(11) Nothing in this chapter prohibits any person or firm composed of persons not holding a license under this chapter from offering or rendering to the public the preparation of financial statements, or written statements describing how such financial statements were prepared, provided that persons, partnerships, limited liability companies, or corporations not holding a license who offer or render these services do not designate any written statement as a report as defined in RCW 18.04.025(20), do not issue any written statement that~~

~~purports to express or disclaim an opinion on financial statements that have been audited, and do not issue any written statement that expresses assurance on financial statements that have been reviewed. The board may prescribe, by rule, language for the written statement describing how such financial statements were prepared for use by persons not holding a license under this chapter.~~

~~(12) Nothing in this chapter prohibits any act of or the use of any words by a public official or a public employee in the performance of his or her duties.~~

~~(13) Nothing contained in this chapter prohibits any person who holds only a valid license in an inactive status from assuming or using the designation "certified public accountant-inactive" or "CPA-inactive" or any other title, designation, words, letters, sign, card, or device tending to indicate the person is in an inactive status, provided, that such person does not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports or of one or more kinds of management advisory, financial advisory, consulting services, the preparation of tax returns, or the furnishing of advice on tax matters.~~

~~(14) Nothing in this chapter prohibits the use of the title "accountant" by any person regardless of whether the person holds a license under this chapter. Nothing in this chapter prohibits the use of the title "enrolled agent" or the designation "EA" by any person regardless of whether the person holds a license under this chapter if the person is properly authorized at the time of use to use the title or designation by the United States department of the treasury. The board shall by rule allow the use of other titles by any person regardless of whether the person holds a license under this chapter if the person using the titles or designations is authorized at the time of use by a nationally recognized entity sanctioning the use of board authorized titles.~~)) (5) An individual who qualifies for practice privileges under this section who performs services for which a firm license is required under RCW 18.04.195 and 18.04.215, shall not be required to obtain licensure under RCW 18.04.105 and 18.04.215.

Sec. 12. RCW 18.04.380 and 2001 c 294 s 20 are each amended to read as follows:

(1) The display or presentation by a person of a card, sign, advertisement, or other printed, engraved, or written instrument or device, bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof shall be prima facie evidence in any action brought under this chapter that the person whose name is so displayed, caused or procured the display or presentation of the card, sign, advertisement, or other printed, engraved, or written instrument or device, and that the person is holding ((~~himself or herself~~)) themself out to be a licensee, a certified public accountant, or a person holding a certificate under this chapter.

(2) The display or presentation by a person of a card, sign, advertisement, or other printed, engraved, or written instrument or device, bearing a person's name in conjunction with the words certified public accountant-inactive or any abbreviation thereof is prima facie evidence in any action brought under this chapter that the person whose name is so displayed caused or procured the display or presentation of the card, sign, advertisement, or other printed, engraved, or written instrument or device, and that the person is holding ((~~himself or herself~~)) themself out to be a certified public accountant-inactive under this chapter.

(3) In any action under subsection (1) or (2) of this section, evidence of the commission of a single act prohibited by this chapter is sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

Sec. 13. RCW 18.04.390 and 2003 c 290 s 4 are each amended to read as follows:

(1) In the absence of an express agreement between the licensee or licensed firm and the client to the contrary, all statements, records, schedules, working papers, and memoranda made by a licensee or licensed firm incident to or in the course of professional service to clients, except reports submitted by a licensee or licensed firm, are the property of the licensee or licensed firm.

(2) No statement, record, schedule, working paper, or memorandum may be sold, transferred, or bequeathed without the consent of the client or ((~~his or her~~)) the client's personal representative or assignee, to anyone other than one or more surviving partners, members, managers, shareholders, or new partners, members, managers, or ((~~new~~)) shareholders of the licensee, partnership, limited liability company, or corporation, or any combined or merged partnership, limited liability company, or corporation, or successor in interest.

(3) A licensee shall furnish to the board or to ((~~his or her~~)) the licensee's client or former client, upon request and reasonable notice:

(a) A copy of the licensee's working papers or electronic documents, to the extent that such working papers or electronic documents include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(b) Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account; the licensee may make and retain copies of such documents of the client when they form the basis for work done by ((~~him or her~~)) the licensee.

(4)(a) For a period of seven years after the end of the fiscal period in which a licensed firm concludes an audit or review of a client's financial statements, the licensed firm must retain records relevant to the audit or review, as determined by board rule.

(b) The board must adopt rules to implement this subsection, including rules relating to working papers and document retention.

(5) Nothing in this section should be construed as prohibiting any temporary transfer of workpapers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to RCW 18.04.405.

Sec. 14. RCW 18.04.405 and 2022 c 85 s 19 are each amended to read as follows:

(1) A licensee or licensed firm, or any of their employees shall not disclose any confidential information obtained in the course of a professional transaction except with the consent of the client or former client or as disclosure may be required by law, legal process, the standards of the profession, or as disclosure of confidential information is permitted by RCW ((~~18.04.350 (7) and (8)~~)) 18.04.345(10) (a) and (b), 18.04.295(9), 18.04.390, and this section in connection with quality assurance, or peer reviews, investigations, and any proceeding under chapter 34.05 RCW.

(2) This section shall not be construed as limiting the authority of this state or of the United States or an agency of this state, the board, or of the United States to subpoena and use such confidential information obtained by a licensee, or any of their employees in the course of a professional transaction in connection with any investigation, public hearing, or other proceeding, nor shall this section be construed as prohibiting a licensee or certified public accountant whose professional competence has been challenged in a court of law or before an administrative agency from disclosing confidential information as a part of a defense to the court action or administrative proceeding.

(3) The proceedings, records, and work papers of a review committee shall be privileged and shall not be subject to discovery, subpoena, or other means of legal process or introduction into evidence in any civil action, arbitration, administrative proceeding, or board proceeding and no member of the review committee or person who was involved in the peer review process shall be permitted or required to testify in any such civil action, arbitration, administrative proceeding, or board proceeding as to any matter produced, presented, disclosed, or discussed during or in connection with the peer review process, or as to any findings, recommendations, evaluations, opinions, or other actions of such committees, or any members thereof. Information, documents, or records that are publicly available are not to be construed as immune from discovery or use in any civil action, arbitration, administrative proceeding, or board proceeding merely because they were presented or considered in connection with the quality assurance or peer review process.

Sec. 15. RCW 18.04.430 and 2022 c 85 s 20 are each amended to read as follows:

The board shall 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 or a ((~~residential or~~)) visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license ((~~or certificate~~)) shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. **Sec. 16.** The following sections are decodified:

(1) RCW 18.04.910 (Effective date—1983 c 234); and

(2) RCW 18.04.911 (Effective date—1986 c 295).

NEW SECTION. **Sec. 17.** 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.

Passed by the House January 29, 2024.

Passed by the Senate February 22, 2024.

Approved by the Governor March 7, 2024.

Filed in Office of Secretary of State March 7, 2024.

CHAPTER 14

[House Bill 1954]

REPRODUCTIVE HEALTH CARE AND GENDER-AFFIRMING TREATMENT—HEALTH PROFESSIONS

AN ACT Relating to harmonizing statutory language relating to lawful participation in reproductive health care services or gender-affirming treatment; and amending RCW 18.130.450.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.130.450 and 2023 c 192 s 3 are each amended to read as follows:

(1) Notwithstanding RCW 18.130.180, the following shall not constitute unprofessional conduct under this chapter:

(a) The provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender-affirming treatment consistent with the standard of care in Washington by a license holder;

(b) The provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender-affirming treatment, by a license holder, if the participation would have been lawful and consistent with standards of care if it occurred entirely in Washington;

(c) A conviction or disciplinary action based on the license holder's violation of another state's laws prohibiting the provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender-affirming treatment, if the participation would have been lawful and consistent with standards of care if it occurred entirely in Washington.

(2) Except as required by chapter 18.71B RCW, the following, alone or in combination, shall not serve as the basis for a denial of an application for licensure, licensure renewal, or temporary practice permit, or for any other disciplinary action by a disciplining authority against an applicant or license holder:

(a) The provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender-affirming treatment consistent with the standard of care in Washington by a license holder;

(b) The provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender-affirming treatment, by a license holder, if the participation would have been lawful and consistent with standards of care if it occurred entirely in Washington;

((~~(b)~~)) (c) A conviction or disciplinary action based on the license holder's violation of another state's laws prohibiting the provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender-affirming treatment, if the participation would have been lawful and consistent with standards of care if it occurred entirely in Washington.

(3) Nothing in this section prohibits the disciplining authority from taking action on separate charges that are unrelated to the provision of, authorization of,

recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender-affirming treatment that would have been lawful and consistent with standards of care if it occurred entirely in Washington.

(4) Nothing in this section shall be construed to expand the scope of practice of any license holder licensed under this title, nor does this section give any such license holder the authority to act outside their scope of practice as defined under this title.

(5) For the purposes of this section the following definitions apply:

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

(b) "Reproductive health care services" means any medical services or treatments, including pharmaceutical and preventive care services or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction.

Passed by the House January 25, 2024.
Passed by the Senate February 22, 2024.
Approved by the Governor March 7, 2024.
Filed in Office of Secretary of State March 7, 2024.

CHAPTER 15

[House Bill 1972]

PHYSICIAN HEALTH PROGRAM—FEES

AN ACT Relating to increasing the licensure fees that support the Washington physicians health program; amending RCW 18.71.310, 18.71A.020, 18.57.015, 18.22.250, 18.32.534, and 18.92.047; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that for over 30 years the Washington physicians health program has been the approved therapeutic alternative to discipline for Washington physicians, physician assistants, dentists, osteopathic physicians, podiatric physicians, and veterinarians with impairing or potentially impairing health conditions. To best support health care professionals and remain a model physician health program nationally, the license surcharge fees that provide the majority of program funding must be periodically increased to sustain and enhance services for impairing or potentially impairing health conditions and hiring qualified staff to handle the increased caseload complexity. More than ever, the legislature finds it is critical to maintain our current physician workforce and authorizing this fee increase, which is supported and paid for by the health care professionals that the program benefits, will provide the resources necessary for the program to continue essential services to the health care workforce.

Sec. 2. RCW 18.71.310 and 2022 c 43 s 5 are each amended to read as follows:

(1) The commission shall enter into a contract with the entity to implement a physician health program. The commission may enter into a contract with the entity for up to six years in length. The physician health program may include any or all of the following:

(a) Entering into relationships supportive of the physician health program with professionals who provide either evaluation or treatment services, or both;

(b) Receiving and assessing reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment, or in cases where there is reasonable cause to suspect impairment;

(d) Upon reasonable cause, referring suspected or verified impaired physicians for evaluation or treatment;

(e) Monitoring the treatment and rehabilitation of participants including those ordered by the commission;

(f) Providing monitoring and care management support of program participants;

(g) Performing such other activities as agreed upon by the commission and the entity; and

(h) Providing prevention and education services.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of ((~~fifty dollars~~)) $70 per year or equivalent on each license renewal or issuance of a new license to be collected by the department of health from every physician, surgeon, and physician assistant licensed under this chapter in addition to other license fees. These moneys shall be placed in the impaired physician account to be used solely to support the physician health program.

(3) All funds in the impaired physician account shall be paid to the contract entity within sixty days of deposit.

Sec. 3. RCW 18.71A.020 and 2020 c 80 s 3 are each amended to read as follows:

(1) The commission shall adopt rules fixing the qualifications and the educational and training requirements for licensure as a physician assistant or for those enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the commission and within one year successfully take and pass an examination approved by the commission, if the examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program. An interim permit may be granted by the department of health for one year provided the applicant meets all other requirements. Physician assistants licensed by the board of medical examiners, or the commission as of July 1, 1999, shall continue to be licensed.

(2)(a) The commission shall adopt rules governing the extent to which:

(i) Physician assistant students may practice medicine during training; and

(ii) Physician assistants may practice after successful completion of a physician assistant training course.

(b) Such rules shall provide:

(i) That the practice of a physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each physician assistant shall practice medicine only under the terms of one or more practice agreements, each signed by one or more supervising physicians licensed in this state. A practice agreement may be signed electronically using a method for electronic signatures approved by the commission. Supervision shall not be construed to necessarily require the personal presence of the supervising physician or physicians at the place where services are rendered.

(3) Applicants for licensure shall file an application with the commission on a form prepared by the secretary with the approval of the commission, detailing the education, training, and experience of the physician assistant and such other information as the commission may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. A surcharge of ((~~fifty dollars~~)) $70 per year shall be charged on each license renewal or issuance of a new license to be collected by the department and deposited into the impaired physician account for physician assistant participation in the impaired physician program. Each applicant shall furnish proof satisfactory to the commission of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the commission and is eligible to take the examination approved by the commission;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing medicine as a physician assistant with reasonable skill and safety. The commission may require an applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical or mental capability, or both, to safely practice as a physician assistant.

(4)(a) The commission may approve, deny, or take other disciplinary action upon the application for license as provided in the Uniform Disciplinary Act, chapter 18.130 RCW.

(b) The license shall be renewed as determined under RCW 43.70.250 and 43.70.280. The commission shall request licensees to submit information about their current professional practice at the time of license renewal and licensees must provide the information requested. This information may include practice setting, medical specialty, or other relevant data determined by the commission.

(5) All funds in the impaired physician account shall be paid to the contract entity within sixty days of deposit.

Sec. 4. RCW 18.57.015 and 2022 c 43 s 3 are each amended to read as follows:

(1) To implement an osteopathic physician health program as authorized by RCW 18.130.175, the board shall enter into a contract with a physician health program or a voluntary substance use disorder monitoring program. The osteopathic physician health program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired osteopathic physicians to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired osteopathic physicians including those ordered by the board;

(f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired osteopathic physicians; and

(g) Performing other related activities as determined by the board.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of ((~~fifty dollars~~)) $70 per year or equivalent on each license issuance or renewal to be collected by the department from every osteopathic physician licensed under this chapter. These moneys shall be placed in the health professions account to be used solely for the implementation of the osteopathic physician health program.

Sec. 5. RCW 18.22.250 and 2022 c 43 s 1 are each amended to read as follows:

(1) To implement a podiatric physician health program as authorized by RCW 18.130.175, the board shall enter into a contract with a physician health program or a voluntary substance use disorder monitoring program. The podiatric physician health program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired podiatric physicians to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired podiatric physicians including those ordered by the board;

(f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired podiatric physicians; and

(g) Performing other related activities as determined by the board.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of ((~~fifty dollars~~)) $70 per year or equivalent on each license issuance or renewal to be collected by the department from every podiatric physician licensed under this chapter. These moneys must be placed in the health professions account to be used solely for implementation of the podiatric physician health program.

Sec. 6. RCW 18.32.534 and 2022 c 43 s 2 are each amended to read as follows:

(1) To implement a dentist health program as authorized by RCW 18.130.175, the commission shall enter into a contract with a physician health program or a voluntary substance use disorder monitoring program. The dentist health program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired dentists to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired dentists including those ordered by the commission;

(f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired dentists; and

(g) Performing other related activities as determined by the commission.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of up to ((~~fifty dollars~~)) $70 per year or equivalent on each license issuance or renewal to be collected by the department of health from every dentist licensed under this chapter. These moneys shall be placed in the health professions account to be used solely for the implementation of the dentist health program.

Sec. 7. RCW 18.92.047 and 2022 c 43 s 8 are each amended to read as follows:

(1) To implement a veterinarian health program as authorized by RCW 18.130.175, the veterinary board of governors shall enter into a contract with a physician health program or a voluntary substance use disorder monitoring program. The veterinarian health program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired veterinarians to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired veterinarians including those ordered by the board;

(f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired veterinarians; and

(g) Performing other related activities as determined by the board.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of ((~~twenty-five dollars~~)) $35 per year or equivalent on each license issuance or renewal of a new license to be collected by the department of health from every veterinarian licensed under this chapter. These moneys shall be placed in the health professions account to be used solely for the implementation of the veterinarian health program.

NEW SECTION. **Sec. 8.** Section 6 of this act takes effect January 1, 2026.

Passed by the House February 6, 2024.
Passed by the Senate February 22, 2024.
Approved by the Governor March 7, 2024.
Filed in Office of Secretary of State March 7, 2024.

CHAPTER 16

[House Bill 1978]

INTRASTATE MUTUAL AID SYSTEM—SPECIAL PURPOSE AND JUNIOR TAXING DISTRICTS

AN ACT Relating to the addition of special purpose and junior taxing districts to the intrastate mutual aid system; and amending RCW 38.56.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 38.56.020 and 2011 c 79 s 2 are each amended to read as follows:

(1) The intrastate mutual aid system is established to provide for mutual assistance in an emergency among political subdivisions and federally recognized Indian tribes that choose to participate as member jurisdictions.

(2) Except as provided in subsection (3) of this section, member jurisdictions of the intrastate mutual aid system include:

(a) A political subdivision, special purpose district as defined in RCW 36.96.010, or junior taxing district as described in RCW 84.52.043; and

(b) Any federally recognized Indian tribe located within the boundaries of the state of Washington upon receipt by the department of a tribal government resolution declaring its intention to be a member jurisdiction in the intrastate mutual aid system under this chapter.

(3)(a) A member jurisdiction is released from membership in the intrastate mutual aid system established under this chapter upon receipt by the department of a resolution or ordinance declaring that the member jurisdiction elects not to participate in the system.

(b) Nothing in this chapter may be construed to affect other mutual aid systems or agreements otherwise authorized by law, including the Washington state fire services mobilization plan and the law enforcement mobilization plan under chapter 43.43 RCW, nor preclude a political subdivision or Indian tribe from entering or participating in those mutual aid systems or agreements.

(4) Mutual assistance may be requested by, and provided to, member jurisdictions under this chapter for: (a) Response, mitigation, or recovery activities related to an emergency; or (b) participation in drills or exercises in preparation for an emergency.

Passed by the House February 6, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 7, 2024.
Filed in Office of Secretary of State March 7, 2024.

CHAPTER 17

[Substitute House Bill 2296]

GROWTH MANAGEMENT COMPREHENSIVE PLANS—REVISION SCHEDULE

AN ACT Relating to extending the comprehensive plan revision schedule for select local governments; and reenacting and amending RCW 36.70A.130.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.70A.130 and 2023 c 280 s 1 and 2023 c 228 s 15 are each reenacted and amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b)(i) A city or town located within ((~~[a]~~)) a county planning under RCW 36.70A.040 may opt out of a full review and revisions of its comprehensive plan established in this section if the city or town meets the following criteria:

(A) Has a population fewer than 500;

(B) Is not located within 10 miles of a city with a population over 100,000;

(C) Experienced a population growth rate of fewer than 10 percent in the preceding 10 years; and

(D) Has provided the department with notice of its intent to participate in a partial review and revision of its comprehensive plan.

(ii) The department shall review the population growth rate for a city or town participating in the partial review and revision of its comprehensive plan process at least three years before the periodic update is due as outlined in subsection (4) of this section and notify cities of their eligibility.

(iii) A city or town that opts out of a full review and revision of its comprehensive plan must update its critical areas regulations and its capital facilities element and its transportation element.

(c) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(d) The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent 10-year population forecast by the office of financial management.

(e) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the 100 year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.440, provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, according to the schedules established in subsections (4) and (5) of this section, its designated urban growth area or areas, patterns of development occurring within the urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding 20-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(c) If, during the county's review under (a) of this subsection, the county determines revision of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period, but does determine that patterns of development have created pressure in areas that exceed available, developable lands within the urban growth area, the urban growth area or areas may be revised to accommodate identified patterns of development and likely future development pressure for the succeeding 20-year period if the following requirements are met:

(i) The revised urban growth area may not result in an increase in the total surface areas of the urban growth area or areas;

(ii) The areas added to the urban growth area are not or have not been designated as agricultural, forest, or mineral resource lands of long-term commercial significance;

(iii) Less than 15 percent of the areas added to the urban growth area are critical areas;

(iv) The areas added to the urban growth areas are suitable for urban growth;

(v) The transportation element and capital facility plan element have identified the transportation facilities, and public facilities and services needed to serve the urban growth area and the funding to provide the transportation facilities and public facilities and services;

(vi) The urban growth area is not larger than needed to accommodate the growth planned for the succeeding 20-year planning period and a reasonable land market supply factor;

(vii) The areas removed from the urban growth area do not include urban growth or urban densities; and

(viii) The revised urban growth area is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands.

(4) Except as otherwise provided in subsections (6) and (8) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before June 30, 2015, for King, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2016, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2017, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2018, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsections (6) and (8) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) Except as provided in subsection (10) of this section, on or before December 31, 2024, with the following review and, if needed, revision on or before June 30, 2034, and then every 10 years thereafter, for King, Kitsap, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before ((~~June 30~~)) December 31, 2025, ((~~and~~)) with the following review and, if needed, revision on or before June 30, 2035, and then every 10 years thereafter, for Clallam, Clark, Island, Jefferson, Lewis, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2026, and every 10 years thereafter, for Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas, Skamania, Spokane, Walla Walla, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2027, and every 10 years thereafter, for Adams, Asotin, Columbia, Ferry, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the 24 months following the deadline established in subsection (5) of this section: The county has a population of less than 50,000 and has had its population increase by no more than 17 percent in the 10 years preceding the deadline established in subsection (5) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the 24 months following the deadline established in subsection (5) of this section: The city has a population of no more than 5,000 and has had its population increase by the greater of either no more than 100 persons or no more than 17 percent in the 10 years preceding the deadline established in subsection (5) of this section as of that date.

(d) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70A.135 RCW:

(i) Complying with the deadlines in this section; or

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas.

(b) A county or city that is fewer than 12 months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under RCW 36.70A.710(1) may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed if:

(i) A work plan has been approved for that watershed in accordance with RCW 36.70A.725;

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under RCW 36.70A.720;

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning 10 years from the date of receipt of funding, a county that has made the election under RCW 36.70A.710(1) must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section. This subsection (8)(c) does not apply to a participating watershed that has determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals and benchmarks for protection have been met.

(9)(a) Counties subject to planning deadlines established in subsection (5) of this section that are required or that choose to plan under RCW 36.70A.040 and that meet either criteria of (a)(i) or (ii) of this subsection, and cities with a population of more than 6,000 as of April 1, 2021, within those counties, must provide to the department an implementation progress report detailing the progress they have achieved in implementing their comprehensive plan five years after the review and revision of their comprehensive plan. Once a county meets the criteria in (a)(i) or (ii) of this subsection, the implementation progress report requirements remain in effect thereafter for that county and the cities therein with populations greater than 6,000 as of April 1, 2021, even if the county later no longer meets either or both criteria. A county is subject to the implementation progress report requirement if it meets either of the following criteria on or after April 1, 2021:

(i) The county has a population density of at least 100 people per square mile and a population of at least 200,000; or

(ii) The county has a population density of at least 75 people per square mile and an annual growth rate of at least 1.75 percent as determined by the office of financial management.

(b) The department shall adopt guidelines for indicators, measures, milestones, and criteria for use by counties and cities in the implementation progress report that must cover:

(i) The implementation of previously adopted changes to the housing element and any effect those changes have had on housing affordability and availability within the jurisdiction;

(ii) Permit processing timelines; and

(iii) Progress toward implementing any actions required to achieve reductions to meet greenhouse gas and vehicle miles traveled requirements as provided for in any element of the comprehensive plan under RCW 36.70A.070.

(c) If a city or county required to provide an implementation progress report under this subsection (9) has not implemented any specifically identified regulations, zoning and land use changes, or taken other legislative or administrative action necessary to implement any changes in the most recent periodic update in their comprehensive plan by the due date for the implementation progress report, the city or county must identify the need for such action in the implementation progress report. Cities and counties must

adopt a work plan to implement any necessary regulations, zoning and land use changes, or take other legislative or administrative action identified in the implementation progress report and complete all work necessary for implementation within two years of submission of the implementation progress report.

(10) Any county or city that is required by RCW 36.70A.095 to include in its comprehensive plan a climate change and resiliency element and that is also required by subsection (5)(a) of this section to review and, if necessary, revise its comprehensive plan on or before December 31, 2024, must update its transportation element and incorporate a climate change and resiliency element into its comprehensive plan as part of the first implementation progress report required by subsection (9) of this section if funds are appropriated and distributed by December 31, 2027, as required under RCW 36.70A.070(10).

Passed by the House February 13, 2024.
Passed by the Senate February 22, 2024.
Approved by the Governor March 7, 2024.
Filed in Office of Secretary of State March 7, 2024.

CHAPTER 18

[Substitute House Bill 2165]

RECREATIONAL IMMUNITY—FEES BY DEPARTMENT OF NATURAL RESOURCES

AN ACT Relating to the authority of the department of natural resources to determine recreational use fees for activities on agency-managed public lands; and amending RCW 4.24.210.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 4.24.210 and 2023 c 183 s 1 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowners, hydroelectric project owners, or others in lawful possession and control of any lands whether designated resource, rural, or urban, or water areas or channels and lands adjacent to such areas or channels, who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to, the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner, hunting, fishing, camping, picnicking, swimming, hiking, bicycling, skateboarding or other nonmotorized wheel-based activities, aviation activities including, but not limited to, the operation of airplanes, ultra-light airplanes, hang gliders, parachutes, and paragliders, rock climbing, the riding of horses or other animals, clam digging, pleasure driving of off-road vehicles, snowmobiles, and other vehicles, boating, kayaking, canoeing, rafting, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefor, shall not be liable for unintentional injuries to such users.

(2) Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowner or others in lawful possession and control of any lands whether rural or urban, or water areas or channels and lands adjacent to such areas or channels, who offer or allow such land to be used for purposes of a fish or wildlife cooperative project, or allow access to such land for cleanup of

litter or other solid waste, shall not be liable for unintentional injuries to any volunteer group or to any other users.

(3) Any public or private landowner, or others in lawful possession and control of the land, may charge an administrative fee of up to twenty-five dollars for the cutting, gathering, and removing of firewood from the land.

(4)(a) Nothing in this section shall prevent the liability of a landowner or others in lawful possession and control for injuries sustained to users by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted.

(i) A fixed anchor used in rock climbing and put in place by someone other than a landowner is not a known dangerous artificial latent condition and a landowner under subsection (1) of this section shall not be liable for unintentional injuries resulting from the condition or use of such an anchor.

(ii) Releasing water or flows and making waterways or channels available for boating, swimming, fishing, kayaking, canoeing, or rafting purposes pursuant to and in substantial compliance with a hydroelectric license issued by the federal energy regulatory commission, and making adjacent lands available for purposes of allowing viewing of such activities, does not create a known dangerous artificial latent condition and hydroelectric project owners under subsection (1) of this section shall not be liable for unintentional injuries to the recreational users and observers resulting from such releases and activities.

(b) Nothing in RCW 4.24.200 and this section limits or expands in any way the doctrine of attractive nuisance.

(c) Usage by members of the public, volunteer groups, or other users is permissive and does not support any claim of adverse possession.

(5) For purposes of this section, the following are not fees:

(a) A license or permit issued for statewide use under authority of chapter 79A.05 RCW or Title 77 RCW;

(b) A pass or permit issued under RCW 79A.80.020, 79A.80.030, or 79A.80.040;

(c) A daily charge not to exceed twenty dollars per person, per day, for access to a publicly owned ORV sports park, as defined in RCW 46.09.310, or other public facility accessed by a highway, street, or nonhighway road for the purposes of off-road vehicle use; ((~~and~~))

(d) Payments to landowners for public access from state, local, or nonprofit organizations established under department of fish and wildlife cooperative public access agreements if the landowner does not charge a fee to access the land subject to the cooperative agreement; and

(e) A permit or license issued, or any application or processing fee therefore, for an organized event or commercial use under authority of chapter 43.12 or 43.30 RCW or Title 79 RCW.

Passed by the House February 6, 2024.

Passed by the Senate February 27, 2024.

Approved by the Governor March 13, 2024.

Filed in Office of Secretary of State March 14, 2024.

CHAPTER 19

[Senate Bill 5508]

STATE BUILDING CODE—TEMPORARY GREENHOUSES

AN ACT Relating to promoting local agriculture through greenhouses; amending RCW 19.27.015 and 19.27.065; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes that both food security and food quality are increasingly threatened by ongoing logistical supply line disruptions and inflation. Access to and affordability of food, in particular fresh fruits and vegetables, is vital to the health and well-being of our citizens. The legislature finds that supporting the growth and development of innovative new low-energy techniques for the year-round production of fresh fruits and vegetables at the local level is a crucial part of solving this need. Local food banks have done tremendous work in providing access to nutrition during the COVID-19 pandemic. The legislature finds that supporting local food banks in providing access to affordable nutrition enhances the health and welfare of our citizens. The legislature seeks to encourage the adoption of these techniques by individual families in order to increase and enhance access and availability to fresh year-round food supplies for themselves and their communities.

Sec. 2. RCW 19.27.015 and 2018 c 207 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Agricultural structure" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure may not be a place of human habitation or a place of employment where agricultural products are processed, treated, or packaged, nor may it be a place used by the public.

(2) "City" means a city or town.

(3) "Commercial building permit" means a building permit issued by a city or a county to construct, enlarge, alter, repair, move, demolish, or change the occupancy of any building not covered by a residential building permit.

(4) "Multifamily residential building" means common wall residential buildings that consist of four or fewer units, that do not exceed two stories in height, that are less than five thousand square feet in area, and that have a one-hour fire-resistive occupancy separation between units.

(5) "Residential building permit" means a building permit issued by a city or a county to construct, enlarge, alter, repair, move, demolish, or change the occupancy of any building containing only dwelling units used for independent living of one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, and structures accessory to dwelling units, such as detached garages and storage buildings.

(6) "Temporary growing structure" means a structure that has the ((~~sides and~~)) roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention.

Sec. 3. RCW 19.27.065 and 1996 c 157 s 2 are each amended to read as follows:

The provisions of this chapter do not apply to temporary growing structures used solely for the ((~~commercial~~)) production of horticultural plants including ornamental plants, flowers, vegetables, and fruits. A temporary growing structure is not considered a building or structure for purposes of this chapter.

Passed by the Senate January 24, 2024.
Passed by the House February 22, 2024.
Approved by the Governor March 13, 2024.
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CHAPTER 20

[Engrossed Substitute Senate Bill 5589]
PROBATE—VARIOUS PROVISIONS

AN ACT Relating to probate; amending RCW 11.54.010, 11.54.030, 11.54.020, 11.54.040, 11.54.050, 11.54.060, 11.76.110, and 11.76.120; adding new sections to chapter 11.54 RCW; creating a new section; recodifying RCW 11.54.030; repealing RCW 11.54.070 and 11.54.080; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 11.54 RCW to read as follows:

(1) The purposes of this chapter are:

(a) To clarify the exemptions from attachment, execution, and forced sale that apply after a decedent's death;

(b) To establish a procedure for allocating the exempt property among claimants; and

(c) To establish a procedure by which the decedent's surviving spouse, surviving registered domestic partner, or surviving dependent children may request basic financial support during the pendency of any proceedings under this title relating to the decedent's probate or nonprobate assets.

(2) This chapter applies to probate and nonprobate assets.

NEW SECTION. **Sec. 2.** A new section is added to chapter 11.54 RCW to read as follows:

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

(1) "Child" and "children," when used with reference to a decedent, means all persons who have a parent-child relationship, as defined in RCW 26.26A.100, as a child with the decedent, regardless of a person's age.

(2) "Claimant" means a person entitled to petition for an award under this chapter. If multiple parties are entitled to petition for an award, all of them are a "claimant."

(3) "Dependent," when used with reference to a decedent's child, means a person who received more than half of that person's support from the decedent during the 12 months preceding the decedent's death. For the purposes of this subsection, the term "support" does not include any public or governmental support.

(4) "Value," when used with reference to any property that may be exempt from the claims of creditors under this chapter or under the laws of another state and that is being purchased on contract or is subject to any encumbrance, means

the value of the property net of the balance due on the contract and the amount of the encumbrance. Any property exempted from creditor's claims under section 3 of this act or awarded under RCW 11.54.010 will continue to be subject to any such contract or encumbrance.

NEW SECTION. **Sec. 3.** A new section is added to chapter 11.54 RCW to read as follows:

(1) Any homestead or other property exempt from attachment, execution, and forced sale under Title 6 RCW immediately before a decedent's death remains exempt from attachment, execution, and forced sale for the debts of the decedent and the debts of the community composed of the decedent and the decedent's spouse or registered domestic partner that arose before the decedent's death, up to the amount specified in RCW 11.54.020(1), except as otherwise provided in Title 6 RCW or in this chapter.

(2) If the decedent resided or was domiciled in the state of Washington when the decedent died, and either:

(a) No homestead or other property was exempt from attachment, execution, and forced sale under Title 6 RCW immediately before the decedent's death; or

(b) The total value of the property exempted from the claims of creditors under subsection (1) of this section or under the laws of another state (together with the value of any separate property of the decedent's surviving spouse or surviving registered domestic partner that is exempt from attachment, execution, and forced sale for the debts of the decedent's surviving spouse or surviving registered domestic partner) is less than the amount specified in RCW 11.54.020(1)(b);

then the court shall designate other property of the estate, either community or separate, that, when added to the value of: (i) The property exempted under subsection (1) of this section; (ii) the property exempted from attachment, execution, and forced sale under the laws of another state; and (iii) the separate property of the decedent's surviving spouse or surviving registered domestic partner that is exempt from attachment, execution, and forced sale for the debts of the decedent's surviving spouse or surviving registered domestic partner, has an aggregate value that does not exceed the amount specified in RCW 11.54.020(1)(b). This additional designated property, together with any additional award that a court may grant for family support under RCW 11.54.040, shall also be exempt from attachment, execution, and forced sale for the debts of the decedent and the debts of the community composed of the decedent and the decedent's spouse or registered domestic partner that arose before the decedent's death, except as otherwise provided in this chapter.

Sec. 4. RCW 11.54.010 and 2008 c 6 s 916 are each amended to read as follows:

(1) ((~~Subject to RCW 11.54.030, the surviving spouse or surviving domestic partner of a decedent may petition the court for an award from the property of the decedent.~~)) Any one or more of a decedent's surviving spouse, surviving registered domestic partner, and dependent children may commence a judicial proceeding under chapter 11.96A RCW for an award from the decedent's separate property and from the community property of the decedent and the decedent's spouse or registered domestic partner that are exempt from

attachment, execution, and forced sale under section 3 of this act. The petition must:

(a) Set forth facts to establish that the claimant is entitled to an award under this chapter;

(b) State the nature and value of those assets held by all potential claimants that are exempt from the claims of creditors and that are known to the claimant or could be known to the claimant with reasonable diligence; and

(c) Describe all other assets then held by the claimants, including any interest the claimants may have in any of the decedent's probate or nonprobate property.

(2) If a claimant proves by a preponderance of the evidence that an award of property exempt from the claims of creditors to the claimant would fulfill one or more of the purposes of this chapter, the court may grant the claimant an award that the court determines to be equitable.

(3) If the decedent is survived by one or more dependent children ((~~of the decedent who are not also the children of the surviving spouse or surviving domestic partner, on petition of such a child~~)), the court may divide the award between the surviving spouse or surviving registered domestic partner and all or any of ((~~such~~)) the decedent's surviving dependent children as ((~~it~~)) the court deems appropriate. ((~~If there is not a surviving spouse or surviving domestic partner, the minor children of the decedent may petition for an award.~~

~~(2)~~)) (4) The ((~~award~~)) awards under this chapter may be made ((~~from~~)) either from the community property of the decedent and the decedent's spouse or registered domestic partner or from the separate property of the decedent. ((~~Unless otherwise ordered by the court, the probate and nonprobate assets of the decedent abate in accordance with chapter 11.10 RCW in satisfaction of the award.~~

~~(3)~~)) (5) Any and all homestead or other property exempt from attachment, execution, and forced sale under Title 6 RCW immediately before the decedent's death shall be included in the basic award.

(6) The basic award may be made whether or not ((~~probate~~)) any proceedings have been commenced ((~~in the state of Washington. The court may not make this award unless the petition for the award is filed before the earliest of:~~

~~(a) Eighteen months from the date of the decedent's death if within twelve months of the decedent's death either:~~

~~(i) A personal representative has been appointed; or~~

~~(ii) A notice agent has filed a declaration and oath as required in RCW 11.42.010(3)(a)(ii); or~~

~~(b) The termination of any probate proceeding for the decedent's estate that has been commenced in the state of Washington; or~~

~~(c) Six years from the date of the death of the decedent~~)) under this title relating to the decedent's probate or nonprobate assets.

Sec. 5. RCW 11.54.030 and 2008 c 6 s 918 are each amended to read as follows:

(1) The court may not make an award ((~~unless the court finds that the funeral expenses, expenses of last sickness, and expenses of administration~~)) to a claimant under this chapter until the expenses of administration, funeral expenses, expenses of last sickness, and wages due for labor performed within

60 days immediately preceding the decedent's death have been paid or provided for.

(2) The court may not make an award to ((~~a surviving spouse or surviving domestic partner or child~~)) or for the benefit of any person who ((~~has participated, either as a principal or as an accessory before the fact, in the willful and unlawful killing~~)) is a slayer or abuser as those terms are defined in RCW 11.84.010 of the decedent.

(3) The court may not make any award under this chapter unless the petition for the award is filed before the earliest of:

(a) Eighteen months from the date of the decedent's death if within 12 months of the decedent's death either:

(i) A personal representative has been appointed; or

(ii) A notice agent has filed a declaration and oath as required in RCW 11.42.010(3)(a)(ii); or

(b) The termination of all proceedings under this title relating to the decedent's probate or nonprobate assets; or

(c) Six years from the date of the death of the decedent.

Sec. 6. RCW 11.54.020 and 2008 c 6 s 917 are each amended to read as follows:

(1) The amount of the basic award shall be the ((~~amount specified in RCW 6.13.030(2) with regard to lands.~~)) greater of the following:

(a) The value, as of the date of the decedent's death, of the decedent's property, or if the decedent is married or has a registered domestic partner, the value of the community property of the decedent and the decedent's spouse or registered domestic partner, that was exempt from attachment, execution, or forced sale under Title 6 RCW immediately before the decedent's death; or

(b) The amount specified in RCW 6.13.030(1)(a) or, if greater, the amount specified in subsection (3) of this section, on the date of the decedent's death.

(2) If an award is divided ((~~between~~)) among a surviving spouse or surviving registered domestic partner and the decedent's dependent children ((~~who are not the children of the surviving spouse or surviving domestic partner~~)), the aggregate amount awarded to all the claimants under this section shall be the amount specified in ((~~RCW 6.13.030(2) with respect to lands. The amount of the basic award may be increased or decreased in accordance with RCW 11.54.040 and 11.54.050~~)) subsection (1) of this section.

(3) For 2024 and each calendar year thereafter, the amount of the basic award shall not be less than an amount that is calculated as follows: $125,000 multiplied by the inflation factor and then rounded to the nearest $1,000. The adjustment of the basic amount under this subsection shall be effective annually as of the first calendar day of the calendar year. The inflation factor is a fraction, the numerator of which is the consumer price index figure published for the most recent October preceding the effective date of the adjustment and the denominator of which is the consumer price index figure published for October 2021. No adjustment to the basic award shall be made under this subsection for a calendar year if the adjustment would result in the same or a lesser basic award than the basic award for the immediately preceding calendar year. For purposes of this subsection, "consumer price index" means the consumer price index for all urban consumers, all items in the Seattle area, not seasonally adjusted, as calculated by the bureau of labor statistics of the United States department of

labor. For purposes of this subsection (3), "Seattle area" means the geographic area sample that includes Seattle and surrounding areas. In the event the bureau of labor statistics discontinues the use and publication of applicable averages, then the consumer price index to be used for the computation of the inflation factor shall be the consumer price average that was last published before the event that caused the inflation factor to be applied.

Sec. 7. RCW 11.54.040 and 2008 c 6 s 919 are each amended to read as follows:

(1) If ((~~it is demonstrated~~)) a claimant demonstrates to the satisfaction of the court ((~~with clear, cogent, and convincing evidence~~)) that a claimant's present and reasonably anticipated future needs ((~~during the pendency of any probate proceedings in the state of Washington~~)) with respect to basic maintenance and support during the pendency of any proceedings under this title relating to the decedent's probate or nonprobate assets will not ((~~otherwise~~)) be provided ((~~for~~)) from other resources((~~,~~)) and that ((~~the~~)) an increased award would not be inconsistent with the decedent's intentions or principles of equity and fairness, the amount of the award may be increased above the amount of the basic award in an amount that the court determines to be ((~~appropriate~~)) needed for a claimant's present and reasonably anticipated future needs with respect to basic maintenance and support during the pendency of any proceedings under this title relating to the decedent's probate or nonprobate assets.

(2) In determining the needs of the claimant, the court shall consider, without limitation, the resources available to the claimant and the claimant's ((~~dependents~~)) dependent children, and the resources reasonably expected to be available to the claimant and the claimant's ((~~dependents~~)) dependent children during the pendency of ((~~the probate~~)) any proceedings under this title relating to the decedent's probate or nonprobate assets, including income related to present or future employment and benefits flowing from the decedent's probate and nonprobate estate.

(3) In determining the intentions of the decedent, the court shall consider, without limitation:

(a) Provisions made for the claimant by the decedent under the terms of the decedent's will or otherwise;

(b) Provisions made for third parties or other entities under the decedent's will or otherwise that would be affected by an increased award;

(c) If the claimant is the surviving spouse or surviving registered domestic partner, the duration and status of the marriage or the state registered domestic partnership of the decedent to the claimant at the time of the decedent's death;

(d) The effect of any award on the availability of any other resources or benefits to the claimant;

(e) The size and nature of the decedent's probate and nonprobate estate; and

(f) Oral or written statements made by the decedent that are otherwise admissible as evidence.

The fact that the decedent has named beneficiaries other than the claimant as recipients of the decedent's estate is not of itself adequate to evidence such an intent as would prevent the award of an amount in excess of the basic award that is provided ((~~for~~)) in RCW ((~~6.13.030(2) with respect to lands~~)) 11.54.020(1).

(4)(a) ((~~A petition for~~)) The court may only grant an increased award ((~~may only be made~~)) if a petition for ((~~an~~)) a basic award has been granted under

RCW 11.54.010. The request for an increased award may be made in conjunction with the petition for an award under RCW 11.54.010.

(b) Subject to (a) of this subsection (4), a request for an increased award may be made at any time during the pendency of ((~~the probate~~)) any proceedings under this title relating to the decedent's probate or nonprobate assets. A request to modify an increased award may also be made at any time during the pendency of the probate proceedings by a person having an interest in the decedent's estate that will be directly affected by the requested modification.

Sec. 8. RCW 11.54.050 and 2008 c 6 s 920 are each amended to read as follows:

((~~(1)~~)) The court may decrease the amount of the award below the amount provided in RCW 11.54.020(1) in the exercise of its discretion if ((~~the~~)):

(1) The recipient is entitled to receive probate or nonprobate property, including insurance, by reason of the death of the decedent. In such a case the award ((~~must~~)) may not be decreased by ((~~no~~)) more than the value of ((~~such~~)) the other property ((~~as~~)) that is received by reason of the death of the decedent. The court shall consider the factors presented in RCW 11.54.040(2) in determining the propriety of the award and the proper amount of the award, if any((~~.~~

~~(2) An award to a surviving spouse or surviving domestic partner is also discretionary and the amount otherwise allowable may be reduced if: (a) The~~)); or

(2)(a) The decedent is survived by one or more dependent children who are not the children of the surviving spouse or surviving registered domestic partner and the award would decrease amounts otherwise distributable to ((~~such~~)) those children; or (b) the award would have the effect of reducing amounts otherwise distributable to any of the decedent's ((~~minor~~)) dependent children. In either ((~~case~~)) of the cases specified in this subsection (2), the court ((~~shall~~)) must consider the factors presented in RCW 11.54.040 (2) and (3) and section 9 of this act and whether the needs of the ((~~minor~~)) dependent children with respect to basic maintenance and support are and will be adequately provided for, both during and after ((~~the pendency of~~)) any ((~~probate~~)) proceedings ((~~if such proceedings are pending~~)) under this title relating to the decedent's probate or nonprobate assets, considering support from any source, including support from the decedent's surviving spouse or surviving registered domestic partner.

NEW SECTION. **Sec. 9.** A new section is added to chapter 11.54 RCW to read as follows:

In exercising the discretion granted to the court under this chapter, the court shall consider without limitation:

(1) The exemptions from attachment, execution, or forced sale under Title 6 RCW and other applicable laws;

(2) Whether or not any separate property of the decedent's surviving spouse or surviving domestic partner is exempted from attachment, execution, or forced sale under Title 6 RCW or other applicable laws before and after the decedent's death;

(3) Whether or not exemptions from attachment, execution, or forced sale have been granted to the decedent or the decedent's surviving spouse or surviving domestic partner in another jurisdiction;

(4) How principles of equity and fairness would allocate the statutory exemptions from attachment, execution, and forced sale under Title 6 RCW and other applicable laws among the decedent's surviving spouse or surviving domestic partner and the decedent's surviving dependent children;

(5) How the laws of intestacy, if the decedent died intestate and without nonprobate assets, or the decedent's dispositive intent, if the decedent died testate or with nonprobate assets, would direct the decedent's property;

(6) The extent to which the claimant has other property that will satisfy the claimant's reasonable needs; and

(7) If the claimant is a child of the decedent, the child's ability or inability to meet the child's basic needs.

Sec. 10. RCW 11.54.060 and 1997 c 252 s 53 are each amended to read as follows:

~~(((1) The award has priority over all other claims made in the estate. In determining which assets must be made available to satisfy the award, the claimant is to be treated as a general creditor of the estate, and unless otherwise ordered by the court the assets shall abate in satisfaction of the award in accordance with chapter 11.10 RCW.~~

~~(2) If the property awarded is being purchased on contract or is subject to any encumbrance, for purposes of the award the property must be valued net of the balance due on the contract and the amount of the encumbrance. The property awarded will continue to be subject to any such contract or encumbrance, and any award in excess of the basic award under RCW 11.54.010, whether of community property or the decedent's separate property, is not immune from any lien for costs of medical expenses recoverable under RCW 43.20B.080.~~)) Notwithstanding any other provision of this chapter:

(1) None of the decedent's separate property and none of the property of the community composed of the decedent and the decedent's spouse or registered domestic partner is exempt from the duty to pay the costs of administration, funeral expenses, expenses of the last sickness, and wages due for labor performed within 60 days immediately preceding the decedent's death, as those terms are used in RCW 11.76.110.

(2) No provision of this chapter shall abrogate or diminish the rights associated with a valid lien.

NEW SECTION. **Sec. 11.** A new section is added to chapter 11.54 RCW to read as follows:

The decedent's separate property and the property of the community composed of the decedent and the decedent's spouse or registered domestic partner abates for awards of family allowance under this chapter in accordance with chapter 11.10 RCW; provided however, that gifts containing a homestead or other nonfungible property that is exempt from attachment, execution, and forced sale shall abate to the extent that the property is awarded to a claimant under this chapter, regardless of whether the gift would be classified as intestate, residuary, general, demonstrative, or specific, except as otherwise provided in RCW 11.10.010(2).

Sec. 12. RCW 11.76.110 and 2010 c 8 s 2068 are each amended to read as follows:

((~~After payment of costs of administration~~)) Subject to federal preemption and the privileges and priorities allowed to encumbrances and liens under applicable law, the reasonable expenses of administration and the enforceable debts of the estate shall be paid in the following order:

(1) Expenses of administration.

(2) Funeral expenses in such amount as the court shall order or a personal representative with nonintervention powers shall determine to be reasonable.

(((~~(2)~~))) (3) Expenses of the last sickness, in such amount as the court shall order or a personal representative with nonintervention powers shall determine to be reasonable.

(((~~(3)~~))) (4) Wages due for labor performed within ((~~sixty~~)) 60 days immediately preceding the death of decedent.

(((~~(4) Debts having preference by the laws of the United States.~~

~~(5) Taxes, or any debts or dues owing to the state.~~

~~(6) Judgments rendered against the deceased in his or her lifetime which are liens upon real estate on which executions might have been issued at the time of his or her death, and debts secured by mortgages in the order of their priority.~~

~~(7)~~))) (5) Exemptions and awards under chapter 11.54 RCW.

(6) All other enforceable demands against the estate.

Sec. 13. RCW 11.76.120 and 1965 c 145 s 11.76.120 are each amended to read as follows:

The preference given in RCW 11.76.110 to a mortgage ((~~or judgment~~)), deed of trust, perfected security interest, judgment lien, or other lien shall only extend to the proceeds of the property subject to the lien ((~~of such mortgage or judgment~~)).

NEW SECTION. **Sec. 14.** This act takes effect August 1, 2024.

NEW SECTION. **Sec. 15.** (1) No act done in any proceeding commenced before the effective date of this section and no accrued right shall be impaired by any provision of this act.

(2) When a right is acquired, extinguished, or barred upon the expiration of a prescribed period of time which has commenced to run by the provisions of any statute in force before the effective date of this section, those provisions shall remain in force and be deemed a part of this act with respect to that right.

(3) The procedures in effect before the effective date of this section shall apply to any proceeding to the extent that in the opinion of the court the application of the procedures under this act would not be feasible or would work injustice.

NEW SECTION. **Sec. 16.** RCW 11.54.030 is recodified as a section in chapter 11.54 RCW, to be codified between RCW 11.54.010 and 11.54.020.

NEW SECTION. **Sec. 17.** The following acts or parts of acts are each repealed:

(1) RCW 11.54.070 (Immunity of award from debts and claims of creditors) and 2008 c 6 s 921, 1998 c 292 s 201, & 1997 c 252 s 54; and

(2) RCW 11.54.080 (Exemption of additional assets from claims of creditors—Petition—Notice—Court order) and 1999 c 42 s 612 & 1997 c 252 s 55.

Passed by the Senate January 17, 2024.
Passed by the House February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 21

[Senate Bill 5647]

SCHOOL SAFETY—TEMPORARY EMPLOYEES

AN ACT Relating to providing substitute teachers and other temporary employees necessary information about school safety policies and procedures; and amending RCW 28A.320.125 and 28A.300.630.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.320.125 and 2022 c 77 s 1 are each amended to read as follows:

(1) The legislature considers it to be a matter of public safety for public schools and staff to have current safe school plans and procedures in place, fully consistent with federal law. The legislature further finds and intends, by requiring safe school plans to be in place, that school districts will become eligible for federal assistance. The legislature further finds that schools are in a position to serve the community in the event of an emergency resulting from natural disasters or human-induced disasters.

(2) Schools and school districts shall consider the guidance and resources provided by the state school safety center, established under RCW 28A.300.630, and the regional school safety centers, established under RCW 28A.310.510, when developing their own individual comprehensive safe school plans. Each school district shall adopt and implement a safe school plan. The plan shall:

(a) Include required school safety policies and procedures;

(b) Address emergency mitigation, preparedness, response, and recovery;

(c) Include provisions for assisting and communicating with students and staff, including those with special needs or disabilities;

(d) Include a family-student reunification plan, including procedures for communicating the reunification plan to staff, students, families, and emergency responders;

(e) Use the training guidance provided by the Washington emergency management division of the state military department in collaboration with the state school safety center in the office of the superintendent of public instruction, established under RCW 28A.300.630, and the school safety and student well-being advisory committee, established under RCW 28A.300.635;

(f) Require the building principal to be certified on the incident command system;

(g) Take into account the manner in which the school facilities may be used as a community asset in the event of a community-wide emergency; ((~~and~~))

(h) Set guidelines for requesting city or county law enforcement agencies, local fire departments, emergency service providers, and county emergency management agencies to meet with school districts and participate in safety-related drills; and

(i) Include how substitute teachers and other temporary employees receive necessary information about safe school plans, including school safety policies

and procedures and the three basic functional drill responses described in subsection (5) of this section.

(3) To the extent funds are available, school districts shall annually:

(a) Review and update safe school plans in collaboration with local emergency response agencies;

(b) Conduct an inventory of all hazardous materials;

(c) Update information to reflect current plans, including:

(i) Identifying all staff members who are trained on the national incident management system, trained on the incident command system, or are certified on the incident command system; and

(ii) Identifying school transportation procedures for evacuation, to include bus staging areas, evacuation routes, communication systems, parent-student reunification sites, and secondary transportation agreements; and

(d) Provide information to all staff on the use of emergency supplies and notification and alert procedures.

(4) School districts are encouraged to work with local emergency management agencies and other emergency responders to conduct one tabletop exercise, one functional exercise, and two full-scale exercises within a four-year period.

(5)(a) Due to geographic location, schools have unique safety challenges. It is the responsibility of school principals and administrators to assess the threats and hazards most likely to impact their school, and to practice three basic functional drills, shelter-in-place, lockdown, and evacuation, as these drills relate to those threats and hazards. Some threats or hazards may require the use of more than one basic functional drill.

(b) Schools shall conduct at least one safety-related drill per month, including summer months when school is in session with students. These drills must teach students three basic functional drill responses:

(i) "Shelter-in-place," used to limit the exposure of students and staff to hazardous materials, such as chemical, biological, or radiological contaminants, released into the environment by isolating the inside environment from the outside;

(ii) "Lockdown," used to isolate students and staff from threats of violence, such as suspicious trespassers or armed intruders, that may occur in a school or in the vicinity of a school. Lockdown drills may not include live simulations of or reenactments of active shooter scenarios that are not trauma-informed and age and developmentally appropriate; and

(iii) "Evacuation," used to move students and staff away from threats, such as fires, oil train spills, lahars, or tsunamis.

(c) The drills described in (b) of this subsection must incorporate the following requirements:

(i) A pedestrian evacuation drill for schools in mapped lahars or tsunami hazard zones; and

(ii) An earthquake drill using the state-approved earthquake safety technique "drop, cover, and hold."

(d) Schools shall document the date, time, and type (shelter-in-place, lockdown, or evacuate) of each drill required under this subsection (5), and maintain the documentation in the school office.

(e) This subsection (5) is intended to satisfy all federal requirements for comprehensive school emergency drills and evacuations.

(6) Educational service districts are encouraged to apply for federal emergency response and crisis management grants with the assistance of the superintendent of public instruction and the Washington emergency management division of the state military department.

(7) The superintendent of public instruction may adopt rules to implement provisions of this section. These rules may include, but are not limited to, provisions for evacuations, lockdowns, or other components of a comprehensive safe school plan.

(8)(a) Whenever a first responder agency notifies a school of a situation that may necessitate an evacuation or lockdown, the agency must determine if other known schools in the vicinity are similarly threatened. The first responder agency must notify every other known school in the vicinity for which an evacuation or lockdown appears reasonably necessary to the agency's incident commander unless the agency is unable to notify schools due to duties directly tied to responding to the incident occurring. For purposes of this subsection, "school" includes a private school under chapter 28A.195 RCW.

(b) A first responder agency and its officers, agents, and employees are not liable for any act, or failure to act, under this subsection unless a first responder agency and its officers, agents, and employees acted with willful disregard.

Sec. 2. RCW 28A.300.630 and 2019 c 333 s 2 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the superintendent of public instruction shall establish a school safety center as provided in this section.

(2) The center, working in conjunction with the regional school safety centers established in RCW 28A.310.510, forms a statewide network for school safety.

(3) The center, in collaboration with staff in the office of the superintendent of public instruction, must:

(a) Serve as a clearinghouse for information regarding comprehensive school safety planning and practice;

(b) Disseminate information regarding school safety incidents in Washington and across the country;

(c) Develop and maintain a public website to increase the availability of information, research, and other materials related to school safety;

(d) Serve as the lead school safety center, and work in conjunction with the regional school safety centers, to support school districts' efforts to meet state requirements regarding school safety including the development and implementation of:

(i) Comprehensive safe school plans as required by RCW 28A.320.125; and

(ii) Plans for recognition, initial screening, and response to emotional or behavioral distress in students as required by RCW 28A.320.127;

(e) Develop model school safety policies and procedures and identify best practices in school safety, including how substitute teachers and other temporary employees receive necessary information about school safety policies and procedures;

(f) Work in conjunction with the regional school safety centers to plan for the provision of school safety trainings and to provide technical assistance;

(g) Hold an annual school safety summit as required by RCW 28A.300.273;

(h) Support the required activities of the regional school safety centers, established in RCW 28A.310.510; and

(i) Perform other functions consistent with the purpose of the center, as described in this section.

Passed by the Senate January 31, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 22

[Substitute Senate Bill 5786]

BUSINESS CORPORATION ACT—VARIOUS PROVISIONS

AN ACT Relating to making updates to the Washington business corporation act; amending RCW 23B.07.250, 23B.07.270, 23B.08.080, 23B.08.240, 23B.09.030, 23B.10.030, 23B.12.020, 23B.13.020, 23B.13.200, 23B.13.210, 23B.13.220, 23B.17.015, 23B.25.100, and 23B.25.130; reenacting and amending RCW 23B.01.400; adding a new chapter to Title 23B RCW; and repealing RCW 23B.11.010, 23B.11.020, 23B.11.030, 23B.11.035, 23B.11.040, 23B.11.045, 23B.11.050, 23B.11.060, 23B.11.070, 23B.11.080, 23B.11.090, 23B.11.100, and 23B.11.110.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Acquired entity" means the domestic corporation that will have all of one or more classes or series of its shares acquired in a share exchange.

(2) "Acquiring entity" means the domestic corporation that will acquire all of one or more classes or series of shares of the acquired entity in a share exchange.

(3) "New owner liability" means owner liability of a person, resulting from a merger or share exchange, that is (a) in respect of an entity which is different from the entity in which the person held shares or interests immediately before the merger or share exchange became effective; or (b) in respect of the same entity as the one in which the person held shares or interests immediately before the merger or share exchange became effective if (i) the person did not have owner liability immediately before the merger or share exchange became effective, or (ii) the person had owner liability immediately before the merger or share exchange became effective, the terms and conditions of which were changed when the merger or share exchange became effective.

(4) "Party to a merger" means any domestic corporation or other entity that will merge under a plan of merger.

(5) "Surviving entity" in a merger means the domestic corporation or other entity into which one or more other domestic corporations or other entities are merged.

NEW SECTION. **Sec. 2.** (1) By complying with this chapter, one or more domestic corporations may merge with one or more domestic corporations or other entities in accordance with a plan of merger, resulting in a surviving entity.

(2) By complying with the provisions of this chapter applicable to other entities, an other entity may be a party to a merger with a domestic corporation, but only if the merger is permitted by the organic law of the other entity.

(3) If the organic law or organic rules of a domestic other entity do not provide procedures for the approval of a merger, a plan of merger may nonetheless be approved by the unanimous consent of all of the interest holders of that other entity, and the merger may thereafter be effected as provided in the other provisions of this chapter. For the purposes of applying this chapter in such a case:

(a) The other entity, its interest holders, interests, and organic rules taken together will be deemed to be a domestic corporation, shareholders, shares, and articles of incorporation, respectively, and vice versa as the context may require; and

(b) If the business and affairs of the other entity are managed by a person or persons that are not identical to the interest holders, that group will be deemed to be the board of directors.

(4) The plan of merger must include:

(a) As to each party to the merger, its name, jurisdiction of organization, and type of entity;

(b) The surviving entity's name, jurisdiction of organization, and type of entity;

(c) The manner and basis of converting the shares of each merging domestic corporation and interests of each merging other entity into shares or other securities, interests, obligations, rights to acquire shares, other securities or interests, cash, or other property, or of canceling some or all of such shares or interests, or any combination of the foregoing; and

(d) Any other provisions required by the laws under which any party to the merger is organized or by which it is governed, or by the articles of incorporation or organic rules of any such party.

(5) In addition to the requirements of subsection (4) of this section, a plan of merger may contain amendments to the articles of incorporation or public organic record of any party to the merger that will be the surviving entity, a restatement that includes one or more amendments to the surviving entity's articles of incorporation or public organic record, and any other provision not prohibited by law.

(6) Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with RCW 23B.01.200(3).

(7) A plan of merger may be amended only with the consent of each party to the merger, except as provided in the plan of merger. An amendment to a plan of merger that has previously been approved by a party's shareholders or interest holders must be approved:

(a) In the same manner as the plan was approved, if the plan of merger does not provide for the manner in which it may be amended; or

(b) In the manner provided in the plan of merger, except that shareholders or interest holders that were entitled to vote on or consent to approval of the plan of merger are entitled to vote on or consent to any amendment of the plan of merger that will change:

(i) The amount or kind of shares or other securities, interests, obligations, rights to acquire shares, other securities or interests, cash, or other property to be

received under the plan of merger by the shareholders or interest holders of any party to the merger;

(ii) The articles of incorporation of any domestic corporation, or the organic rules of any other entity, that will be the surviving entity of the merger, unless (A) the change constitutes an amendment to the articles of incorporation or organic rules of the surviving entity that would be permitted without approval of shareholders or interest holders by RCW 23B.10.020 or by comparable provisions of the organic law of any such other entity, or (B) the shareholders or interest holders that were entitled to vote on or consent to approval of the plan of merger will not continue as or become shareholders or interest holders of the surviving entity; or

(iii) Any of the other terms or conditions of the plan of merger if the change would adversely affect such shareholders or interest holders in any material respect.

NEW SECTION. **Sec. 3.** (1) By complying with this chapter:

(a) A domestic corporation may acquire all of the shares of one or more classes or series of shares of another domestic corporation in exchange for shares or other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange; or

(b) All of the shares of one or more classes or series of shares of a domestic corporation may be acquired by another domestic corporation in exchange for shares or other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange.

(2) The plan of share exchange must include:

(a) The name of each domestic corporation the shares of which will be acquired and the name of the domestic corporation that will acquire those shares; and

(b) The manner and basis of exchanging shares of a domestic corporation that is the acquired entity for shares or other securities, obligations, rights to acquire shares, other securities, cash, other property, or any combination of the foregoing.

(3) In addition to the requirements of subsection (2) of this section, a plan of share exchange may contain any other provision not prohibited by law.

(4) Terms of a plan of share exchange may be made dependent on facts objectively ascertainable outside the plan in accordance with RCW 23B.01.200(3).

(5) A plan of share exchange may be amended only with the consent of each party to the share exchange, except as provided in the plan of share exchange. A domestic corporation may approve an amendment to a plan of share exchange:

(a) In the same manner as the plan of share exchange was approved, if the plan of share exchange does not provide for the manner in which it may be amended; or

(b) In the manner provided in the plan of share exchange, except that shareholders that were entitled to vote on or consent to approval of the plan of share exchange are entitled to vote on or consent to any amendment of the plan of share exchange that will change:

(i) The amount or kind of shares or other securities, obligations, rights to acquire shares, other securities, cash, or other property to be received under the plan by the shareholders of the acquired entity; or

(ii) Any of the other terms or conditions of the plan of share exchange if the change would adversely affect such shareholders in any material respect.

NEW SECTION. **Sec. 4.** In the case of a domestic corporation that is a party to a merger or the acquired entity in a share exchange, the plan of merger or share exchange must be approved in the following manner:

(1) The plan of merger or share exchange must first be approved by the board of directors.

(2) Except as provided in subsection (6) of this section, and in sections 6, 7, and 11 of this act, the plan of merger or share exchange must then be approved by the shareholders. In submitting the plan of merger or share exchange to the shareholders for approval, the board of directors must recommend that the shareholders approve the plan or, in the case of an offer referred to in section 6(1)(b) of this act, that the shareholders tender their shares to the offeror in response to the offer, unless (a) the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, or (b) RCW 23B.08.245 applies. If either (a) or (b) of this subsection applies, the board of directors must inform the shareholders of the basis for so proceeding.

(3) The board of directors may set conditions for the approval of the plan of merger or share exchange by the shareholders or the effectiveness of the plan.

(4) If the plan of merger or share exchange is required to be approved by the shareholders, and if the approval is to be given at a meeting, the corporation must notify each shareholder, regardless of whether entitled to vote, of the meeting of shareholders at which the plan is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan and must contain or be accompanied by a copy of the plan or a summary of the material terms and conditions of the proposed merger or share exchange and the consideration to be received by shareholders. If the corporation is to be merged into a domestic corporation or other entity, the notice must also include or be accompanied by a copy or summary of the articles of incorporation and bylaws of that domestic corporation or the organic rules of that other entity.

(5)(a) With respect to a domestic corporation formed before August 1, 2024:

(i) Unless the articles of incorporation, or the board of directors acting in accordance with subsection (3) of this section, require a different vote, shareholder approval of the plan of merger or share exchange requires (A) the approval of two-thirds of the voting group comprising all the votes entitled to be cast on the plan, and (B) the approval of two-thirds of the votes entitled to be cast on the plan by each other voting group entitled under section 5 of this act or the articles of incorporation to vote separately on the plan; and

(ii) The articles of incorporation may require a different vote than that provided in this subsection, or a different vote by separate voting groups, so long as the required vote is not less than a majority of all the votes entitled to be cast on the plan and of each other voting group entitled to vote separately on the plan.

(b) With respect to a domestic corporation formed on or after August 1, 2024, unless the articles of incorporation, or the board of directors acting in

accordance with subsection (3) of this section, require a greater vote, shareholder approval of the plan of merger or share exchange requires (i) the approval of a majority of the voting group comprising all the votes entitled to be cast on the plan, and (ii) the approval of a majority of the votes entitled to be cast on the plan by each other voting group entitled under section 5 of this act or the articles of incorporation to vote separately on the plan.

(6) Unless the articles of incorporation provide otherwise, approval of a plan of merger by the shareholders of a domestic corporation that is a party to the merger is not required if:

(a) Such corporation will survive the merger;

(b) Except for amendments permitted by RCW 23B.10.020, its articles of incorporation will not be changed; and

(c) Each shareholder of such corporation whose shares were outstanding immediately before the merger becomes effective will hold the same number of shares, with identical preferences, rights, and limitations, immediately after the merger becomes effective.

(7) If as a result of a merger or share exchange one or more shareholders of a domestic corporation would become subject to new owner liability, approval of the plan of merger or share exchange requires the express written consent of each such shareholder to become subject to that new owner liability in connection with the merger or share exchange, unless in the case of a shareholder that already has owner liability with respect to that domestic corporation, (a) the new owner liability is with respect to a domestic corporation (which may be a different or the same domestic corporation in which the person is a shareholder) or other entity, and (b) the terms and conditions of the new owner liability are substantially identical to those of the existing owner liability (other than for changes that eliminate or reduce that owner liability).

NEW SECTION. **Sec. 5.** (1) Subject to subsection (2) of this section, separate voting by voting groups is required:

(a) On a plan of merger, by each class or series of shares of a domestic corporation that is a party to the merger that:

(i) Is to be converted under the plan into shares, other securities, interests, obligations, rights to acquire shares, other securities or interests, cash, other property, or any combination of the foregoing, or is to be canceled under the plan; or

(ii) Is entitled to vote as a separate group on a provision in the plan that constitutes a proposed amendment to the articles of incorporation of such corporation that requires action by separate voting groups under RCW 23B.10.040 if such corporation is the surviving entity in the merger and the holders of such class or series will continue as shareholders of the surviving entity;

(b) On a plan of share exchange, by each class or series of shares of a domestic corporation included in the exchange, with each class or series constituting a separate voting group; and

(c) On a plan of merger or share exchange, if the voting group is entitled under the articles of incorporation to vote as a separate voting group on the plan of merger or share exchange, respectively.

(2) The articles of incorporation may expressly limit or eliminate the separate voting rights provided in subsection (1)(a)(i) and (b) of this section as to

any class or series of shares. A provision in the articles of incorporation of a domestic corporation formed before August 1, 2024, limiting or eliminating the separate voting rights provided under RCW 23B.11.035 in effect prior to the effective date of this section will be deemed to limit or eliminate the separate voting rights provided in subsection (1)(a)(i) and (b) of this section to the same extent.

(3) If a proposed plan of merger or share exchange that entitles the holders of two or more classes or series of shares to vote as separate voting groups under this section would affect those two or more classes or series in the same or a substantially similar way, then instead of voting as separate voting groups, the holders of shares of the classes or series so affected are to vote together as a single voting group on the proposed plan of merger or share exchange, unless otherwise provided in the articles of incorporation or by the board of directors in accordance with section 4(3) of this act.

(4) Holders of shares of two or more classes or series of shares of a domestic corporation that is a party to the merger or the acquired entity in a share exchange who would, under a proposed plan, receive the same type of consideration in the form of shares or other securities, interests, obligations, rights to acquire shares, other securities or interests of the surviving or acquiring entity or of any parent entity of the surviving entity, cash or other form of consideration, or the same combination thereof, but in differing amounts resulting solely from application of provisions in the corporation's articles of incorporation governing distribution of consideration received in a merger or share exchange, are deemed to be affected in the same or a substantially similar way and are not, by reason of receiving the same types or differing amounts of consideration, entitled to vote as separate voting groups on the proposed plan, unless the articles of incorporation of such corporation expressly require otherwise or the board of directors conditions its submission of the proposed plan on a separate vote by one or more classes or series.

NEW SECTION. **Sec. 6.** (1) Unless the articles of incorporation provide otherwise, approval by a corporation's shareholders of a plan of merger or share exchange is not required if:

(a) The plan of merger or share exchange expressly (i) permits or requires the merger or share exchange to be effected under this section, and (ii) provides that, if the merger or share exchange is to be effected under this section, the merger or share exchange will be effected as soon as practicable following the satisfaction of the requirements of (f) of this subsection;

(b) Another party to the merger, the acquiring entity in the share exchange, or a parent of another party to the merger or the acquiring entity in the share exchange, makes an offer to purchase, on the terms stated in the plan of merger or share exchange, any and all of the outstanding shares of the corporation that, absent this section, would be entitled to vote on the plan of merger or share exchange, except that the offer may exclude shares of the corporation that are owned at the commencement of the offer by the corporation, the offeror, or any parent of the offeror, or by any wholly owned subsidiary of any of the foregoing;

(c) The offer discloses that the plan of merger or share exchange provides that the merger or share exchange will be effected as soon as practicable following the satisfaction of the requirements of (f) of this subsection and that

the shares of the corporation that are not tendered in response to the offer will be treated as provided in (h) of this subsection;

(d) The offer remains open for at least 10 days;

(e) The offeror purchases all shares properly tendered in response to the offer and not properly withdrawn;

(f) The (i) shares purchased by the offeror in accordance with the offer; (ii) shares otherwise owned by the offeror or by any parent of the offeror or any wholly owned subsidiary of any of the foregoing; and (iii) shares subject to an agreement that they are to be transferred, contributed, or delivered to the offeror, any parent of the offeror, or any wholly owned subsidiary of any of the foregoing in exchange for shares or interests in that offeror, parent, or subsidiary, are collectively entitled to cast at least the minimum number of votes on the merger or share exchange that, absent this section, would be required by this chapter and the articles of incorporation for the approval of the merger or share exchange by the shareholders and by any other voting group entitled to vote on the merger or share exchange at a meeting at which all shares entitled to vote on the merger or share exchange were present and voted;

(g) The offeror or a wholly owned subsidiary of the offeror merges with or into, or effects a share exchange in which it acquires shares of, the corporation; and

(h) Each outstanding share of each class or series of shares of the corporation that the offeror is offering to purchase in accordance with the offer, and which is not purchased in accordance with the offer, is to be converted in the merger into, or into the right to receive, or is to be exchanged in the share exchange for, or for the right to receive, the same amount and kind of securities, interests, obligations, rights, cash, or other property to be paid or exchanged in accordance with the offer for each share of that class or series of shares that is tendered in response to the offer, except that shares of the corporation that are owned by the corporation or that are described in (f)(ii) or (iii) of this subsection need not be converted into or exchanged for the consideration described in this subsection.

(2) As used in this section:

(a) "Offer" means the offer referred to in subsection (1)(b) of this section.

(b) "Offeror" means the person making the offer.

(c) "Parent" of an entity means a person that owns, directly or indirectly, through one or more wholly owned subsidiaries, all of the outstanding shares of or interests in that entity.

(d) Shares tendered in response to the offer will be deemed to have been "purchased" in accordance with the offer at the earliest time as of which:

(i) The offeror has irrevocably accepted those shares for payment; and

(ii) Either: (A) In the case of shares represented by certificates, the offeror, or the offeror's designated depository or other agent, has physically received the certificates representing those shares; or (B) in the case of shares without certificates, those shares have been transferred into the account of the offeror or its designated depository or other agent, or an agent's message relating to those shares has been received by the offeror or its designated depository or other agent.

(e) "Wholly owned subsidiary" of a person means an entity of or in which that person owns, directly or indirectly, through one or more wholly owned subsidiaries, all of the outstanding shares or interests.

NEW SECTION. **Sec. 7.** (1) A domestic corporation or other entity that owns shares of a domestic corporation that are entitled to cast votes comprising at least 90 percent of the voting power of each class and series of the outstanding voting shares of that subsidiary corporation may: (a) Merge the subsidiary corporation into itself or into (i) another domestic corporation in which the parent entity owns shares that are entitled to cast votes comprising at least 90 percent of the voting power of each class and series of the outstanding voting shares of that other domestic corporation or (ii) an other entity in which the parent entity owns interests that are entitled to cast votes comprising at least 90 percent of the total number of votes entitled to be cast by all outstanding interests of that other entity, or (b) merge itself into that subsidiary corporation, in either case without the approval of the board of directors or shareholders of the subsidiary corporation, unless the articles of incorporation or organic rules of the parent entity or the articles of incorporation of the subsidiary corporation provide otherwise. Section 4(7) of this act applies to a merger under this section. The articles of merger relating to a merger under this section do not need to be executed by the subsidiary corporation.

(2) A parent entity must, within 10 days after a merger under subsection (1) of this section becomes effective, notify each of the subsidiary corporation's other shareholders that the merger has become effective. The notice must contain or be accompanied by a copy of the plan of merger or a summary of the material terms and conditions of the merger and the consideration to be received by shareholders.

(3) Except as provided in subsections (1) and (2) of this section, a merger under this section will be governed by the provisions of this chapter applicable to mergers generally.

NEW SECTION. **Sec. 8.** (1)(a) After a plan of merger has been approved (i) as required by this title, and (ii) in the case of each other entity, if any, that is party to the merger, as required by the organic law or organic rules governing such other entity or by section 2(3) of this act, as applicable, then articles of merger must be executed by each party to the merger except as provided in section 7(1) of this act.

(b) The articles of merger must state:

(i) The name, jurisdiction of organization, and type of entity of each party to the merger;

(ii) The name, jurisdiction of organization, and type of entity of the surviving entity;

(iii) If the surviving entity of the merger is a domestic corporation and its articles of incorporation are amended or amended and restated, the amendments to or the amendment and restatement of the surviving entity's articles of incorporation;

(iv) If the surviving entity of the merger is a domestic other entity and its public organic record is amended or amended and restated, the amendments or the amendment and restatement of the surviving entity's public organic record;

(v) If the plan of merger required approval by the shareholders of a domestic corporation that is a party to the merger, a statement that the plan was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this title and the articles of incorporation;

(vi) If the plan of merger did not require approval by the shareholders of a domestic corporation that is a party to the merger, a statement to that effect; and

(vii) As to each other entity that is a party to the merger, a statement that the merger was approved in accordance with its organic law or section 2(3) of this act.

(2) After a plan of share exchange has been approved as required by this title, then articles of share exchange must be executed by the acquired entity and the acquiring entity. The articles of share exchange must state:

(a) The name of the acquired entity;

(b) The name of the acquiring entity; and

(c) A statement that the plan of share exchange was duly approved by the acquired entity by:

(i) The required vote or consent of each class or series of shares included in the exchange; and

(ii) The required vote or consent of each other class or series of shares entitled to vote on approval of the exchange by the articles of incorporation of the acquired entity.

(3) In addition to the requirements of subsection (1) or (2) of this section, articles of merger or share exchange may contain any other provision not prohibited by law.

(4) The articles of merger or share exchange must be delivered to the secretary of state for filing and, subject to subsection (5) of this section, the merger or share exchange will become effective at the effective date and time of the articles of merger or share exchange as determined in accordance with RCW 23B.01.230.

(5) With respect to a merger in which one or more other entities is a party, the merger will become effective at the later of:

(a) The date and time when all documents required to be filed in foreign jurisdictions to effect the merger have become effective; and

(b) The effective date and time of the articles of merger as determined in accordance with RCW 23B.01.230.

(6) Articles of merger filed under this section may be combined with any filing required under the organic law governing any other entity involved in the transaction if the combined filing satisfies the requirements of both this section and the other organic law.

NEW SECTION. **Sec. 9.** (1) When a merger becomes effective:

(a) The domestic corporation or other entity that is designated in the plan of merger as the surviving entity continues;

(b) The separate existence of every domestic corporation or other entity that is merged into the surviving entity ceases;

(c) All property owned by, and every contract right possessed by, each domestic corporation or other entity that is merged into the surviving entity are the property and contract rights of the surviving entity without transfer, reversion, or impairment;

(d) All debts, obligations, and other liabilities of each domestic corporation or other entity that is merged into the surviving entity are debts, obligations, or liabilities of the surviving entity;

(e) The name of the surviving entity may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger;

(f) If the surviving entity is a domestic entity, the articles of incorporation and bylaws or the organic rules of the surviving entity are amended, or amended and restated, to the extent provided in the plan of merger;

(g) The shares of or interests in each entity that is a party to the merger that are to be converted in accordance with the terms of the merger into shares or other securities, interests, obligations, rights to acquire shares, other securities, or interests, cash, other property, or any combination of the foregoing, are converted, and the former holders of such shares or interests are entitled only to the rights provided to them by those terms or to any rights they may have under chapter 23B.13 RCW or the organic law governing the other entity;

(h) Except as provided by law or the plan of merger, all the rights, privileges, franchises, and immunities of each entity that is merged into the surviving entity, are the rights, privileges, franchises, and immunities of the surviving entity;

(i) All the property and contract rights of the surviving entity remain its property and contract rights without transfer, reversion, or impairment;

(j) The surviving entity remains subject to all its debts, obligations, and other liabilities; and

(k) Except as provided by law or the plan of merger, the surviving entity continues to hold all of its rights, privileges, franchises, and immunities.

(2) When a share exchange becomes effective, the shares in the acquired entity that are to be exchanged for shares or other securities, obligations, rights to acquire shares, other securities, cash, other property, or any combination of the foregoing, are entitled only to the rights provided to them in the plan of share exchange or to any rights they may have under chapter 23B.13 RCW.

(3) Except as provided otherwise in the articles of incorporation of a domestic corporation or the organic law governing or organic rules of an other entity, the effect of a merger or share exchange on owner liability is as follows:

(a) A person who becomes subject to new owner liability in respect of an entity as a result of a merger or share exchange will have that new owner liability only in respect of owner liabilities that arise after the merger or share exchange becomes effective;

(b) If a person had owner liability with respect to a party to the merger or the acquired entity before the merger or share exchange becomes effective with respect to shares or interests of such party or acquired entity which were exchanged in the merger or share exchange, which were canceled in the merger, or the terms and conditions of which relating to owner liability were amended under the terms of the merger:

(i) The merger or share exchange does not discharge that prior owner liability with respect to any owner liabilities that arose before the merger or share exchange becomes effective;

(ii) The provisions of the organic law governing any entity for which the person had that prior owner liability will continue to apply to the collection or

discharge of any owner liabilities preserved by (b)(i) of this subsection (3), as if the merger or share exchange had not occurred;

(iii) The person will have such rights of contribution from other persons as are provided by the organic law governing the entity for which the person had that prior owner liability with respect to any owner liabilities preserved by (b)(i) of this subsection (3), as if the merger or share exchange had not occurred; and

(iv) The person will not, by reason of such prior owner liability, have owner liability with respect to any owner liabilities that arise after the merger or share exchange becomes effective;

(c) If a person has owner liability both before and after a merger becomes effective with unchanged terms and conditions with respect to the entity that is the surviving entity by reason of owning the same shares or interests before and after the merger becomes effective, the merger has no effect on such owner liability; and

(d) A share exchange has no effect on owner liability related to shares of the acquired entity that were not exchanged in the share exchange.

(4) Upon a merger becoming effective, a foreign other entity that is the surviving entity of the merger is deemed to:

(a) Appoint the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders of each domestic corporation that is a party to the merger who are entitled to and exercise dissenters' rights under chapter 23B.13 RCW; and

(b) Agree that it will promptly pay the amount, if any, to which such shareholders are entitled under chapter 23B.13 RCW.

(5) Except as provided in the organic law governing a party to a merger or in its articles of incorporation or organic rules, the merger does not give rise to any rights that a shareholder, interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of that party. The merger does not require a party to the merger to wind up its affairs and does not constitute or cause its dissolution or termination.

NEW SECTION. **Sec. 10.** (1) After a plan of merger or share exchange has been approved as required by this chapter, and before articles of merger or share exchange have become effective, the plan of merger or share exchange may be abandoned by a domestic corporation that is a party to the plan of merger or share exchange without action by its shareholders in accordance with any procedures provided in the plan of merger or share exchange or, if no such procedures are provided in the plan of merger or share exchange, in the manner determined by the board of directors.

(2) If a merger or share exchange is abandoned under subsection (1) of this section after articles of merger or share exchange have been delivered to the secretary of state for filing but before the merger or share exchange has become effective, a statement of withdrawal executed by all the parties that executed the articles of merger or share exchange must be delivered to the secretary of state for filing before the articles of merger or share exchange become effective in accordance with RCW 23.95.215.

(3) The statement of withdrawal will become effective at the effective date and time as determined in accordance with RCW 23.95.210 and the merger or share exchange will be deemed abandoned and will not become effective.

NEW SECTION. **Sec. 11.** (1) As used in this section:

(a) "Holding company" means the corporation that is or becomes the direct parent of the surviving corporation of a merger accomplished under this section and whose capital stock is issued in that merger;

(b) "Parent constituent corporation" means the parent corporation that merges with or into the subsidiary constituent corporation in the merger; and

(c) "Subsidiary constituent corporation" means the subsidiary corporation with or into which the parent constituent corporation merges in the merger.

(2) Unless the articles of incorporation provide otherwise, a parent constituent corporation may merge with or into a single indirect wholly owned subsidiary of the parent constituent corporation without the approval of the plan of merger by the shareholders of the parent constituent corporation if:

(a) The plan expressly permits or requires the merger to be effected under this subsection;

(b) The holding company and the constituent corporations to the merger are each organized under this title;

(c) At all times from its incorporation until consummation of a merger under this section, the holding company was a direct wholly owned subsidiary of the parent constituent corporation;

(d) Immediately before consummation of a merger under this section, the subsidiary constituent corporation is a direct wholly owned subsidiary of the holding company and an indirect wholly owned subsidiary of the parent constituent corporation;

(e) The parent constituent corporation and the subsidiary constituent corporation are the only constituent entities to the merger;

(f) Immediately after the merger becomes effective, the surviving corporation of the merger becomes or remains a direct wholly owned subsidiary of the holding company;

(g) Each share or fraction of a share of the parent constituent corporation outstanding immediately before the merger becomes effective is converted in the merger into a share or equal fraction of a share of the holding company having the same designations and relative preferences, rights, and limitations as the share or fraction of a share of the parent constituent corporation being converted in the merger;

(h) The articles of incorporation and bylaws of the holding company immediately after the merger becomes effective contain provisions identical to the articles of incorporation and bylaws of the parent constituent corporation immediately before the merger becomes effective, other than any provisions regarding the incorporator or incorporators, the corporate name, the registered office and agent, the initial board of directors and the initial subscribers for shares, and the provisions contained in any amendment to the articles of incorporation of the parent constituent corporation that were necessary to effect an exchange, reclassification, or cancellation of shares if the exchange, reclassification, or cancellation has become effective;

(i) The articles of incorporation and bylaws of the surviving corporation immediately after the merger becomes effective contain provisions by specific reference to this subsection requiring that any corporate action by or involving the surviving corporation, other than the election or removal of directors of the surviving corporation, must be approved by the shareholders of the holding

company (or any successor by merger) by the same vote as is required by this title or under the articles of incorporation or bylaws of the parent constituent corporation immediately before the merger becomes effective, if that corporate action would have required the approval of the shareholders of the parent constituent corporation under this title or under the articles of incorporation or bylaws of the parent constituent corporation immediately before the merger becomes effective;

(j) The directors of the parent constituent corporation immediately before the merger becomes effective become or remain the directors of the holding company immediately after the merger becomes effective; and

(k) The board of directors of the parent constituent corporation determines that the shareholders of the parent constituent corporation will not recognize gain or loss for United States federal income tax purposes as a result of the merger.

(3) The holding company must, within 10 days after the effective date of a merger effected under subsection (2) of this section, notify each person who was a shareholder of the parent constituent corporation immediately before the merger became effective that the merger has become effective. The notice must contain or be accompanied by a copy of the plan of merger or a summary of the material terms and conditions of the merger and the consideration to be received by those shareholders.

(4) To the extent restrictions under chapter 23B.19 RCW applied to the parent constituent corporation or any of its shareholders at the effective time of the merger, those restrictions apply to the holding company and its shareholders immediately after the merger becomes effective as though the holding company were the parent constituent corporation, and all shares of stock of the holding company acquired in the merger will, for the purposes of chapter 23B.19 RCW, be deemed to have been acquired at the time that the corresponding shares of stock of the parent constituent corporation were acquired. No shareholder who, immediately before the merger becomes effective, was not an acquiring person of the parent constituent corporation under chapter 23B.19 RCW will, solely by reason of the merger, become an acquiring person of the holding company under chapter 23B.19 RCW.

(5) To the extent a shareholder of the parent constituent corporation immediately before the merger was eligible to commence a proceeding in the right of the parent constituent corporation in accordance with RCW 23B.07.400, nothing in this section is deemed to limit or extinguish that eligibility.

(6) Except as provided in subsections (2), (3), (4), and (5) of this section, a merger between a parent constituent corporation and a subsidiary constituent corporation will be governed by the provisions of this chapter applicable to mergers generally.

NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act constitute a new chapter in Title 23B RCW.

NEW SECTION. **Sec. 13.** The following acts or parts of acts are each repealed:

(1) RCW 23B.11.010 (Merger) and 2022 c 42 s 107, 2020 c 194 s 11, & 1989 c 165 s 131;

(2) RCW 23B.11.020 (Share exchange) and 2020 c 194 s 12 & 1989 c 165 s 132;

(3) RCW 23B.11.030 (Approval of plan of merger or share exchange) and 2023 c 432 s 5, 2022 c 42 s 108, 2011 c 328 s 6, 2009 c 189 s 38, 2003 c 35 s 6, & 1989 c 165 s 133;

(4) RCW 23B.11.035 (Plan of merger or share exchange—Separate voting group) and 2003 c 35 s 7;

(5) RCW 23B.11.040 (Merger of or into subsidiary) and 2017 c 28 s 17, 2009 c 189 s 39, 2002 c 297 s 34, & 1989 c 165 s 134;

(6) RCW 23B.11.045 (Merger without approval of plan of merger—Definitions) and 2023 c 432 s 6;

(7) RCW 23B.11.050 (Articles of merger or share exchange) and 2022 c 42 s 109 & 1989 c 165 s 135;

(8) RCW 23B.11.060 (Effect of merger or share exchange) and 2022 c 42 s 110 & 1989 c 165 s 136;

(9) RCW 23B.11.070 (Merger or share exchange with foreign corporation) and 2015 c 176 s 2124 & 1989 c 165 s 137;

(10) RCW 23B.11.080 (Merger) and 2015 c 188 s 110, 2009 c 188 s 1401, 1998 c 103 s 1310, & 1991 c 269 s 38;

(11) RCW 23B.11.090 (Articles of merger) and 2022 c 42 s 111, 2015 c 188 s 111, 2009 c 188 s 1402, 1998 c 103 s 1311, & 1991 c 269 s 39;

(12) RCW 23B.11.100 (Merger—Corporation is surviving entity) and 2022 c 42 s 112, 1998 c 103 s 1312, & 1991 c 269 s 40; and

(13) RCW 23B.11.110 (Merger with foreign and domestic entities—Effect) and 2015 c 188 s 112, 2015 c 176 s 2125, 2009 c 188 s 1403, 1998 c 103 s 1313, & 1991 c 269 s 41.

Sec. 14. RCW 23B.01.400 and 2023 c 432 s 1 are each reenacted and amended to read as follows:

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

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so prepared that a reasonable person against whom the writing is to operate should have noticed it. For example, text in italics, boldface, contrasting color, capitals, or underlined is conspicuous.

(4) "Controlling interest" means ownership of an entity's outstanding shares or interests in such number as to entitle the holder at the time to elect a majority of the entity's directors or other governors without regard to voting power which may thereafter exist upon a default, failure, or other contingency.

(5) "Corporate action" means any resolution, act, policy, contract, transaction, plan, adoption or amendment of articles of incorporation or bylaws, or other matter approved by or submitted for approval to a corporation's incorporators, board of directors or a committee thereof, or shareholders.

(6) "Corporation" or "domestic corporation" means a corporation for profit, including a social purpose corporation, which is not a foreign corporation, incorporated under or subject to the provisions of this title.

(7) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and, if authorized in accordance with RCW 23B.01.410, by electronic transmission.

(8) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect to any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a distribution in partial or complete liquidation, or upon voluntary or involuntary dissolution; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(9) "Document" means:

(a) Any tangible medium on which information is inscribed, and includes handwritten, typed, printed, or similar instruments or copies of such instruments; and

(b) An electronic record.

(10) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(11) "Electronic mail" means an electronic transmission directed to a unique electronic mail address, which electronic mail will be deemed to include any files attached thereto and any information hyperlinked to a website if the electronic mail includes the contact information of an officer or agent of the corporation who is available to assist with accessing such files and information.

(12) "Electronic mail address" means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox, commonly referred to as the "local part" of the address, and a reference to an internet domain, commonly referred to as the "domain part" of the address, whether or not displayed, to which electronic mail can be sent or delivered.

(13) "Electronic record" means information that is stored in an electronic or other nontangible medium and: (a) Is retrievable in paper form by the recipient through an automated process used in conventional commercial practice; or (b) if not retrievable in paper form by the recipient through an automated process used in conventional commercial practice, is otherwise authorized in accordance with RCW 23B.01.410(10).

(14) "Electronic transmission" or "electronically transmitted" means internet transmission, telephonic transmission, electronic mail transmission, transmission of a telegram, cablegram, or datagram, the use of, or participation in, one or more electronic networks or databases including one or more distributed electronic networks or databases, or any other form or process of communication, not directly involving the physical transfer of paper or another tangible medium, which:

(a) Is suitable for the retention, retrieval, and reproduction of information by the recipient; and

(b) Is retrievable in paper form by the recipient through an automated process used in conventional commercial practice, or, if not retrievable in paper form by the recipient through an automated process used in conventional commercial practice, is otherwise authorized in accordance with RCW 23B.01.410(10).

(15) "Employee" includes an officer but not a director. A director may accept duties that make the director also an employee.

(16) "Entity" includes a corporation and foreign corporation, not-for-profit corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, two or more persons having a joint or common economic interest, the state, United States, and a foreign governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(17) "Execute," "executes," or "executed" means, with present intent to authenticate or adopt a document:

(a) To sign or adopt a tangible symbol to the document, and includes any manual, facsimile, or conformed signature;

(b) To attach or logically associate with an electronic transmission an electronic sound, symbol, or process, and includes an electronic signature; or

(c) With respect to a document to be filed with the secretary of state, in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state.

(18) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(19) "Foreign limited partnership" means a partnership formed under laws other than of this state and having as partners one or more general partners and one or more limited partners.

(20) "Forward stock split" means the pro rata division of all the outstanding shares of a class of stock into a greater number of shares of the same class, whether or not the authorized shares of such a class are increased in the same proportion, but does not include a share dividend under RCW 23B.06.230.

(21) "General social purpose" means the general social purpose for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(1)(c).

(22) "Governmental subdivision" includes authority, county, district, and municipality.

(23) "Governor" has the meaning given that term in RCW 23.95.105.

(24) "Includes" denotes a partial definition.

(25) "Individual" includes the estate of an incompetent or deceased individual.

(26) "Limited partnership" or "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(27) "Means" denotes an exhaustive definition.

(28) "Notice" has the meaning provided in RCW 23B.01.410.

(29) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(30) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

(31) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(32) "Public company" means a corporation that either has a class of shares registered with the federal securities and exchange commission pursuant to section 12 or which is subject to section 15(d) of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute.

(33) "Qualified director" means (a) with respect to a director's conflicting interest transaction as defined in RCW 23B.08.700, any director who does not have either (i) a conflicting interest respecting the transaction, or (ii) a familial, financial, professional, or employment relationship with a second director who does have a conflicting interest respecting the transaction, which relationship would, in the circumstances, reasonably be expected to exert an influence on the first director's judgment when voting on the transaction; (b) with respect to RCW 23B.08.735, a qualified director under (a) of this subsection if the business opportunity were a director's conflicting interest transaction; and (c) with respect to RCW 23B.02.020(2)(g), a director who is not a director (i) to whom the limitation or elimination of the duty of an officer to offer potential business opportunities to the corporation would apply, or (ii) who has a familial, financial, professional, or employment relationship with another officer to whom the limitation or elimination would apply, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the limitation or elimination.

(34) "Record date" means the date fixed for determining the identity of a corporation's shareholders and their shareholdings for purposes of this title. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(35) "Registered office" means the address of the corporation's registered agent.

(36) "Reverse stock split" means the pro rata combination of all the outstanding shares of a class of stock into a smaller number of shares of the same class, whether or not the authorized shares of such a class are reduced in the same proportion.

(37) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under RCW 23B.08.400(3) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(38) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(39) "Shares" means the units into which the proprietary interests in a corporation are divided.

(40) "Social purpose" includes any general social purpose and any specific social purpose.

(41) "Social purpose corporation" means a corporation that has elected to be governed as a social purpose corporation under chapter 23B.25 RCW.

(42) "Specific social purpose" means the specific social purpose or purposes for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(2)(a).

(43) "State," when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a

territory and insular possession, and their agencies and governmental subdivisions, of the United States.

(44) "Stock split" means a forward stock split or a reverse stock split.

(45) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(46) "Subsidiary" means an entity in which the corporation has, directly or indirectly, a controlling interest.

(47) "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

(48) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this title are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this title to vote generally on the matter are for that purpose a single voting group.

(49) "Writing" or "written" means any information in the form of a document.

(50) "Interest" means either or both of the following rights under the organic law governing an other entity:

(a) A right to receive distributions from the other entity either in the ordinary course of business or upon liquidation; or

(b) The right to receive notice of or vote on issues involving the other entity's internal affairs, other than as an agent, assignee, proxy, or person responsible for managing the other entity's business affairs.

(51) "Interest holder" means a person who holds of record an interest.

(52) "Jurisdiction of organization" means the state or country the law of which includes the organic law governing a domestic corporation or other entity.

(53) "Organic law" means the statute governing the internal affairs of an entity.

(54) "Organic rules" means the public organic record and private organic rules of an entity.

(55) "Other entity" means any entity that is not any of the following: A domestic corporation, a domestic or foreign not-for-profit corporation, a series of a limited liability company or similar entity, an estate, a trust, a state, the United States, or a foreign governmental subdivision, agency, or instrumentality. The term includes, but is not limited to, a foreign corporation, a limited partnership, a general partnership, a limited liability company, a joint venture, a joint stock company, and a business trust.

(56) "Owner liability" means personal liability for a debt, obligation, or liability of an entity that is imposed on a person:

(a) Solely by reason of the person's status as a shareholder or interest holder;

(b) By the articles of incorporation or bylaws of a corporation authorizing the articles of incorporation or bylaws to make one or more specified shareholders liable in their capacity as shareholders for all or specified debts, obligations, or liabilities of the corporation; or

(c) By one or more organic rules of an other entity authorizing the organic rules to make one or more specified interest holders liable in their capacity as interest holders for all or specified debts, obligations, or liabilities of the other entity.

(57) "Private organic rules" means (a) the bylaws of a domestic corporation or (b) the rules, regardless of whether in writing, (i) that govern the internal affairs of an other entity, (ii) which are binding on all of the other entity's interest holders, and (iii) which are not part of the other entity's public organic record, if any. Where private organic rules have been amended or restated, the term means the private organic rules as last amended or restated.

(58) "Public organic record" means (a) the articles of incorporation of a domestic corporation or (b) the document, if any, the filing of which is required to create an other entity. Where a public organic record has been amended or restated, the term means the public organic record as last amended or restated.

(59) "Voting power" means the total number of votes entitled to be cast by all of the outstanding voting shares of a corporation on the date in question.

(60) "Voting shares" means the shares of all classes of a corporation entitled to vote generally in the election of directors on the date in question.

Sec. 15. RCW 23B.07.250 and 2009 c 189 s 18 are each amended to read as follows:

(1) Shares entitled to vote as a separate voting group may approve a corporate action at a meeting only if a quorum of those shares exists with respect to that corporate action. Unless the articles of incorporation or this title provide otherwise, a majority of the votes entitled to be cast on the corporate action by the voting group constitutes a quorum of that voting group for approval of that corporate action. Whenever this title requires a particular quorum for a specified corporate action, the articles of incorporation may not provide for a lower quorum.

(2) Once a share is represented for any purpose at a meeting other than solely to object to holding the meeting or transacting business at the meeting, it is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

(3) If a quorum exists, a corporate action, other than the election of directors, is approved by a voting group if the votes cast within the voting group favoring the corporate action exceed the votes cast within the voting group opposing the corporate action, unless the articles of incorporation or this title require a greater number of affirmative votes.

(4) An amendment of the articles of incorporation adding, changing, or deleting ((~~either (i) [(a)]~~)) a quorum ((~~for a voting group greater or lesser than specified in subsection (1) of this section,~~)) or (((~~(ii) [(b)] a~~)) voting requirement for a voting group greater than specified in subsection (1) or (3) of this section((~~,~~)) is governed by RCW 23B.07.270.

(5) Whenever a provision of this title provides for voting of classes or series as separate voting groups, the rules provided in RCW 23B.10.040(3) for amendments of the articles of incorporation apply to that provision.

(6) The election of directors is governed by RCW 23B.07.280.

Sec. 16. RCW 23B.07.270 and 2009 c 189 s 20 are each amended to read as follows:

(((~~(1) The articles of incorporation may provide for a greater or lesser quorum, but not less than one-third of the votes entitled to be cast, for shareholders, or voting groups of shareholders, than is provided for by this title.~~

~~(2) The articles of incorporation may provide for a greater voting requirement for shareholders, or voting groups of shareholders, than is provided for by this title.~~

~~(3) Under RCW 23B.10.030, 23B.11.030, 23B.12.020, and 23B.14.020, the articles of incorporation may provide for a lesser vote than is otherwise prescribed in those sections or for a lesser vote by separate voting groups, so long as the vote provided for each voting group entitled to vote separately on the plan or transaction is not less than a majority of all the votes entitled to be cast on the plan or transaction by that voting group.~~

~~(4) Except as provided in subsection (5) of this section, an amendment to the articles of incorporation that adds, changes, or deletes a greater or lesser quorum or voting requirement for a particular corporate action must meet the same quorum requirement and be adopted by the same vote and voting groups as are required under the quorum and voting requirements then in effect for approval of the corporate action.~~

~~(5)~~)) An amendment to the articles of incorporation that adds, changes, or deletes a ((~~greater or lesser~~)) quorum or voting requirement ((~~for a merger, share exchange, sale of substantially all assets, or dissolution must be adopted~~)) must meet the same quorum requirement and be approved by the same vote and voting groups ((~~as are~~)) required ((~~under the quorum and voting requirements then in effect for approval of the particular corporate action, or~~)) to take action under the quorum and voting requirements then in effect ((~~for amendments to articles of incorporation~~)) or proposed to be approved, whichever is greater.

Sec. 17. RCW 23B.08.080 and 1995 c 47 s 7 are each amended to read as follows:

(1) The shareholders may remove one or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

(2) If a director is elected by holders of one or more authorized classes or series of shares, only the holders of those classes or series of shares may participate in the vote to remove the director.

(3) ((~~If~~)) A director may be removed if the number of votes cast to remove exceeds the number of votes cast not to remove the director, except to the extent the articles of incorporation or bylaws require a greater number; except that if cumulative voting is authorized, and if less than the entire board is to be removed, no director may be removed if, in the case of a meeting, the number of votes sufficient to elect the director under cumulative voting is voted against the director's removal((~~. If cumulative voting is not authorized, a director may be removed only if the number of votes cast to remove the director exceeds the number of votes cast not to remove the director~~)) and, if action is taken by less than unanimous written consent, voting shareholders entitled to the number of votes sufficient to elect the director under cumulative voting do not consent to the removal.

(4) A director may be removed by the shareholders only at a special meeting called for the purpose of removing the director and the meeting notice must state that ((~~the purpose, or one of the purposes, of the meeting is~~)) removal of the director is a purpose of the meeting.

Sec. 18. RCW 23B.08.240 and 2020 c 57 s 61 are each amended to read as follows:

(1) Unless the articles of incorporation or bylaws ((~~require~~)) provide for a greater or lesser number or unless otherwise expressly provided in this title, a quorum of a board of directors consists of a majority of the number of directors specified in or fixed in accordance with the articles of incorporation or bylaws.

(2) Notwithstanding subsection (1) of this section, a quorum of ((~~a~~)) the board of directors ((~~may in no event be less than one-third of the number of directors specified in or fixed in accordance with the articles of incorporation or bylaws~~)) specified in or fixed in accordance with the articles of incorporation or bylaws may not consist of less than one-third of the specified or fixed number of directors.

(3) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors or unless otherwise expressly provided in this title.

(4) A director who is present at a meeting of the board of directors or a committee when corporate action is approved is deemed to have assented to the corporate action unless: (a) The director objects at the beginning of the meeting, or promptly upon the director's arrival, to holding it or transacting business at the meeting; (b) the director's dissent or abstention as to the corporate action is entered in the minutes of the meeting; or (c) the director delivers written notice of the director's dissent or abstention as to the corporate action to the presiding officer of the meeting before adjournment or to the corporation within a reasonable time after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the corporate action.

Sec. 19. RCW 23B.09.030 and 2020 c 57 s 65 are each amended to read as follows:

In the case of an entity conversion of a domestic corporation to an other entity, the plan of conversion must be approved in the following manner:

(1) The plan of entity conversion must first be ((~~adopted~~)) approved by the board of directors of the converting entity ((~~and the shareholders entitled to vote must approve the plan~~)).

(2) ((~~After adopting a plan of entity conversion, the board of directors of the converting entity must submit the plan of entity conversion for approval by its shareholders.~~

~~(3)~~)) The plan of entity conversion must then be approved by the shareholders of the converting entity. In submitting the plan of entity conversion to the shareholders for approval, the board of directors must recommend that the shareholders approve the plan of entity conversion ((~~to the shareholders~~)), unless (a) the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation; or (b) RCW 23B.08.245 applies((~~, and in either case the board of directors communicates the basis for so proceeding to the shareholders~~)). If either (a) or (b) of this subsection applies, the board of directors must inform the shareholders of the basis for its so proceeding.

(((~~4~~))) (3) The board of directors may ((~~condition its submission~~)) set conditions for the approval of the plan of entity conversion ((~~on any basis,~~

~~including the affirmative vote of holders of a specified percentage of shares held by any group of shareholders not otherwise entitled to vote as a separate voting group on~~)) or the effectiveness of the plan of entity conversion.

(((~~(5) In the case of an entity conversion of a domestic corporation to a foreign corporation, in addition to any other voting conditions imposed by the board of directors acting pursuant to subsection (4) of this section, approval of the plan of entity conversion requires the affirmative vote of shareholders that would be required to approve a plan of merger under RCW 23B.11.030, and of each other voting group entitled under RCW 23B.11.035 or the articles of incorporation to vote separately on a plan of merger. Separate voting by additional voting groups is required on a plan of entity conversion if such voting group or groups would be entitled to vote on a plan of merger under the circumstances described in RCW 23B.11.035. The articles of incorporation may require a greater or lesser vote to approve a plan of entity conversion than that provided in this subsection, or a greater or lesser vote by separate voting groups, so long as the required vote is not less than a majority of all the votes entitled to be cast on the plan of entity conversion and of each other voting group entitled to vote separately on the plan.~~

~~(6) In the case of an entity conversion of a domestic corporation to an other entity that is not a foreign corporation, approval of the plan of entity conversion requires the approval of all shareholders of the domestic corporation, whether or not entitled to vote under this title or the articles of incorporation.~~

~~(7) If as a result of the conversion one or more shareholders of the domestic corporation would become subject to owner liability for the debts, obligations, or liabilities of any other person or entity, in addition to the approval requirements under subsections (5) and (6) of this section, approval of the plan of entity conversion must also require each such shareholder to execute a separate written consent to become subject to such owner liability.~~

~~(8)~~)) (4) If the approval of the shareholders is to be given at a meeting, the ((~~domestic corporation~~)) converting entity must notify each shareholder, regardless of whether ((~~or not~~)) entitled to vote, of the ((~~proposed~~)) meeting of shareholders at which the plan of entity conversion is to be submitted for approval ((~~in accordance with RCW 23B.07.050~~)). The notice must state that ((~~the purpose, or one of the purposes, of the meeting is to consider the plan of entity conversion~~)) consideration of the plan of entity conversion is a purpose of the meeting and must contain or be accompanied by a copy or summary of the plan of entity conversion. The notice must include or be accompanied by a copy of the organic ((~~documents~~)) rules of the surviving entity as they will be in effect immediately after the conversion.

(((~~(9) If any provision of the articles of incorporation, bylaws, or an agreement to which any of the directors or shareholders of the domestic corporation are parties, adopted, or entered into before June 12, 2014, applies to a merger of the domestic corporation, other than a provision that limits or eliminates voting or dissenters' rights, and the document does not refer to an entity conversion of the domestic corporation, the provision is deemed to apply to an entity conversion of the domestic corporation until the provision is subsequently amended.~~))

(5) Unless the articles of incorporation, or the board of directors acting in accordance with subsection (3) of this section, requires a greater vote,

shareholder approval of the plan of entity conversion requires (a) the affirmative vote of shareholders that would be required to approve a plan of merger under section 4 of this act, and (b) the approval of each other voting group that would be entitled under the circumstances described in section 5 of this act or the articles of incorporation to vote separately on a plan of merger.

(6) If as a result of the conversion one or more shareholders of the converting entity would become subject to owner liability, approval of the plan of entity conversion must also require each such shareholder to execute a separate written consent to become subject to such owner liability.

Sec. 20. RCW 23B.10.030 and 2011 c 328 s 5 are each amended to read as follows:

(((~~(1) A corporation's board of directors may propose one or more amendments to the articles of incorporation for submission to the shareholders.~~

~~(2) For the amendment to be adopted:~~

~~(a) The~~)) If a corporation has issued shares, an amendment to the articles of incorporation, other than an amendment pursuant to RCW 23B.10.020, must be approved in the following manner:

(1) The proposed amendment must first be approved by the board of directors;

(2) Except as provided in RCW 23B.10.070 and 23B.10.080, the amendment must then be approved by the shareholders. In submitting the proposed amendment to the shareholders for approval, the board of directors must recommend that the shareholders approve the amendment ((~~to the shareholders~~)) unless (((~~(i)~~))) (a) the board of directors ((~~determines~~)) makes a determination that because of conflicts of interest or other special circumstances it should not make ((~~no~~)) such a recommendation, or (((~~(ii)~~))) (b) RCW 23B.08.245 applies((~~, and in either case the board of directors communicates the basis for so proceeding to the shareholders; and~~

~~(b) The shareholders entitled to vote on the amendment must approve the amendment as provided in subsection (5) of this section~~)). If either (a) or (b) of this subsection applies, the board of directors must inform the shareholders of the basis for its so proceeding.

(3) The board of directors may ((~~condition its submission of the proposed amendment on any basis, including the affirmative vote of holders of a specified percentage of shares held by any group of shareholders not otherwise entitled under this title or the articles of incorporation to vote as a separate voting group on the proposed amendment~~)) set conditions for the approval of the amendment by the shareholders or the effectiveness of the amendment.

(4) ((~~The~~)) If the amendment is required to be approved by the shareholders, and if the approval is to be given at a meeting, the corporation ((~~shall~~)) must notify each shareholder, regardless of whether ((~~or not~~)) entitled to vote, of the ((~~proposed shareholders' meeting in accordance with RCW 23B.07.050~~)) meeting of shareholders at which the amendment is to be submitted for approval. The notice of meeting must ((~~also~~)) state that the purpose, or one of the purposes, of the meeting is to consider the ((~~proposed~~)) amendment and contain or be accompanied by a copy of the amendment.

(5) ((~~In addition to any other voting conditions imposed by the board of directors under subsection (3) of this section, the amendment to be adopted must be approved by two-thirds, or, in the case of a public company, a majority, of the~~

~~voting group comprising all the votes entitled to be cast on the proposed amendment, and of each other voting group entitled under RCW 23B.10.040 or the articles of incorporation to vote separately on the proposed amendment. The articles of incorporation may require a greater vote than that provided for in this subsection. The articles of incorporation of a corporation other than a public company may require a lesser vote than that provided for in this subsection, or may require a lesser vote by separate voting groups, so long as the required vote is not less than a majority of all the votes entitled to be cast on the proposed amendment and of each other voting group entitled to vote separately on the proposed amendment. Separate voting by additional voting groups is required on a proposed amendment under the circumstances described in RCW 23B.10.040~~))

(a) With respect to a corporation formed before August 1, 2024:

(i) Unless the articles of incorporation, or the board of directors acting in accordance with subsection (3) of this section, require a different vote, shareholder approval of the amendment requires (A) the approval of two-thirds, or, in the case of a public company, a majority, of the votes entitled to be cast on the amendment, and (B) the approval of two-thirds, or, in the case of a public company, a majority, of the votes entitled to be cast on the amendment by each other voting group entitled under RCW 23B.10.040 or the articles of incorporation to vote separately on the amendment; and

(ii) The articles of incorporation may require a different vote than that provided in this subsection, or a different vote by separate voting groups, so long as the required vote is not less than a majority of all the votes entitled to be cast on the amendment and of each other voting group entitled to vote separately on the amendment.

(b) With respect to a corporation formed on or after August 1, 2024, unless the articles of incorporation, or the board of directors acting in accordance with subsection (3) of this section, require a greater vote, shareholder approval of the amendment requires (i) the approval of a majority of the votes entitled to be cast on the amendment, and (ii) the approval of a majority of the votes entitled to be cast on the amendment by each other voting group entitled under RCW 23B.10.040 or the articles of incorporation to vote separately on the amendment.

Sec. 21. RCW 23B.12.020 and 2019 c 141 s 7 are each amended to read as follows:

(1) Except as provided in subsection (11) of this section, a sale, lease, exchange, or other disposition of a corporation's property and assets, other than in the usual and regular course of its business, requires approval of the corporation's shareholders if the disposition would leave the corporation without a significant continuing business activity.

(2) A continuing business activity will be conclusively presumed to represent a significant continuing business activity if, for the corporation and its subsidiaries on a consolidated basis, it represented at least:

(a) Twenty-five percent of total assets at the end of the most recently completed fiscal year; and

(b) Either: (i) Twenty-five percent of income from continuing operations before taxes, or (ii) twenty-five percent of revenues from continuing operations, in each case for the most recently completed fiscal year.

(3) No presumption that a disposition will leave the corporation without a significant continuing business activity will arise from the fact that the

corporation's continuing business activity does not equal or exceed any of the percentages set forth in subsection (2) of this section.

(4) The determination of whether or not a continuing business activity constitutes a significant continuing business under subsection (2) of this section may be based either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or, in the case of subsection (2)(a) of this section, on a fair valuation or other method that is reasonable in the circumstances.

(5) For a disposition to be approved by a corporation's shareholders:

(a) The board of directors must approve the disposition and submit the proposed disposition for approval by the shareholders;

(b) The board of directors must recommend the proposed disposition to the shareholders unless (i) the board of directors determines that because of conflicts of interest or other special circumstances it should make no recommendation or (ii) RCW 23B.08.245 applies, and in either case the board of directors communicates the basis for so proceeding to the shareholders; and

(c) The shareholders entitled to vote on the proposed disposition must approve the proposed disposition as provided in subsection (8) of this section.

(6) The board of directors may condition its submission of the proposed disposition on any basis, including the affirmative vote of holders of a specified percentage of shares held by any group of shareholders not otherwise entitled under this title or the articles of incorporation to vote as a separate voting group on the proposed disposition.

(7) If the approval of the shareholders is to be given at a meeting, the corporation must notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with RCW 23B.07.050. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the proposed disposition and contain or be accompanied by a description of the proposed disposition, including a summary of the material terms and conditions thereof and the consideration to be received by the corporation.

(8) ((~~In addition to any other voting conditions imposed by the board of directors under subsection (6) of this section~~)) (a) With respect to a corporation formed before August 1, 2024:

(i) Unless the articles of incorporation, or the board of directors acting in accordance with subsection (6) of this section, require a different vote, shareholder approval of the proposed disposition requires (A) the approval of two-thirds of the votes entitled to be cast on the proposed disposition, and (B) the approval of two-thirds of the votes entitled to be cast on the proposed disposition by each other voting group entitled under the articles of incorporation to vote separately on the proposed disposition, unless shareholder approval is not required under subsection (11) of this section; and

(ii) The articles of incorporation may require a different vote than that provided in this subsection, or a different vote by separate voting groups, so long as the required vote is not less than a majority of all the votes entitled to be cast on the proposed disposition and of each other voting group entitled to vote separately on the proposed disposition.

(b) With respect to a corporation formed on or after August 1, 2024, unless the articles of incorporation, or the board of directors acting in accordance with

subsection (6) of this section, requires a greater vote, the proposed disposition must be approved by ((~~two-thirds~~)) a majority of the voting group comprising all the votes entitled to be cast on the proposed disposition, and of each other voting group entitled under the articles of incorporation to vote separately on the proposed disposition, unless shareholder approval is not required under subsection (11) of this section. ((~~The articles of incorporation may require a greater or lesser vote than provided in this subsection, or a greater or lesser vote by any separate voting groups provided for in the articles of incorporation, so long as the required vote is not less than a majority of all the votes entitled to be cast on the proposed disposition and of each other voting group entitled to vote separately on the proposed disposition.~~))

(9) After a proposed disposition has been approved by the shareholders as required by this section, and at any time before the proposed disposition has been consummated, the board of directors may abandon the proposed disposition without further action by the shareholders, subject to any contractual rights of other parties relating thereto.

(10) A disposition that constitutes a distribution is governed by RCW 23B.06.400 and not by this section.

(11) Unless the articles of incorporation otherwise require, approval by the shareholders of a parent corporation is not required for the transfer of any or all of the parent corporation's property and assets to one or more subsidiaries all of the shares or interests of which are owned, directly or indirectly, by the parent corporation.

(12) The assets of a subsidiary are to be treated as the assets of its parent corporation for purposes of this section.

Sec. 22. RCW 23B.13.020 and 2022 c 42 s 113 are each amended to read as follows:

(1) A shareholder is entitled to dissent from, and obtain payment of the fair value of the shareholder's shares in the event of, any of the following corporate actions:

(a) ((~~A plan of merger, which has become effective, to which the corporation is a party (i) if shareholder approval was required for the merger by RCW 23B.11.030, 23B.11.080, or the articles of incorporation, or would have been required but for the provisions of RCW 23B.11.030(9), and the shareholder was, or but for the provisions of RCW 23B.11.030(9) would have been, entitled to vote on the merger, or (ii) if the corporation was a subsidiary and the plan of merger provided for the merger of the subsidiary with its parent under RCW 23B.11.040~~)) Consummation of a merger to which the corporation is a party (i) if shareholder approval is required for the merger by section 4 of this act or the articles of incorporation, or would be required but for the provisions of section 6 of this act, and the shareholder is, or but for the provisions of section 6 of this act would be, entitled to vote on the merger, except that the right to dissent will not be available to any shareholder of the corporation with respect to shares of any class or series that remain outstanding after consummation of the merger; or (ii) if the corporation is a subsidiary and the merger is governed by section 7 of this act;

(b) A plan of share exchange, which has become effective, to which the corporation is a party as the corporation whose shares have been acquired, if the shareholder was entitled to vote on the plan;

(c) A sale, lease, exchange, or other disposition, which has become effective, of all, or substantially all, of the property and assets of the corporation other than in the usual and regular course of business, if the shareholder was entitled to vote on the sale, lease, exchange, or other disposition, including a disposition in dissolution, but not including a disposition pursuant to court order or a disposition for cash pursuant to a plan by which all or substantially all of the net proceeds of the disposition will be distributed to the shareholders within one year after the date of the disposition;

(d) An amendment of the articles of incorporation, whether or not the shareholder was entitled to vote on the amendment, if the amendment effects a redemption or cancellation of all of the shareholder's shares in exchange for cash or other consideration other than shares of the corporation;

(e) Any action described in RCW 23B.25.120;

(f) Any corporate action approved pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares; or

(g) A plan of entity conversion in the case of a conversion of a domestic corporation to a foreign corporation, which has become effective, to which the domestic corporation is a party as the converting entity, if: (i) The shareholder was entitled to vote on the plan; and (ii) the shareholder does not receive shares in the surviving entity that have terms as favorable to the shareholder in all material respects and that represent at least the same percentage interest of the total voting rights of the outstanding shares of the surviving entity as the shares held by the shareholder before the conversion.

(2) A shareholder entitled to dissent and obtain payment for the shareholder's shares under this chapter may not challenge the corporate action creating the shareholder's entitlement unless the action fails to comply with the procedural requirements imposed by this title, RCW 25.10.831 through 25.10.886, the articles of incorporation, or the bylaws, or is fraudulent with respect to the shareholder or the corporation.

(3) The right of a dissenting shareholder to obtain payment of the fair value of the shareholder's shares shall terminate upon the occurrence of any one of the following events:

(a) The proposed corporate action is abandoned or rescinded;

(b) A court having jurisdiction permanently enjoins or sets aside the corporate action; or

(c) The shareholder's demand for payment is withdrawn with the written consent of the corporation.

Sec. 23. RCW 23B.13.200 and 2022 c 42 s 114 are each amended to read as follows:

(1) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 is submitted for approval by a vote at a shareholders' meeting, the meeting notice must state that shareholders are or may be entitled to assert dissenters' rights under this chapter and be accompanied by a copy of this chapter.

(2) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 would be submitted for approval by a vote at a shareholders' meeting but for the provisions of ((~~RCW 23B.11.030(9)~~)) section 4 of this act,

the offer made pursuant to ((~~RCW 23B.11.030(9)~~)) section 4 of this act must state that shareholders are or may be entitled to assert dissenters' rights under this chapter and be accompanied by a copy of this chapter.

(3) If corporate action creating dissenters' rights under RCW 23B.13.020 is submitted for approval without a vote of shareholders in accordance with RCW 23B.07.040, the shareholder consent described in RCW 23B.07.040(1)(b) and the notice described in RCW 23B.07.040(3)(a) must include a statement that shareholders are or may be entitled to assert dissenters' rights under this chapter and be accompanied by a copy of this chapter.

Sec. 24. RCW 23B.13.210 and 2022 c 42 s 115 are each amended to read as follows:

(1) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert dissenters' rights must (a) deliver to the corporation before the vote is taken written notice of the shareholder's intent to demand payment for the shareholder's shares if the proposed corporate action is effected, and (b) not vote such shares in favor of the proposed corporate action.

(2) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 does not require shareholder approval pursuant to ((~~RCW 23B.11.030(9)~~)) section 4 of this act, a shareholder who wishes to assert dissenters' rights with respect to any class or series of shares:

(a) Shall deliver to the corporation before the shares are purchased pursuant to the offer under ((~~RCW 23B.11.030(9)~~)) section 4 of this act written notice of the shareholder's intent to demand payment for the shareholder's shares if the proposed corporate action is effected; and

(b) Shall not tender, or cause to be tendered, any shares of such class or series in response to such offer.

(3) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 is submitted for approval without a vote of shareholders in accordance with RCW 23B.07.040, a shareholder who wishes to assert dissenters' rights must not execute the consent or otherwise vote such shares in favor of the proposed corporate action.

(4) A shareholder who does not satisfy the requirements of subsection (1), (2), or (3) of this section is not entitled to payment for the shareholder's shares under this chapter.

Sec. 25. RCW 23B.13.220 and 2022 c 42 s 116 are each amended to read as follows:

(1) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 is approved at a shareholders' meeting, the corporation shall within ten days after the effective date of the corporate action deliver to all shareholders who satisfied the requirements of RCW 23B.13.210(1) a notice in compliance with subsection (6) of this section.

(2) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 is approved without a vote of shareholders in accordance with ((~~RCW 23B.11.030(9)~~)) section 4 of this act, the corporation shall within 10 days after the effective date of the corporate action deliver to all shareholders who satisfied the requirements of RCW 23B.13.210(2) a notice in compliance with subsection (6) of this section.

(3) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 is approved without a vote of shareholders in accordance with RCW 23B.07.040, the notice delivered pursuant to RCW 23B.07.040(3)(b) to shareholders who satisfied the requirements of RCW 23B.13.210(3) shall comply with subsection (6) of this section.

(4) In the case of proposed corporate action creating dissenters' rights under RCW 23B.13.020(1)(a)(ii), the corporation shall within ten days after the effective date of the corporate action deliver to all shareholders of the subsidiary other than the parent a notice in compliance with subsection (6) of this section.

(5) In the case of proposed corporate action creating dissenters' rights under RCW 23B.13.020(1)(d) that, pursuant to RCW 23B.10.020(4)(b), is not required to be approved by the shareholders of the corporation, the corporation shall within ten days after the effective date of the corporate action deliver to all shareholders entitled to dissent under RCW 23B.13.020(1)(d) a notice in compliance with subsection (6) of this section.

(6) Any notice under subsection (1), (2), (3), (4), or (5) of this section must:

(a) State where the payment demand must be sent and where and when certificates for certificated shares must be deposited;

(b) Inform holders of uncertificated shares to what extent transfer of the shares will be restricted after the payment demand is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action and requires that the person asserting dissenters' rights certify whether or not the person acquired beneficial ownership of the shares before that date;

(d) Set a date by which the corporation must receive the payment demand, which date may not be fewer than thirty nor more than sixty days after the date the notice in subsection (1), (2), (3), (4), or (5) of this section is delivered; and

(e) Be accompanied by a copy of this chapter.

Sec. 26. RCW 23B.17.015 and 2011 c 42 s 1 are each amended to read as follows:

(1) A corporation that meets the following requirements is subject to the alternative quorum and voting requirements set forth in subsection (2) of this section:

(a) As of the record date of the annual or special meeting of shareholders:

(i) The corporation is a public company;

(ii) Shares of its common stock are admitted to trading on a regulated market listed on the list of the regulated markets notified to the European commission by the member states under Article 16 of the investment services directive (93/22/EEC), as such list is amended from time to time; and

(iii) At least twenty percent of the shares of the corporation's common stock are held of record by the depository trust company and are deposited securities, as defined in the rules, bylaws, and organization certificate of the depository trust company, credited to the account or accounts of one or more stock depositories located in a member state of the European Union;

(b) At the time that such shares were initially listed on the regulated market, shares of the corporation's common stock were listed on the New York stock exchange or the ((~~nasdaq~~)) NASDAQ stock market;

(c) At the time that such shares were initially listed on the regulated market, such listing was a condition to the acquisition of one hundred percent of the equity interests of a foreign corporation or similar entity where:

(i) The securities of the foreign corporation or similar entity were admitted to trading on the regulated market immediately prior to the acquisition;

(ii) The consideration for the acquisition was newly issued shares of common stock of the corporation; and

(iii) The shares issued in connection with the acquisition equaled before the issuance more than forty percent of the outstanding common stock of the corporation; and

(d) At the corporation's most recent annual or special meeting of shareholders less than sixty-five percent of the shares within the voting group comprising all the votes entitled to be cast were present in person or by proxy.

(2) At any annual or special meeting actually held, other than by written consent under RCW 23B.07.040, by a corporation meeting the requirements of subsection (1) of this section:

(a) The required quorum of the voting group consisting of all votes entitled to be cast, and of each other voting group that includes common shares of the corporation which is entitled to vote separately with respect to a proposed corporate action, shall be the lesser of:

(i) A majority of the shares of such voting group other than shares credited to the account of stock depositories located in a member state of the European Union as described in subsection (1)(a)(iii) of this section, provided the number of votes comprising such majority equals or exceeds one-sixth of the total votes entitled to be cast by the voting group; or

(ii) One-third of the total votes entitled to be cast by the voting group.

(b) The vote required for approval by any voting group entitled to vote with respect to any amendment of the corporation's articles of incorporation or bylaws, or any plan of merger or share exchange to which the corporation is a party, or any sale, lease, exchange, or other disposition of all or substantially all of the corporation's property otherwise than in the usual and regular course of business, or dissolution, shall be a majority of the votes actually cast by such voting group with respect to the proposed corporate action, provided that the votes approving the proposed corporate action equal or exceed fifteen percent of the votes within the voting group.

(3) The alternative quorum and voting requirements specified in subsection (2) of this section shall, with respect to any corporation meeting the requirements of subsection (1) of this section, control over and supersede any greater quorum or voting requirements that may be specified in the corporation's articles of incorporation or bylaws or in RCW 23B.02.020, 23B.07.250, 23B.07.270, 23B.10.030, ((~~23B.11.030~~)) section 4 of this act, 23B.12.020, or 23B.14.020.

Sec. 27. RCW 23B.25.100 and 2012 c 215 s 11 are each amended to read as follows:

(1) In addition to approval in accordance with ((~~RCW 23B.11.030~~)) section 4 of this act, a plan of merger or share exchange pursuant to which a social purpose corporation would not be the surviving corporation must be approved by two-thirds of the voting group comprising all the votes of the corporation entitled to be cast on the plan, and by two-thirds of the holders of the outstanding

shares of each class or series, voting as separate voting groups, and of each other voting group entitled under the articles of incorporation to vote separately on the proposed plan. The articles of incorporation may require a greater vote than that provided for in this subsection.

(2) The additional approval described in subsection (1) of this section is not required if the surviving corporation of the plan of merger or share exchange is a social purpose corporation governed by this chapter and includes a specific social purpose or purposes that do not materially differ from the disappearing corporation's specific social purpose or purposes, if any.

Sec. 28. RCW 23B.25.130 and 2012 c 215 s 14 are each amended to read as follows:

(1) ((~~Any~~)) By complying with this chapter, any corporation that is not a social purpose corporation may ((~~elect to~~)) become a social purpose corporation ((~~if, pursuant to the proposed election, each of the following conditions are met:~~

~~(a) Each~~)) in accordance with a plan of election.

(2) The plan of election must provide that each share of the same class or series of the electing corporation shall, unless all shareholders of the class or series consent, be treated equally with respect to any cash, rights, securities, or other property to be received by, or any obligations or restrictions to be imposed on, the holder of that share((~~,~~)).

(3) The plan of election must include an amendment to the articles of incorporation to include the matters required to be included in the articles of incorporation in accordance with RCW 23B.25.040(1).

(4) The plan of election must be approved in the following manner:

(a) The plan of election must first be approved by the board of directors.

(b) The plan of election must then be approved by the shareholders. In submitting the plan of election to the shareholders for approval, the board of directors ((~~of the electing corporation~~)) must recommend ((~~the election to~~)) that the shareholders approve the plan of election, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation ((~~and communicates the basis for its determination to the shareholders with the proposed election; and~~

~~(c) In addition to any other voting conditions imposed by the board of directors under subsection (2) of this section, the~~)), in which case the board of directors must inform the shareholders of the basis for so proceeding.

(c) The board of directors may set conditions for the approval of the plan of election by the shareholders or the effectiveness of the plan.

(d) Unless the articles of incorporation, or the board of directors acting in accordance with (c) of this subsection, requires a greater vote, the plan of election must be approved by an affirmative vote of at least two-thirds of the voting group comprising all the votes of the electing corporation's shareholders entitled to be cast on the ((~~corporate action~~)) plan, and by two-thirds of the holders of the outstanding shares of each class or series, voting as separate voting groups, and each other voting group entitled under the articles of incorporation to vote separately on the ((~~corporate action~~)) plan.

(((~~(2) The board of directors of a corporation electing to become a social purpose corporation may condition its submission of the proposed election on any basis, including the affirmative vote of holders of a specified percentage of~~

~~shares held by any group of shareholders not otherwise entitled to vote as a separate group on the proposed election.~~

~~(3) To elect to become a social purpose corporation, an electing corporation must amend its articles of incorporation to include the matters required to be set forth in the articles of incorporation pursuant to RCW 23B.25.040(1).~~

~~(4)~~)) (5) After an election to become a social purpose corporation is approved, and at any time prior to filing the articles of amendment to amend the electing corporation's articles of incorporation ((~~in compliance with subsection (3) of this section~~)), the planned election may be abandoned by the electing corporation, subject to any contractual rights, without further shareholder approval, in the manner determined by the board of directors.

(((~~(5)~~))) (6) The election to become a social purpose corporation shall be effective upon the later of the filing of the articles of amendment with the secretary of state or the effective date or time set forth in the articles of amendment.

(((~~(6)~~))) (7) Upon the effective time of the election to become a social purpose corporation, the electing corporation shall thereafter be a social purpose corporation and shall be subject to all of the provisions of this chapter and the existence of the social purpose corporation shall be deemed to have commenced on the date the electing corporation was incorporated.

(((~~(7)~~))) (8) The election to become a social purpose corporation shall not be deemed to affect any obligations or liabilities of the electing corporation incurred prior to its election to become a social purpose corporation or the personal liability of any person incurred prior to such election.

Passed by the Senate February 6, 2024.
Passed by the House February 27, 2024.
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Filed in Office of Secretary of State March 14, 2024.

CHAPTER 23

[Engrossed Substitute Senate Bill 5801]
UNIFORM SPECIAL DEPOSITS ACT

AN ACT Relating to the uniform special deposits act; adding a new chapter to Title 30A RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** SHORT TITLE. This act may be known and cited as the uniform special deposits act.

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

(1) "Account agreement" means an agreement that:

(a) Is in a record between a bank and one or more depositors;

(b) May have one or more beneficiaries as additional parties; and

(c) States the intention of the parties to establish a special deposit governed by this chapter.

(2) "Bank" has the same meaning as "financial institution" in RCW 30A.22.040. Each branch or separate office of a bank is a separate bank for the purpose of this chapter.

(3) "Beneficiary" means a person that:

(a) Is identified as a beneficiary in an account agreement; or

(b) If not identified as a beneficiary in an account agreement, may be entitled to payment from a special deposit:

(i) Under the account agreement; or

(ii) On termination of the special deposit.

(4) "Contingency" means an event or circumstance stated in an account agreement that is not certain to occur but must occur before the bank is obligated to pay a beneficiary.

(5) "Creditor process" means attachment, garnishment, levy, notice of lien, sequestration, or similar process issued by or on behalf of a creditor or other claimant.

(6) "Depositor" means a person that establishes or funds a special deposit.

(7) "Good faith" means honesty in fact and observance of reasonable commercial standards of fair dealing.

(8) "Knowledge" of a fact means:

(a) With respect to a beneficiary, actual knowledge of the fact; or

(b) With respect to a bank holding a special deposit:

(i) If the bank:

(A) Has established a reasonable routine for communicating material information to an individual to whom the bank has assigned responsibility for the special deposit; and

(B) Maintains reasonable compliance with the routine, actual knowledge of the fact by that individual; or

(ii) If the bank has not established and maintained reasonable compliance with a routine described in (b)(i) of this subsection (8) or otherwise exercised due diligence, implied knowledge of the fact that would have come to the attention of an individual to whom the bank has assigned responsibility for the special deposit.

(9)(a) "Obligated to pay a beneficiary" means a beneficiary is entitled under the account agreement to receive from the bank a payment when:

(i) A contingency has occurred; and

(ii) The bank has knowledge the contingency has occurred.

(b) "Obligation to pay a beneficiary" has a corresponding meaning.

(10) "Permissible purpose" means a governmental, regulatory, commercial, charitable, or testamentary objective of the parties stated in an account agreement. The term includes an objective to:

(a) Hold funds:

(i) In escrow, including for a purchase and sale, lease, buyback, or other transaction;

(ii) As a security deposit of a tenant;

(iii) That may be distributed to a person as remuneration, retirement or other benefit, or compensation under a judgment, consent decree, court order, or other decision of a tribunal; or

(iv) For distribution to a defined class of persons after identification of the class members and their interest in the funds;

(b) Provide assurance with respect to an obligation created by contract, such as earnest money to ensure a transaction closes;

(c) Settle an obligation that arises in the operation of a payment system, securities settlement system, or other financial market infrastructure;

(d) Provide assurance with respect to an obligation that arises in the operation of a payment system, securities settlement system, or other financial market infrastructure; or

(e) Hold margin, other cash collateral, or funds that support the orderly functioning of financial market infrastructure or the performance of an obligation with respect to the infrastructure.

(11) "Person" means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity. The term includes a protected series, however denominated, of an entity if the protected series is established under law that limits, or limits if conditions specified under law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.

(12) "Record" means information:

(a) Inscribed on a tangible medium; or

(b) Stored in an electronic or other medium and retrievable in perceivable form.

(13) "Special deposit" means a deposit that satisfies section 5 of this act.

(14) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States. The term includes an agency or instrumentality of the state.

NEW SECTION. **Sec. 3.** SCOPE, CHOICE OF LAW, AND FORUM. (1) This chapter applies to a special deposit under an account agreement that states the intention of the parties to establish a special deposit governed by this chapter, regardless of whether a party to the account agreement or a transaction related to the special deposit, or the special deposit itself, has a reasonable relation to Washington state.

(2) The parties to an account agreement may choose a forum in this state for settling a dispute arising out of the special deposit, regardless of whether a party to the account agreement or a transaction related to the special deposit, or the special deposit itself, has a reasonable relation to this state, provided the parties have the approval of the presiding judicial officer.

(3) This chapter does not affect:

(a) A right or obligation relating to a deposit other than a special deposit under this chapter;

(b) Previously established common law or application of statutes regarding deposits other than special deposits under this chapter; or

(c) The voidability of a deposit or transfer that is fraudulent or voidable under other law.

NEW SECTION. **Sec. 4.** VARIATION BY AGREEMENT OR AMENDMENT. (1) The effect of sections 2 through 6, 8 through 11, and 14 of this act may not be varied by agreement, except as provided in those sections. Subject to subsection (2) of this section, the effect of sections 7, 12, and 13 of this act may be varied by agreement.

(2) A provision in an account agreement or other record that substantially excuses liability or substantially limits remedies for failure to perform an obligation under this chapter is not sufficient to vary the effect of a provision of this chapter.

(3) If a beneficiary is a party to an account agreement, the bank and the depositor may amend the agreement without the consent of the beneficiary only if the agreement expressly permits the amendment.

(4) If a beneficiary is not a party to an account agreement and the bank and the depositor know the beneficiary has knowledge of the agreement's terms, the bank and the depositor may amend the agreement without the consent of the beneficiary only if the amendment does not adversely and materially affect a payment right of the beneficiary.

(5) If a beneficiary is not a party to an account agreement and the bank and the depositor do not know whether the beneficiary has knowledge of the agreement's terms, the bank and the depositor may amend the agreement without the consent of the beneficiary only if the amendment is made in good faith.

NEW SECTION. **Sec. 5.** REQUIREMENTS FOR SPECIAL DEPOSIT. A deposit is a special deposit if it is:

(1) A deposit of funds in a bank under an account agreement;

(2) For the benefit of at least two beneficiaries, one or more of which may be a depositor;

(3) Denominated in a medium of exchange that is currently authorized or adopted by a domestic or foreign government;

(4) For a permissible purpose stated in the account agreement; and

(5) Subject to a contingency.

NEW SECTION. **Sec. 6.** PERMISSIBLE PURPOSE. (1) A special deposit must serve at least one permissible purpose stated in the account agreement from the time the special deposit is created in the account agreement until termination of the special deposit.

(2) If, before termination of the special deposit, the bank or a court determines the special deposit no longer satisfies subsection (1) of this section, sections 8 through 11 of this act cease to apply to any funds deposited in the special deposit after the special deposit ceases to satisfy subsection (1) of this section.

(3) If, before termination of a special deposit, the bank determines the special deposit no longer satisfies subsection (1) of this section, the bank may take action it believes is necessary under the circumstances, including terminating the special deposit.

NEW SECTION. **Sec. 7.** PAYMENT TO BENEFICIARY BY BANK. (1) Unless the account agreement provides otherwise, the bank is obligated to pay a beneficiary if there are sufficient actually and finally collected funds in the balance of the special deposit.

(2) Except as provided in subsection (3) of this section, the obligation to pay the beneficiary is excused if the funds available in the special deposit are insufficient to cover such payment.

(3) Unless the account agreement provides otherwise, if the funds available in the special deposit are insufficient to cover an obligation to pay a beneficiary, a beneficiary may elect to be paid the funds that are available or, if there is more

than one beneficiary, a pro rata share of the funds available. Payment to the beneficiary making the election under this subsection discharges the bank's obligation to pay a beneficiary and does not constitute an accord and satisfaction with respect to another person obligated to the beneficiary.

(4) Unless the account agreement provides otherwise, the obligation of the bank obligated to pay a beneficiary is immediately due and payable.

(5) The bank may discharge its obligation under this section by:

(a) Crediting another transaction account of the beneficiary; or

(b) Taking other action that:

(i) Is permitted under the account agreement for the bank to obtain a discharge; or

(ii) Otherwise would constitute a discharge under law.

(6) If the bank obligated to pay a beneficiary has incurred an obligation to discharge the obligation of another person, the obligation of the other person is discharged if action by the bank under subsection (5) of this section would constitute a discharge of the obligation of the other person under law that determines whether an obligation is satisfied.

NEW SECTION. **Sec. 8.** PROPERTY INTEREST OF DEPOSITOR OR BENEFICIARY. (1) Neither a depositor nor a beneficiary has a property interest in a special deposit.

(2) Any property interest with respect to a special deposit is only in the right to receive payment if the bank is obligated to pay a beneficiary and not in the special deposit itself. Any property interest under this subsection is determined under other law.

NEW SECTION. **Sec. 9.** WHEN CREDITOR PROCESS ENFORCEABLE AGAINST BANK. (1) Subject to subsection (2) of this section, creditor process with respect to a special deposit is not enforceable against the bank holding the special deposit.

(2) Creditor process is enforceable against the bank holding a special deposit with respect to an amount the bank is obligated to pay a beneficiary or a depositor if the process:

(a) Is served on the bank;

(b) Provides sufficient information to permit the bank to identify the depositor or the beneficiary from the bank's books and records; and

(c) Gives the bank a reasonable opportunity to act on the process.

(3) Creditor process served on a bank before it is enforceable against the bank under subsection (2) of this section does not create a right of the creditor against the bank, or a duty of the bank to the creditor. Other law determines whether creditor process creates a lien enforceable against the beneficiary on a contingent interest of a beneficiary, including a depositor as a beneficiary, even if not enforceable against the bank.

NEW SECTION. **Sec. 10.** INJUNCTION OR SIMILAR RELIEF. A court may enjoin, or grant similar relief that would have the effect of enjoining, a bank from paying a depositor or beneficiary only if payment would constitute a material fraud or facilitate a material fraud with respect to a special deposit.

NEW SECTION. **Sec. 11.** RECOUPMENT OR SET OFF. (1) Except as provided in subsection (2) or (3) of this section, a bank may not exercise a right of recoupment or set off against a special deposit.

(2) An account agreement may authorize the bank to debit the special deposit:

(a) When the bank becomes obligated to pay a beneficiary, in an amount that does not exceed the amount necessary to discharge the obligation;

(b) For a fee assessed by the bank that relates to an overdraft in the special deposit account;

(c) For costs incurred by the bank that relate directly to the special deposit; or

(d) To reverse an earlier credit posted by the bank to the balance of the special deposit account, if the reversal occurs under an event or circumstance warranted under other law of this state governing mistake and restitution.

(3) The bank holding a special deposit may exercise a right of recoupment or set off against an obligation to pay a beneficiary, even if the bank funds payment from the special deposit.

NEW SECTION. **Sec. 12.** DUTIES AND LIABILITY OF BANK. (1) A bank does not have a fiduciary duty to any person with respect to a special deposit.

(2) When the bank holding a special deposit becomes obligated to pay a beneficiary, a debtor-creditor relationship arises between the bank and beneficiary.

(3) The bank holding a special deposit has a duty to a beneficiary to comply with the account agreement and this chapter.

(4) If the bank holding a special deposit does not comply with the account agreement or this chapter, the bank is liable to a depositor or beneficiary only for damages proximately caused by the noncompliance. Except as provided by other law of this state, the bank is not liable for consequential, special, or punitive damages.

(5) The bank holding a special deposit may rely on records presented in compliance with the account agreement to determine whether the bank is obligated to pay a beneficiary.

(6) If the account agreement requires payment on presentation of a record, the bank shall determine within a reasonable time whether the record is sufficient to require payment. If the agreement requires action by the bank on presentation of a record, the bank is not liable for relying in good faith on the genuineness of the record if the record appears on its face to be genuine.

(7) Unless the account agreement provides otherwise, the bank is not required to determine whether a permissible purpose stated in the account agreement continues to exist.

NEW SECTION. **Sec. 13.** TERM AND TERMINATION. (1) Unless otherwise provided in the account agreement, a special deposit terminates five years after the date the special deposit was first funded.

(2) Unless otherwise provided in the account agreement, if the bank cannot identify or locate a beneficiary entitled to payment when the special deposit is terminated, and a balance remains in the special deposit, the bank shall pay the balance to the depositor or depositors as a beneficiary or beneficiaries.

(3) A bank that pays the remaining balance as provided under subsection (2) of this section has no further obligation with respect to the special deposit.

NEW SECTION. **Sec. 14.** PRINCIPLES OF LAW AND EQUITY. Title 62A RCW, consumer protection law, law governing deposits generally, law related to escheat and abandoned or unclaimed property, and the principles of law and equity, including law related to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, and bankruptcy, supplement this chapter, except to the extent inconsistent with this chapter.

NEW SECTION. **Sec. 15.** UNIFORMITY AND APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

NEW SECTION. **Sec. 16.** TRANSITIONAL PROVISION. This chapter applies to:

(1) A special deposit made under an account agreement executed on or after the effective date of this section; and

(2) A deposit made under an account agreement executed before the effective date of this section, if:

(a) All parties entitled to amend the account agreement agree to make the deposit a special deposit governed by this chapter; and

(b) The special deposit referenced in the amended account agreement satisfies section 5 of this act.

NEW SECTION. **Sec. 17.** 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. 18.** This act takes effect July 1, 2024.

NEW SECTION. **Sec. 19.** Sections 1 through 16 and 18 of this act constitute a new chapter in Title 30A RCW, to be codified between chapters 30A.22 and 30A.32 RCW.

Passed by the Senate January 31, 2024.
Passed by the House February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 24

[Substitute Senate Bill 5803]

NATIONAL GUARD MEMBER REFERRAL INCENTIVE PROGRAM

AN ACT Relating to the recruitment and retention of Washington National Guard members; and adding a new section to chapter 38.24 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 38.24 RCW to read as follows:

(1) There is created the Washington national guard member referral incentive program. The purpose of the program is to incentivize and maximize peer-to-peer recruiting that results in a completed accession to the Washington national guard by providing a referral bonus to Washington national guard members who make a successful referral. Administration of this program requires that:

(a) A Washington national guard member may provide the identity and contact information of a person who the member believes would be an appropriate recruitment prospect using a form provided by the Washington national guard, which includes the person's name, contact information, and any other information required by the state military department.

(b) The state military department shall keep a record of all forms submitted under (a) of this subsection. Upon the completed accession of a referred person and to the extent sufficient funds are available, the state military department shall distribute a referral bonus to the member who provided the successful referral.

(2) Members of the Washington national guard serving in command or senior enlisted advisor positions, as well as those assigned recruiting as a primary or additional duty, are ineligible for the Washington national guard member referral incentive program.

(3) For the purposes of this section:

(a) "Completed accession" means the referred person signs the referred person's name to an enlistment contract for entry or reentry after prior service into the Washington national guard;

(b) "Referral bonus" means a monetary payment set each calendar year by the adjutant general not to exceed $500.00;

(c) "Successful referral" means providing the identity and contact information in subsection (1)(a) of this section of any person not already a member of the Washington national guard that results in a completed accession to the Washington national guard.

Passed by the Senate February 12, 2024.
Passed by the House February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 25

[Senate Bill 5805]

ATTORNEYS FOR YOUTH IN DEPENDENCY—SCHEDULE

AN ACT Relating to developing a schedule for court appointment of attorneys for children and youth in dependency and termination proceedings; and amending RCW 13.34.212.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 13.34.212 and 2021 c 210 s 6 are each amended to read as follows:

(1)(a) The court shall appoint an attorney for a child in a dependency proceeding six months after granting a petition to terminate the parent and child relationship pursuant to RCW 13.34.180 and when there is no remaining parent with parental rights.

(b) The court may appoint one attorney to a group of siblings, unless there is a conflict of interest, or such representation is otherwise inconsistent with the rules of professional conduct.

(c) Subject to availability of amounts appropriated for this specific purpose, the state shall pay the costs of legal services provided by an attorney appointed pursuant to (a) of this subsection if the legal services are provided in accordance

with the rules of professional conduct, the standards of practice, caseload limits, and training guidelines adopted by the statewide children's representation work group pursuant to section 5, chapter 180, Laws of 2010 until such time that new recommendations are adopted by the children's representation work group established in section 9, chapter 210, Laws of 2021.

(d) The office of civil legal aid is responsible for implementation of (c) of this subsection as provided in RCW 2.53.045.

(e) Legal services provided by an attorney pursuant to (a) of this subsection do not include representation of the child in any appellate proceedings relative to the termination of the parent and child relationship.

(2)(a) The court may appoint an attorney to represent the child's position in any dependency action on its own initiative, or upon the request of a parent, the child, a guardian ad litem, a caregiver, or the department.

(b)(i) If the court has not already appointed an attorney for a child, or the child is not represented by a privately retained attorney:

(A) The child's caregiver, or any individual, may refer the child to an attorney for the purposes of filing a motion to request appointment of an attorney at public expense; or

(B) The child or any individual may retain an attorney for the child for the purposes of filing a motion to request appointment of an attorney at public expense.

(ii) Nothing in this subsection changes or alters the confidentiality provisions of RCW 13.50.100.

(c) The department and the child's guardian ad litem shall each notify a child of the child's right to request an attorney and shall ask the child whether the child wishes to have an attorney. The department and the child's guardian ad litem shall notify the child and make this inquiry immediately after:

(i) The date of the child's 12th birthday; or

(ii) Assignment of a case involving a child age 12 or older.

(d) The department and the child's guardian ad litem shall repeat the notification and inquiry at least annually and upon the filing of any motion or petition affecting the child's placement, services, or familial relationships.

(e) The notification and inquiry is not required if the child has already been appointed an attorney.

(f) The department shall note in the child's individual service and safety plan, and the guardian ad litem shall note in his or her report to the court, that the child was notified of the right to request an attorney and indicate the child's position regarding appointment of an attorney.

(g) At the first regularly scheduled hearing after:

(i) The date of the child's 12th birthday; or

(ii) The date that a dependency petition is filed pursuant to this chapter on a child age 12 or older;

the court shall inquire whether the child has received notice of his or her right to request an attorney from the department and the child's guardian ad litem. The court shall make an additional inquiry at the first regularly scheduled hearing after the child's 15th birthday. No inquiry is necessary if the child has already been appointed an attorney.

(3) Subject to the availability of amounts appropriated for this specific purpose:

(a) Pursuant to the phase-in schedule set forth in (c) of this subsection (3), the court must appoint an attorney for every child in a dependency proceeding as follows:

(i) For a child under the age of eight, appointment must be made for the dependency and termination action upon the filing of a termination petition. Nothing in this subsection shall be construed to limit the ability of the court to appoint an attorney to represent the child's position in a dependency action on its own initiative, or upon the request of a parent, the child, a guardian ad litem, a caregiver, or the department, prior to the filing of a termination petition.

(ii) For a child between the ages of eight through 17, appointment must be made upon the filing of a new dependency petition at or before the commencement of the shelter care hearing.

(iii) For any pending or open dependency case where the child is unrepresented and is entitled to the appointment of an attorney under (a)(i) or (ii) of this subsection, appointment must be made at or before the next hearing if the child is eligible for representation pursuant to the phase-in schedule. At the next hearing, the court shall inquire into the status of attorney representation for the child, and if the child is not yet represented, appointment must be made at the hearing.

(b) Appointment is not required if the court has already appointed an attorney for the child, or the child is represented by a privately retained attorney.

(c) The statewide children's legal representation program shall develop a schedule for court appointment of attorneys for every child in dependency proceedings that will be phased in on a county-by-county basis over a ((~~six-year~~)) seven-year period. The schedule required under this subsection must not add more than 1,250 cases each fiscal year and:

(i) ((~~Prioritize~~)) To the extent practicable, prioritize implementation in counties that have:

(A) No current practice of appointment of attorneys for children in dependency cases; or

(B) Significant prevalence of racial disproportionality or disparities in the number of dependent children compared to the general population, or both;

(ii) Include representation in at least:

(A) Three counties beginning July 1, 2022;

(B) Eight counties beginning January 1, 2023;

(C) Fifteen counties beginning January 1, 2024;

(D) Twenty counties beginning January 1, 2025;

(E) Thirty counties beginning January 1, 2026;

(F) Thirty-six counties beginning in January 1, 2027; and

(iii) Achieve full statewide implementation by January 1, ((~~2027~~)) 2028.

(d) In cases where the statewide children's legal representation program provides funding and where consistent with its administration and oversight responsibilities, the statewide children's legal representation program should prioritize continuity of counsel for children who are already represented at county expense when the statewide children's legal representation program becomes effective in a county. The statewide children's legal representation program shall coordinate with relevant county stakeholders to determine how best to prioritize this continuity of counsel.

(e) The statewide children's legal representation program is responsible for the recruitment, training, and oversight of attorneys providing standards-based representation pursuant to (a) and (c) of this subsection as provided in RCW 2.53.045 and shall ensure that attorneys representing children pursuant to this section provide legal services according to the rules of professional conduct, the standards of practice, caseload limits, and training guidelines adopted by the children's representation work group established in section 9, chapter 210, Laws of 2021.

Passed by the Senate February 1, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 26

[Substitute Senate Bill 5834]
URBAN GROWTH AREAS—REVISION

AN ACT Relating to urban growth areas; and amending RCW 36.70A.110.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.70A.110 and 2022 c 252 s 4 are each amended to read as follows:

(1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350. When a federally recognized Indian tribe whose reservation or ceded lands lie within the county or city has voluntarily chosen to participate in the planning process pursuant to RCW 36.70A.040, the county or city and the tribe shall coordinate their planning efforts for any areas planned for urban growth consistent with the terms outlined in the memorandum of agreement provided for in RCW 36.70A.040(8).

(2) Based upon the growth management population projection made for the county by the office of financial management, the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period, except for those urban growth areas contained totally within a national historical reserve. As part of this planning process, each city within the county must include areas sufficient to accommodate the broad range of needs and uses that will accompany the projected urban growth including, as appropriate, medical, governmental, institutional, commercial, service, retail, and other nonresidential uses.

Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. In the case of urban growth areas contained

totally within a national historical reserve, the city may restrict densities, intensities, and forms of urban growth as determined to be necessary and appropriate to protect the physical, cultural, or historic integrity of the reserve. An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.

Within one year of July 1, 1990, each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040, shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area. Within sixty days of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall begin this consultation with each city located within its boundaries. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

(3) Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. Urban growth may also be located in designated new fully contained communities as defined by RCW 36.70A.350.

(4) In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

(5) On or before October 1, 1993, each county that was initially required to plan under RCW 36.70A.040(1) shall adopt development regulations designating interim urban growth areas under this chapter. Within three years and three months of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall adopt development regulations designating interim urban growth areas under this chapter. Adoption of the interim urban growth areas may only occur after public notice; public hearing; and compliance with the state environmental policy act, chapter 43.21C RCW, and under this section. Such action may be appealed to the growth management hearings board under RCW

36.70A.280. Final urban growth areas shall be adopted at the time of comprehensive plan adoption under this chapter.

(6) Each county shall include designations of urban growth areas in its comprehensive plan.

(7) An urban growth area designated in accordance with this section may include within its boundaries urban service areas or potential annexation areas designated for specific cities or towns within the county.

(8) If, during the county's annual review under RCW 36.70A.130(2)(a), the county determines revision of the urban growth area is not required to accommodate the population projection for the county made by the office of financial management for the succeeding 20-year period, but does determine that patterns of development have created pressure for development in areas exceeding the amount of available developable lands within the urban growth area, then the county may revise the urban growth area or areas based on identified patterns of development and likely future development pressure if the following requirements are met:

(a) The revised urban growth area would not result in a net increase in the total acreage or development capacity of the urban growth area or areas;

(b) The areas added to the urban growth area are not designated by the county as agricultural, forest, or mineral resource lands of long-term commercial significance;

(c) If the areas added to the urban growth area have previously been designated as agricultural, forest, or mineral resource lands of long-term commercial significance, either an equivalent amount of agricultural, forest, or mineral resource lands of long-term commercial significance must be added to the area outside of the urban growth area, or the county must wait a minimum of two years before another swap may occur;

(d) Less than 15 percent of the areas added to the urban growth area are critical areas other than critical aquifer recharge areas. Critical aquifer recharge areas must have been previously designated by the county and be maintained per county development regulations within the expanded urban growth area and the revised urban growth area must not result in a net increase in critical aquifer recharge areas within the urban growth area;

(e) The areas added to the urban growth areas are suitable for urban growth;

(f) The transportation element and capital facility plan element of the county's comprehensive plan have identified the transportation facilities and public facilities and services needed to serve the urban growth area and the funding to provide the transportation facilities and public facilities and services;

(g) The areas removed from the urban growth area are not characterized by urban growth or urban densities;

(h) The revised urban growth area is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands;

(i) The county's proposed urban growth area revision has been reviewed according to the process and procedure in the countywide planning policies adopted and approved according to RCW 36.70A.210; and

(j) The revised urban growth area meets all other requirements of this section.

(9)(a) At the earliest possible date prior to the revision of the county's urban growth area authorized under subsection (8) of this section, the county must

engage in meaningful consultation with any federally recognized Indian tribe that may be potentially affected by the proposed revision. Meaningful consultation must include discussion of the potential impacts to cultural resources and tribal treaty rights.

(b) A county must notify the affected federally recognized Indian tribe of the proposed revision using at least two methods, including by mail. Upon receiving a notice, the federally recognized Indian tribe may request a consultation to determine whether an agreement can be reached related to the revision of the county's urban growth area. If an agreement is not reached, the parties must enter mediation pursuant to RCW 36.70A.040.

(10)(a) Except as provided in (b) of this subsection, the expansion of an urban growth area is prohibited into the one hundred year floodplain of any river or river segment that: (i) Is located west of the crest of the Cascade mountains; and (ii) has a mean annual flow of one thousand or more cubic feet per second as determined by the department of ecology.

(b) Subsection ((~~(8)~~)) (10)(a) of this section does not apply to:

(i) Urban growth areas that are fully contained within a floodplain and lack adjacent buildable areas outside the floodplain;

(ii) Urban growth areas where expansions are precluded outside floodplains because:

(A) Urban governmental services cannot be physically provided to serve areas outside the floodplain; or

(B) Expansions outside the floodplain would require a river or estuary crossing to access the expansion; or

(iii) Urban growth area expansions where:

(A) Public facilities already exist within the floodplain and the expansion of an existing public facility is only possible on the land to be included in the urban growth area and located within the floodplain; or

(B) Urban development already exists within a floodplain as of July 26, 2009, and is adjacent to, but outside of, the urban growth area, and the expansion of the urban growth area is necessary to include such urban development within the urban growth area; or

(C) The land is owned by a jurisdiction planning under this chapter or the rights to the development of the land have been permanently extinguished, and the following criteria are met:

(I) The permissible use of the land is limited to one of the following: Outdoor recreation; environmentally beneficial projects, including but not limited to habitat enhancement or environmental restoration; stormwater facilities; flood control facilities; or underground conveyances; and

(II) The development and use of such facilities or projects will not decrease flood storage, increase stormwater runoff, discharge pollutants to fresh or salt waters during normal operations or floods, or increase hazards to people and property.

(c) For the purposes of this subsection ((~~(8)~~)) (10), "one hundred year floodplain" means the same as "special flood hazard area" as set forth in WAC 173-158-040 as it exists on July 26, 2009.

((~~(9)~~)) (11) If a county, city, or utility has adopted a capital facility plan or utilities element to provide sewer service within the urban growth areas during the twenty-year planning period, nothing in this chapter obligates counties,

cities, or utilities to install sanitary sewer systems to properties within urban growth areas designated under subsection (2) of this section by the end of the twenty-year planning period when those properties:

(a)(i) Have existing, functioning, nonpolluting on-site sewage systems;

(ii) Have a periodic inspection program by a public agency to verify the on-site sewage systems function properly and do not pollute surface or groundwater; and

(iii) Have no redevelopment capacity; or

(b) Do not require sewer service because development densities are limited due to wetlands, floodplains, fish and wildlife habitats, or geological hazards.

Passed by the Senate February 6, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 27

[Substitute Senate Bill 5840]
ACKNOWLEDGMENT OF LEASES

AN ACT Relating to the acknowledgment of leases; and amending RCW 59.04.010 and 64.04.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 59.04.010 and Code 1881 s 2053 are each amended to read as follows:

Tenancies from year to year are hereby abolished except when the same are created by express written contract. Leases may be in writing or print, or partly in writing and partly in print((~~, and shall be legal and valid for any term or period not exceeding one year, without acknowledgment, witnesses or seals~~)). Nothing in this section shall be construed in any manner to conflict with or supersede RCW 59.18.210.

Sec. 2. RCW 64.04.010 and 1929 c 33 s 1 are each amended to read as follows:

Every conveyance of real estate, or any interest therein, and every contract creating or evidencing any encumbrance upon real estate, shall be by deed: PROVIDED, ((~~That~~)) that (1) Leases do not require acknowledgment, witness, or seals, but to be recorded, a lease and a memorandum of lease must have the lessee's and lessor's signatures acknowledged; and (2) when real estate, or any interest therein, is held in trust, the terms and conditions of which trust are of record, and the instrument creating such trust authorizes the issuance of certificates or written evidence of any interest in said real estate under said trust, and authorizes the transfer of such certificates or evidence of interest by assignment by the holder thereof by a simple writing or by endorsement on the back of such certificate or evidence of interest or delivery thereof to the vendee, such transfer shall be valid, and all such assignments or transfers hereby authorized and heretofore made in accordance with the provisions of this section are hereby declared to be legal and valid.

Passed by the Senate February 2, 2024.
Passed by the House February 27, 2024.

Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 28

[Senate Bill 5843]

ELECTION SECURITY BREACHES

AN ACT Relating to security breaches of election systems and election-related systems; amending RCW 29A.12.180, 29A.12.200, 29A.40.100, 29A.40.160, 29A.60.200, 29A.84.550, 29A.84.560, 29A.84.720, and 29A.84.050; adding a new section to chapter 29A.84 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 29A.12.180 and 2018 c 218 s 6 are each amended to read as follows:

(1) A manufacturer or distributor of a voting system or component of a voting system that is certified by the secretary of state under RCW 29A.12.020 shall disclose to the secretary of state and attorney general any breach of the security of its system immediately following discovery of the breach if:

(a) The breach has, or is reasonably likely to have, compromised the security, confidentiality, or integrity of an election in any state; or

(b) Personal information of residents in any state was, or is reasonably believed to have been, acquired by an unauthorized person as a result of the breach and the personal information was not secured. For purposes of this subsection, "personal information" has the meaning given in RCW 19.255.010.

(2) Every county must install and maintain an intrusion detection system that passively monitors its network for malicious traffic 24 hours a day, seven days a week, and 365 days a year by a qualified and trained security team with access to cyberincident response personnel who can assist the county in the event of a malicious attack. The system must support the unique security requirements of state, local, tribal, and territorial governments and possess the ability to receive cyberintelligent threat updates to stay ahead of evolving attack patterns.

(3) A county auditor or county information technology director of any county, participating in the shared voter registration system operated by the secretary of state under RCW 29A.08.105 and 29A.08.125, or operating a voting system or component of a voting system that is certified by the secretary of state under RCW 29A.12.020 shall disclose to the secretary of state and attorney general any malicious activity or breach of the security of any of its information technology (IT) systems immediately following discovery if:

(a) Malicious activity was detected by an information technology intrusion detection system (IDS), malicious domain blocking and reporting system, or endpoint security software, used by the county, the county auditor, or the county election office;

(b) A breach has, or is reasonably likely to have, compromised the security, confidentiality, or integrity of election systems, information technology systems used by the county staff to manage and support the administration of elections, or peripheral information technology systems that support the auditor's office in the office's day-to-day activities;

(c) The breach has, or is reasonably likely to have, compromised the security, confidentiality, or integrity of an election within the state; or

(d) Personal information of residents in any state was, or is reasonably believed to have been, acquired by an unauthorized person as a result of the breach and the personal information was not secured. For purposes of this subsection, "personal information" has the meaning given in RCW 19.255.005.

(4) For purposes of this section:

(a) "Malicious activity" means an external or internal threat that is designed to damage, disrupt, or compromise an information technology network, as well as the hardware and applications that reside on the network, thereby impacting performance, data integrity, and the confidentiality of data on the network. Threats include viruses, ransomware, trojan horses, worms, malware, data loss, or the disabling or removing of information technology security systems.

(b) "Security breach" means a breach of the election system, information technology systems used to administer and support the election process, or associated data where the system or associated data has been penetrated, accessed, or manipulated by an unauthorized person. The definition of breach includes all unauthorized access to systems by external or internal personnel or organizations, including personnel employed by a county or the state providing access to systems that have the potential to lead to a breach.

(5) Notification under ((~~subsection (1) of~~)) this section must be made in the most expedient time possible and without unreasonable delay.

Sec. 2. RCW 29A.12.200 and 2020 c 101 s 2 are each amended to read as follows:

(1) The secretary of state must annually consult with the Washington state fusion center, state chief information officer, and each county auditor to identify instances of security breaches of election systems or election data.

(2) To the extent possible, the secretary of state must identify whether the source of a security breach, if any, is a foreign entity, domestic entity, or both.

(3) By December 31st of each year, the secretary of state must submit a report to the governor, state chief information officer, Washington state fusion center, and the chairs and ranking members of the appropriate legislative committees from the senate and house of representatives that includes information on any instances of security breaches identified under subsection (1) of this section and options to increase the security of the election systems and election data, and to prevent future security breaches. The report, and any related material, data, or information provided pursuant to subsection (1) of this section or used to assemble the report, may only be distributed to, or otherwise shared with, the individuals specifically mentioned in this subsection (3).

(4) For the purposes of this section:

(a) "Domestic entity" means an entity organized or formed under the laws of the United States, a person domiciled in the United States, or a citizen of the United States, and includes elected officials and staff of the state or a county.

(b) "Foreign entity" means an entity that is not organized or formed under the laws of the United States, or a person who is not domiciled in the United States or a citizen of the United States.

((~~(b)~~)) (c) "Security breach" means a breach of the election system or associated data where the system or associated data has been penetrated, accessed, or manipulated by an unauthorized person.

Sec. 3. RCW 29A.40.100 and 2011 c 10 s 40 are each amended to read as follows:

County auditors must request that observers be appointed by the major political parties to be present during the processing of ballots at the counting center. County auditors have discretion to also request that observers be appointed by any campaigns or organizations. The absence of the observers will not prevent the processing of ballots if the county auditor has requested their presence. Observers may not touch any ballots, ballot materials, or election systems. Unauthorized physical contact, or access to ballots or election systems is a crime subject to punishment under chapter 29A.84 RCW.

Sec. 4. RCW 29A.40.160 and 2022 c 69 s 1 are each amended to read as follows:

(1) Each county auditor shall open a voting center each primary, special election if the county is conducting an election, and general election. The voting center shall be open during business hours during the voting period, which begins eighteen days before, and ends at 8:00 p.m. on the day of, the primary, special election if the county is conducting an election, or general election.

(2) Each county auditor shall open a voting center at each of the following locations in the county:

(a) At the county auditor's office or at the division of elections that is in a separate location from the county auditor's office; and

(b) For each presidential general election, in each city in the county with a population of one hundred thousand or greater which does not have a voting center as required in (a) of this subsection. A voting center opened pursuant to this subsection (2) is not required to be open on the Sunday before the presidential election.

(3) Voting centers shall be located in public buildings or buildings that are leased by a public entity including, but not limited to, libraries.

(4) Each voting center, and at least one of the other locations designated by the county auditor to allow voters to register in person pursuant to RCW 29A.08.140(1)(b), must provide voter registration materials, ballots, provisional ballots, disability access voting units, sample ballots, instructions on how to properly vote the ballot, a ballot drop box, and voters' pamphlets, if a voters' pamphlet has been published.

(5) Each voting center must be accessible to persons with disabilities. Each state agency and entity of local government shall permit the use of any of its accessible facilities as voting centers when requested by a county auditor.

(6) Each voting center must provide at least one voting unit certified by the secretary of state that provides access to individuals who are blind or visually impaired, enabling them to vote with privacy and independence.

(7) No person may interfere with a voter attempting to vote in a voting center. Interfering with a voter attempting to vote is a violation of RCW 29A.84.510. The county auditor shall designate by administrative rule a specific point or points as the entrance to each voting center, taking into account the unique attributes of the voting center, to assure that voters have the ability to arrive and depart unimpeded.

(8) No person may interfere with the operation of a voting center. Interfering with the operation of a voting center is a violation of RCW 29A.84.510. This prohibition includes unauthorized access or handling of

ballots, and unauthorized access to any voting equipment or election systems. Unauthorized access includes elected officials and county staff accessing systems in any manner not required by their job function.

(9) Before opening the voting center, the voting equipment shall be inspected to determine if it has been properly prepared for voting. If the voting equipment is capable of direct tabulation of each voter's choices, the county auditor shall verify that no votes have been registered for any issue or office, and that the device has been sealed with a unique numbered seal at the time of final preparation and logic and accuracy testing. A log must be made of all device numbers and seal numbers.

((~~(9)~~)) (10) The county auditor shall require any person desiring to vote at a voting center to either sign a ballot declaration or provide identification.

(a) The signature on the declaration must be compared to the signature on the voter registration record before the ballot may be counted. If the voter registered using a mark, or can no longer sign ((~~his or her~~)) the voter's name, the election officers shall require the voter to be identified by another registered voter.

(b) The identification must be valid photo identification, such as a driver's license, state identification card, student identification card, tribal identification card, or employer identification card. A tribal identification card is not required to include a residential address or an expiration date to be considered valid under this section. Any individual who desires to vote in person but cannot provide identification shall be issued a provisional ballot, which shall be accepted if the signature on the declaration matches the signature on the voter's registration record.

((~~(10)~~)) (11) Provisional ballots must be accompanied by a declaration and security envelope, as required by RCW 29A.40.091, and space for the voter's name, date of birth, current and former registered address, reason for the provisional ballot, and disposition of the provisional ballot. The voter shall vote and return the provisional ballot at the voting center. The voter must be provided information on how to ascertain whether the provisional ballot was counted and, if applicable, the reason why the vote was not counted.

((~~(11)~~)) (12) Any voter may take printed or written material into the voting device to assist in casting ((~~his or her~~)) votes. The voter shall not use this material to electioneer and shall remove it when ((~~he or she leaves~~)) leaving the voting center.

((~~(12)~~)) (13) If any voter states that ((~~he or she~~)) the voter is unable to cast ((~~his or her votes~~)) a vote due to a disability, the voter may designate a person of ((~~his or her~~)) the voter's choice, or two election officers, to enter the voting booth and record the votes as ((~~he or she~~)) the voter directs.

((~~(13)~~)) (14) No voter is entitled to vote more than once at a primary, special election, or general election. If a voter incorrectly marks a ballot, ((~~he or she~~)) the voter may be issued a replacement ballot.

((~~(14)~~)) (15) A voter who has already returned a ballot but requests to vote at a voting center shall be issued a provisional ballot. The canvassing board shall not count the provisional ballot if it finds that the voter has also voted a regular ballot in that primary, special election, or general election.

((~~(15)~~)) (16) Any voter who is inside or in line at the voting center at 8:00 p.m. on the day of the primary, special election, or general election must be allowed to vote.

((~~(16)~~)) (17) For each primary, special election, and general election, the county auditor may provide election services at locations in addition to the voting center. The county auditor has discretion to establish which services will be provided at the additional locations, and which days and hours the locations will be open.

Sec. 5. RCW 29A.60.200 and 2011 c 10 s 60 are each amended to read as follows:

(1) Before canvassing the returns of a primary or election, the chair of the county legislative authority or the chair's designee shall administer an oath to the county auditor or the auditor's designee attesting to the authenticity of the information presented to the canvassing board. This oath must be signed by the county auditor or designee and filed with the returns of the primary or election.

(2) The county canvassing board shall proceed to verify the results from the ballots received. The board shall execute a certificate of the results of the primary or election signed by all members of the board or their designees. Failure to certify the returns, if they can be ascertained with reasonable certainty, is a crime under RCW 29A.84.720.

(3) If the county canvassing board refuses to certify the results of the election without cause, the secretary of state may examine the records, ballots, and results of the election and certify the results of the election. This must be completed within two business days after the certification deadline in RCW 29A.60.190 after the refusal of the county canvassing board to certify the results of the election.

Sec. 6. RCW 29A.84.550 and 2011 c 10 s 74 are each amended to read as follows:

Any person who willfully defaces, removes, or destroys any of the supplies or materials that the person knows are intended both for use in a voting center ((~~and~~)), election office, ballot counting area, ballot storage area, or election system including materials and systems meant for enabling a voter to prepare ((~~his or her~~)) the voter's ballot is guilty of a class C felony punishable under RCW 9A.20.021.

NEW SECTION. **Sec. 7.** A new section is added to chapter 29A.84 RCW to read as follows:

Any person who willfully and without authority accesses or assists another person or entity with unauthorized access to a voting center, election office, ballot counting area, ballot storage area, or any election system, or provides unauthorized access to another person or entity to a voting center, election office, ballot counting area, ballot storage area, or any election system, whether electronic or physical access, is guilty of a class C felony punishable under RCW 9A.20.021.

Sec. 8. RCW 29A.84.560 and 2003 c 111 s 2126 are each amended to read as follows:

Any person who tampers with or damages or attempts to damage any voting machine or device to be used or being used in a primary or special or general election, or who prevents or attempts to prevent the correct operation of such

machine or device, or any unauthorized person who ((~~makes or has in his or her possession a key to a~~)) accesses or assists another person or entity with unauthorized access to a voting center, election office, ballot counting area, ballot storage area, or election system, voting machine, or device to be used or being used in a primary or special or general election, is guilty of a class C felony punishable under RCW 9A.20.021.

Sec. 9. RCW 29A.84.720 and 2003 c 111 s 2138 are each amended to read as follows:

Every person charged with the performance of any duty under the provisions of any law of this state relating to elections, including primaries, or the provisions of any charter or ordinance of any city or town of this state relating to elections who willfully neglects or refuses to perform such duty, or provides unauthorized access to a person or entity to physical locations or electronic or physical access to election software or hardware used in any element of conduct of an election, or who, in the performance of such duty, or in ((~~his or her~~)) the person's official capacity, knowingly or fraudulently violates any of the provisions of law relating to such duty, is guilty of a class C felony punishable under RCW 9A.20.021 and shall forfeit ((~~his or her~~)) the person's office.

Sec. 10. RCW 29A.84.050 and 2011 c 10 s 68 are each amended to read as follows:

(1) A person who knowingly destroys, alters, defaces, conceals, or discards a completed voter registration form ((~~or~~)), signed ballot declaration, or voted ballot is guilty of a gross misdemeanor. This section does not apply to (a) the voter who completed the form or declaration, or (b) a county auditor who acts as authorized by law.

(2) Any person who intentionally fails to return another person's completed voter registration form ((~~or~~)), signed ballot declaration, or voted ballot to the proper state or county elections office by the applicable deadline is guilty of a gross misdemeanor.

Passed by the Senate February 2, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 29

[Senate Bill 5883]

SPECIAL EDUCATION DUE PROCESS HEARINGS—BURDEN OF PROOF

AN ACT Relating to the burden of proof for special education due process hearings; and adding a new section to chapter 28A.155 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.155 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, the school district has the burden of proof, including the burden of persuasion and production, whenever it is a party to a due process hearing regarding the identification, evaluation, reevaluation, classification, educational placement, disciplinary

action, or provision of a free appropriate public education for a student with a disability.

(2) A parent or person in parental relation seeking tuition reimbursement for a unilateral parental placement has the burden of proof, including the burden of persuasion and production, on the appropriateness of such placement.

(3) The burden of proof in this section must be met by a preponderance of the evidence.

(4) For the purposes of this section, "due process hearing" means a due process hearing held in accordance with the federal individuals with disabilities education act, Title 20 U.S.C. Sec. 1400 et seq.

Passed by the Senate January 31, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 30

[Senate Bill 5885]

CERTIFICATES OF ANNEXATION—PROCEDURES FOR SUBMISSION

AN ACT Relating to procedures for certificates of annexation submitted to the office of financial management; and amending RCW 35.13.260 and 35A.14.700.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 35.13.260 and 2011 c 342 s 1 are each amended to read as follows:

(1) Whenever any territory is annexed to a city or town, a certificate as hereinafter provided ((~~shall~~)) must be submitted ((~~in triplicate~~)) to the office of financial management, hereinafter in this section referred to as "the office," within thirty days of the effective date of ((~~annexation~~)) the action specified in the relevant ordinance. After approval of the certificate, the office shall retain the original copy ((~~in its files,~~)) and ((~~transmit the second~~)) post a copy to the office of financial management website that is accessible to the public. The office must notify the department of transportation and ((~~return the third copy to~~)) the city or town that the certificate has been approved and posted, and include a link to the website. ((~~Such~~)) The certificates ((~~shall~~)) must be in ((~~such~~)) a form and contain ((~~such~~)) information as ((~~shall be~~)) prescribed by the office. A copy of the complete ordinance containing a legal description and a map showing specifically the boundaries of the annexed territory ((~~shall~~)) must be ((~~attached to each of the three copies of~~)) included with the certificate. The certificate shall be signed by the mayor and attested by the city clerk. Upon request, the office shall furnish certification forms to any city or town.

(2)(a) The resident population of the annexed territory shall be determined by, or under the direction of, the mayor of the city or town.

(b) If the annexing city or town has a population of ten thousand or less, the annexed territory consists entirely of one or more partial federal census blocks, or 2010 federal decennial census data has not been released within twelve months immediately prior to the date of annexation, the population determination shall consist of an actual enumeration of the population.

(c) In any circumstance, the city or town may choose to have the population determination of the entire annexed territory consist of an actual enumeration. However, if the city or town does not use actual enumeration for determining population, the annexed territory includes or consists of one or more complete federal census blocks, and 2010 federal decennial census data has been released within twelve months immediately prior to the date of annexation, the population determination shall consist of:

(i) Relevant 2010 federal decennial census data pertaining to the complete block or blocks, as such data has been updated by the most recent official population estimate released by the office pursuant to RCW 43.62.030;

(ii) An actual enumeration of any population located within the annexed territory but outside the complete federal census block or blocks; and

(iii) If the office, at least two weeks prior to the date of annexation, confirms the existence of a known census error within a complete federal census block and identifies a structure or complex listed in (c)(iii)(A) through (E) of this subsection (2) as a likely source of the error, an actual enumeration of one or more of the block's identified:

(A) Group quarters;

(B) Mobile home parks;

(C) Apartment buildings that are composed of at least fifty units and are certified for occupancy between January 1, 2010, and April 1, 2011;

(D) Missing subdivisions; and

(E) Closures of any of the categories in (c)(iii)(A) through (D) of this subsection.

(d) Whenever an actual enumeration is used, it shall be made in accordance with the practices and policies of, and subject to the approval of, the office.

(e) The city or town shall be responsible for the full cost of the population determination.

(3) The population shall be determined as of the effective date of annexation as specified in the relevant ordinance.

Until an annexation certificate is filed and approved as provided herein, such annexed territory shall not be considered by the office in determining the population of such city or town.

Upon approval of the annexation certificate, the office shall forward to each state official or department responsible for making allocations or payments to cities or towns, a revised certificate reflecting the increase in population due to such annexation. Upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for the allocation and payment of state funds to such city or town.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate is forwarded by the office thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

Sec. 2. RCW 35A.14.700 and 2011 c 342 s 2 are each amended to read as follows:

(1) Whenever any territory is annexed to a code city, a certificate as hereinafter provided ((~~shall~~)) must be submitted ((~~in triplicate~~)) to the office of financial management within thirty days of the effective date of ((~~annexation~~)) the action specified in the relevant ordinance. After approval of the certificate, the office of financial management ((~~shall~~)) must retain the original copy ((~~in its files,~~)) and ((~~transmit the second~~)) post a copy to the office of financial management website that is accessible to the public. The office must notify the department of transportation and ((~~return the third copy to~~)) the code city that the certificate has been approved and posted, and include a link to the website. Such certificates ((~~shall~~)) must be in such form and contain such information as ((~~shall be~~)) prescribed by the office of financial management. A copy of the complete ordinance containing a legal description and a map showing specifically the boundaries of the annexed territory ((~~shall~~)) must be ((~~attached to each of the three copies of~~)) included with the certificate. The certificate shall be signed by the mayor and attested by the city clerk. Upon request, the office of financial management shall furnish certification forms to any code city.

(2)(a) The resident population of the annexed territory shall be determined by, or under the direction of, the mayor of the code city.

(b) If the annexing code city has a population of ten thousand or less, the annexed territory consists entirely of one or more partial federal census blocks, or 2010 federal decennial census data has not been released within twelve months immediately prior to the date of annexation, the population determination shall consist of an actual enumeration of the population.

(c) In any circumstance, the code city may choose to have the population determination of the entire annexed territory consist of an actual enumeration. However, if the code city does not use actual enumeration for determining population, the annexed territory includes or consists of one or more complete federal census blocks, and 2010 federal decennial census data has been released within twelve months immediately prior to the date of annexation, the population determination shall consist of:

(i) Relevant 2010 federal decennial census data pertaining to the complete block or blocks, as such data has been updated by the most recent official population estimate released by the office of financial management pursuant to RCW 43.62.030;

(ii) An actual enumeration of any population located within the annexed territory but outside the complete federal census block or blocks; and

(iii) If the office of financial management, at least two weeks prior to the date of annexation, confirms the existence of a known census error within a complete federal census block and identifies a structure or complex listed in (c)(iii)(A) through (E) of this subsection (2) as a likely source of the error, an actual enumeration of one or more of the block's identified:

(A) Group quarters;

(B) Mobile home parks;

(C) Apartment buildings that are composed of at least fifty units and are certified for occupancy between January 1, 2010, and April 1, 2011;

(D) Missing subdivisions; and

(E) Closures of any of the categories in (c)(iii)(A) through (D) of this subsection.

(d) Whenever an actual enumeration is used, it shall be made in accordance with the practices and policies of, and subject to the approval of, the office of financial management.

(e) The code city shall be responsible for the full cost of the population determination.

(3) Upon approval of the annexation certificate, the office of financial management shall forward to each state official or department responsible for making allocations or payments to cities or towns, a revised certificate reflecting the increase in population due to such annexation. Upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for the allocation and payment of state funds to such city or town.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate is forwarded by the office of financial management thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

(4) Until an annexation certificate is filed and approved as provided herein, such annexed territory shall not be considered by the office of financial management in determining the population of such code city.

Passed by the Senate February 8, 2024.
Passed by the House February 22, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 31

[Senate Bill 5886]

FIREFIGHTER SAFETY FUNDING—USES

AN ACT Relating to adding purposes for the use of existing firefighter safety funding; and amending RCW 51.04.175.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 51.04.175 and 2019 c 76 s 2 are each amended to read as follows:

(1) The director is authorized to provide funding of up to two percent of the premiums paid in the prior year from the risk classes for firefighters as defined in RCW 41.26.030(17) (a) through (c) for the purposes of providing funding to employers of firefighters who have limited resources to ((~~purchase~~)):

(a) Purchase additional equipment and other gear that may be needed to follow best practices under RCW 51.04.170; and

(b) Participate in assessments or training related to safety culture or other safety intervention activities.

(2) The department may require matching funds from employers. An appropriation is not required for expenditures. Only employers who pay premiums to the state fund as defined in RCW 51.08.175 are eligible for funding under this section.

(((~~(2)~~))) (3) The department may adopt rules if necessary to implement this section.

Passed by the Senate February 1, 2024.
Passed by the House February 22, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 32

[Second Substitute Senate Bill 5893]
DEPARTMENT OF CORRECTIONS—GATE MONEY

AN ACT Relating to providing gate money to incarcerated individuals at the department of corrections; and amending RCW 72.02.100, 72.66.070, and 72.09.480.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 72.02.100 and 2023 c 467 s 2 are each amended to read as follows:

(1) Any person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, who is thereafter released upon an order of parole of the indeterminate sentence review board, or who is discharged from custody upon expiration of sentence, or who is ordered discharged from custody by a court of appropriate jurisdiction, shall be entitled to retain his or her earnings from labor or employment while in confinement and shall be supplied by the superintendent of the state correctional facility with suitable and presentable clothing, the sum of no less than $40 for subsistence, and transportation by the least expensive method of public transportation not to exceed the cost of $100 to his or her place of residence or the place designated in his or her parole plan, or to the place from which committed if such person is being discharged on expiration of sentence, or discharged from custody by a court of appropriate jurisdiction: PROVIDED, That up to an additional $60 may be made available to the parolee for necessary personal and living expenses upon application to and approval by such person's community corrections officer. If in the opinion of the superintendent suitable arrangements have been made to provide the person to be released with suitable clothing and/or the expenses of transportation, the superintendent may consent to such arrangement. If the superintendent has reasonable cause to believe that the person to be released has ample funds, with the exception of earnings from labor or employment while in confinement, to assume the expenses of clothing, transportation, or the expenses for which payments made pursuant to this section or RCW 72.02.110 or any one or more of such expenses, the person released shall be required to assume such expenses.

(2)(a) The same requirements of subsection (1) of this section shall apply to any person who is serving a sentence for a term of confinement in a state correctional facility and is:

(i) Transferred to community custody under the supervision of the department of corrections pursuant to RCW 9.94A.501, or in lieu of earned release time under RCW 9.94A.729;

(ii) Transferred from a department correctional facility to partial confinement as home detention in the community as part of the graduated

reentry program under RCW 9.94A.733 or the parenting program under RCW 9.94A.6551;

(iii) Transferred from a department correctional facility to partial confinement in lieu of earned early release under RCW 9.94A.729, or as part of the work release program under chapter 72.65 RCW; or

(iv) Conditionally released by the indeterminate sentence review board with conditions of community custody under the supervision of the department pursuant to RCW 9.95.011, 9.95.420, 9.94A.730, or 10.95.030.

(b) The items and arrangements to be supplied by the superintendent of the state correctional facility under this subsection must be provided at the moment of the person's transfer from total confinement to partial confinement, or transfer from total confinement to community custody.

(3)(a) The department of corrections may only provide the funds for subsistence required by subsection (1) or (2) of this section one time to any person serving a sentence for a term of confinement in a state correctional facility.

(b) Any funds for subsistence provided to a person under this section shall not be subject to any deductions required under RCW 72.09.480 or chapter 72.11 RCW.

(4)(a) The department of corrections may provide temporary housing assistance for a person being released from any state correctional facility through the use of rental vouchers, for a period not to exceed six months, if the department finds that such assistance will support the person's release into the community by preventing housing instability or homelessness. The department's authority to provide vouchers under this section is independent of its authority under RCW 9.94A.729; however, a person may not receive a combined total of rental vouchers in excess of six months for each release from a state correctional facility.

(b) The department shall establish policies for prioritizing funds available for housing vouchers under this section for persons at risk of releasing homeless or becoming homeless without assistance while taking into account risk to reoffend.

Sec. 2. RCW 72.66.070 and 1971 ex.s. c 58 s 8 are each amended to read as follows:

The department ((~~may~~)) shall provide or arrange for transportation for furloughed prisoners to the designated place of residence within the state and ((~~may~~)) shall, in addition, supply funds ((~~not to exceed forty dollars~~)) in the sum of no less than $40 and suitable clothing, such clothing to be returned to the institution on the expiration of furlough.

Sec. 3. RCW 72.09.480 and 2023 c 111 s 1 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsections (4) through ((~~(10)~~)) (11) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order;

(e) Twenty percent to the department to contribute to the cost of incarceration; and

(f) Twenty percent for payment of any civil judgment for assault for all inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(3) When an inmate, except as provided in subsection (10) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) and (f) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(6)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an offender or from a third party on behalf of an offender for payment of education or vocational programs or postsecondary education degree programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

(7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money

that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

(8) The deductions required under subsection (2) of this section do not apply to any money received by the department on behalf of an inmate from family or other outside sources for the payment of certain medical expenses. Money received under this subsection may only be used for the payment of medical expenses associated with the purchase of eyeglasses, over-the-counter medications, and offender copayments. Funds received specifically for these purposes may not be transferred to any other account or purpose. Money that remains unused in the inmate's medical fund at the time of release is subject to deductions under subsection (2) of this section.

(9) The deductions required under subsection (2) of this section do not apply to any money received by the department on behalf of an inmate from family or other outside sources for the purchase of commissary items. Money received under this subsection may only be used for the purchase of items on the facility commissary list. The amount received by each inmate under this subsection may not exceed the monthly allowance for commissary purchases as allowed by the department. Funds received specifically for these purposes may not be transferred to any other fund, account, or purpose. Money that remains unused in the inmate's commissary fund at the time of release is subject to deductions under subsection (2) of this section.

(10) Inmates sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal inmate savings account under subsection (2)(b) of this section.

(11) The deductions required under subsection (2) of this section do not apply to funds for subsistence issued by the department to an inmate:

(a) Upon the person's transfer from total confinement to partial confinement, or transfer from total confinement to community custody, pursuant to RCW 72.02.100; or

(b) For a furlough pursuant to RCW 72.66.070.

(12) The secretary of the department of corrections, or his or her designee, may exempt an inmate from a personal inmate savings account under subsection (2)(b) of this section if the inmate's earliest release date is beyond the inmate's life expectancy.

((~~(12)~~)) (13) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

((~~(13)~~)) (14) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action.

Passed by the Senate February 13, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 33

[Senate Bill 5913]

ETHICS ACT—ADVISING ON STUDENT ATHLETE NAME, IMAGE, AND LIKENESS

AN ACT Relating to communication between employees of state institutions of higher education and student athletes regarding name, image, and likeness use; and adding a new section to chapter 42.52 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 42.52 RCW to read as follows:

This chapter does not prohibit the use of public resources, including but not limited to the use of personnel, money, and property, by an employee of a state institution of higher education to benefit any student athlete in the advising, facilitation, acknowledgment, or education related to a matter involving the name image and likeness of such a student athlete or group of student athletes, or in relation to student athlete name image and likeness matters generally, so long as such resources are under the control or direction of such an employee. Any use of public resources must adhere to the rules established by the national, nonprofit member organization responsible for oversight of college sports at state institutions of higher education.

Passed by the Senate January 31, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 34

[Substitute Senate Bill 5917]

HATE CRIME OFFENSES—ELEMENTS

AN ACT Relating to criminal penalties for bias-motivated defacement of private or public property; and amending RCW 9A.36.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9A.36.080 and 2023 c 52 s 1 are each amended to read as follows:

(1) A person is guilty of a hate crime offense if ((~~he or she~~)) the person maliciously and intentionally commits one of the following acts because of ((~~his or her~~)) their perception of ((~~the victim's~~)) another person's race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory disability:

(a) Assaults ((~~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 disability

as the victim. Words alone do not constitute a hate crime offense unless the context or circumstances surrounding the words indicate the words are a threat. Threatening words do not constitute 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 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 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;

(b) Defaces property of a victim who is or whom the actor perceives to be of Jewish heritage by defacing the property with a Nazi emblem, symbol, or hakenkreuz;

(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) 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 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" means heterosexuality, homosexuality, or bisexuality.

(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) Commission of a hate crime offense is a class C felony.

(8) The penalties provided in this section for 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.

Passed by the Senate February 2, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 35

[Substitute Senate Bill 5925]

FIRE PROTECTION DISTRICT COMMISSIONERS—PER DIEM COMPENSATION

AN ACT Relating to fire protection district commissioner per diem compensation; and reenacting and amending RCW 52.14.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 52.14.010 and 2017 c 328 s 7 and 2017 c 58 s 1 are each reenacted and amended to read as follows:

(1) The affairs of the district shall be managed by a board of fire commissioners composed initially of three registered voters residing in the district, except as provided otherwise in RCW 52.14.015, 52.14.020, and 52.14.140.

(2)(a) Each member of an elected board of fire commissioners shall each receive one hundred four dollars per day or portion thereof, not to exceed nine thousand nine hundred eighty-four dollars per year, for time spent in actual attendance at official meetings of the board or in performance of other services or duties on behalf of the district, except that a commissioner of a district which has an operating budget of $10,000,000 or more may receive not more than 144 per diem payments at the per diem rate specified by the office of financial management, adjusted for inflation per subsection (4) of this section. Members serving in an ex officio capacity on a board of fire commissioners may not receive compensation, but shall receive necessary expenses in accordance with (b) of this subsection.

(b) Each member of a board of fire commissioners shall receive necessary expenses incurred in attending meetings of the board or when otherwise engaged in district business, and shall be entitled to receive the same insurance available to all firefighters of the district: PROVIDED, That the premiums for such

insurance, except liability insurance, shall be paid by the individual commissioners who elect to receive it.

(c) Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the secretary as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

(3) The board shall fix the compensation to be paid the secretary and all other agents and employees of the district. The board may, by resolution adopted by unanimous vote, authorize any of its members to serve as volunteer firefighters without compensation. A commissioner actually serving as a volunteer firefighter may enjoy the rights and benefits of a volunteer firefighter.

(4) The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning January 1, 2019, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. 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. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

(5) A person holding office as commissioner for two or more special purpose districts or serving ex officio as commissioner as a member of the legislative authority of a city or town shall receive only that per diem compensation authorized for one of his or her official positions as compensation for attending an official meeting or conducting official services or duties while representing more than one district or representing a municipality and a district. However, such commissioner may receive additional per diem compensation if approved by resolution of the boards of an affected commission, city, or town.

Passed by the Senate February 7, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 36

[Substitute Senate Bill 5935]

NONCOMPETITION COVENANTS—VARIOUS PROVISIONS

AN ACT Relating to noncompetition covenants; and amending RCW 49.62.005, 49.62.010, 49.62.020, 49.62.050, 49.62.080, and 49.62.090.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 49.62.005 and 2019 c 299 s 1 are each amended to read as follows:

The legislature finds that ((~~workforce~~)):

(1) Workforce mobility is important to economic growth and development((~~. Further, the legislature finds that agreements~~));

(2) Agreements limiting competition or hiring may be contracts of adhesion that may be unreasonable; and

(3) The provisions in this chapter facilitating workforce mobility and protecting employees and independent contractors need to be liberally construed and exceptions narrowly construed.

Sec. 2. RCW 49.62.010 and 2019 c 299 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) "Earnings" means the compensation reflected on box one of the employee's United States internal revenue service form W-2 that is paid to an employee over the prior year, or portion thereof for which the employee was employed, annualized and calculated as of the earlier of the date enforcement of the noncompetition covenant is sought or the date of separation from employment. "Earnings" also means payments reported on internal revenue service form 1099-MISC for independent contractors.

(2) "Employee" and "employer" have the same meanings as in RCW 49.17.020.

(3) "Franchisor" and "franchisee" have the same meanings as in RCW 19.100.010.

(4) "Noncompetition covenant" includes every written or oral covenant, agreement, or contract by which an employee or independent contractor is prohibited or restrained from engaging in a lawful profession, trade, or business of any kind. A "noncompetition covenant" also includes an agreement that directly or indirectly prohibits the acceptance or transaction of business with a customer. A "noncompetition covenant" does not include: (a) A nonsolicitation agreement; (b) a confidentiality agreement; (c) a covenant prohibiting use or disclosure of trade secrets or inventions; (d) a covenant entered into by a person purchasing or selling the goodwill of a business or otherwise acquiring or disposing of an ownership interest, but only if the person signing the covenant purchases, sells, acquires, or disposes of an interest representing one percent or more of the business; or (e) a covenant entered into by a franchisee when the franchise sale complies with RCW 19.100.020(1).

(5) "Nonsolicitation agreement" means an agreement between an employer and employee that prohibits solicitation by an employee, upon termination of employment: (a) Of any employee of the employer to leave the employer; or (b) of any current customer of the employer to cease or reduce the extent to which it is doing business with the employer.

(6) "Party seeking enforcement" means the named plaintiff or claimant in a proceeding to enforce a noncompetition covenant or the defendant in an action for declaratory relief.

Sec. 3. RCW 49.62.020 and 2019 c 299 s 3 are each amended to read as follows:

(1) A noncompetition covenant is void and unenforceable ((~~against an employee~~)):

(a)(i) Unless the employer discloses the terms of the covenant in writing to the prospective employee no later than the time of the initial oral or written acceptance of the offer of employment and, if the agreement becomes enforceable only at a later date due to changes in the employee's compensation, the employer specifically discloses that the agreement may be enforceable against the employee in the future; or

(ii) If the covenant is entered into after the commencement of employment, unless the employer provides independent consideration for the covenant;

(b) Unless the employee's earnings from the party seeking enforcement, when annualized, exceed one hundred thousand dollars per year. This dollar amount must be adjusted annually in accordance with RCW 49.62.040;

(c) If the employee is terminated as the result of a layoff, unless enforcement of the noncompetition covenant includes compensation equivalent to the employee's base salary at the time of termination for the period of enforcement minus compensation earned through subsequent employment during the period of enforcement.

(2) A court or arbitrator must presume that any noncompetition covenant with a duration exceeding eighteen months after termination of employment is unreasonable and unenforceable. A party seeking enforcement may rebut the presumption by proving by clear and convincing evidence that a duration longer than eighteen months is necessary to protect the party's business or goodwill.

Sec. 4. RCW 49.62.050 and 2019 c 299 s 6 are each amended to read as follows:

A provision in a noncompetition covenant signed by an employee or independent contractor who is Washington-based is void and unenforceable:

(1) If the covenant requires the employee or independent contractor to adjudicate a noncompetition covenant outside of this state; ((~~and~~))

(2) To the extent it deprives the employee or independent contractor of the protections or benefits of this chapter; or

(3) If it allows or requires the application of choice of law principles or the substantive law of any jurisdiction other than Washington state.

Sec. 5. RCW 49.62.080 and 2019 c 299 s 9 are each amended to read as follows:

(1) Upon a violation of this chapter, the attorney general, on behalf of a person or persons, may pursue any and all relief. A person aggrieved by a noncompetition covenant ((~~to which the person is a party~~)) may bring a cause of action to pursue any and all relief provided for in subsections (2) and (3) of this section.

(2) If a court or arbitrator determines that a noncompetition covenant violates this chapter, the violator must pay the aggrieved person the greater of his or her actual damages or a statutory penalty of five thousand dollars, plus reasonable attorneys' fees, expenses, and costs incurred in the proceeding.

(3) If a court or arbitrator reforms, rewrites, modifies, or only partially enforces any noncompetition covenant, the party seeking enforcement must pay the aggrieved person the greater of his or her actual damages or a statutory

penalty of five thousand dollars, plus reasonable attorneys' fees, expenses, and costs incurred in the proceeding.

(4) A cause of action may not be brought regarding a noncompetition covenant signed prior to January 1, 2020, if the noncompetition covenant is not being enforced or explicitly leveraged.

Sec. 6. RCW 49.62.090 and 2019 c 299 s 10 are each amended to read as follows:

(1)(a) Subject to (b) of this subsection, this chapter displaces conflicting tort, restitutionary, contract, including contract principles relating to discharge by assent or alteration, and other laws of this state pertaining to liability for competition by employees or independent contractors with their employers or principals, as appropriate.

(b) This chapter does not amend or modify chapter 19.108 RCW.

(2) Except as otherwise provided in this chapter, this chapter does not revoke, modify, or impede the development of the common law.

Passed by the Senate February 6, 2024.
Passed by the House February 22, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 37

[Senate Bill 5970]

LOCAL BOARDS OF HEALTH—NUMBER OF COUNTY COMMISSIONERS

AN ACT Relating to modifying the number of county commissioner members on local boards of health for nonhome rule charter counties with five county commissioners; and amending RCW 70.05.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.05.030 and 2021 c 205 s 3 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, for counties without a home rule charter, the board of county commissioners and the members selected under (a) and (e) of this subsection, shall constitute the local board of health, unless the county is part of a health district pursuant to chapter 70.46 RCW. For counties without a home rule charter where the board of county commissioners is comprised of five commissioners, the board of county commissioners may adopt an ordinance reducing the number of county commissioners that are members of the local board of health, provided that the board of health includes at least one county commissioner. The jurisdiction of the local board of health shall be coextensive with the boundaries of the county.

(a) The remaining board members must be persons who are not elected officials and must be selected from the following categories consistent with the requirements of this section and the rules adopted by the state board of health under RCW 43.20.300:

(i) Public health, health care facilities, and providers. This category consists of persons practicing or employed in the county who are:

(A) Medical ethicists;

(B) Epidemiologists;

(C) Experienced in environmental public health, such as a registered sanitarian;

(D) Community health workers;

(E) Holders of master's degrees or higher in public health or the equivalent;

(F) Employees of a hospital located in the county; or

(G) Any of the following providers holding an active or retired license in good standing under Title 18 RCW:

(I) Physicians or osteopathic physicians;

(II) Advanced registered nurse practitioners;

(III) Physician assistants or osteopathic physician assistants;

(IV) Registered nurses;

(V) Dentists;

(VI) Naturopaths; or

(VII) Pharmacists;

(ii) Consumers of public health. This category consists of county residents who have self-identified as having faced significant health inequities or as having lived experiences with public health-related programs such as: The special supplemental nutrition program for women, infants, and children; the supplemental nutrition program; home visiting; or treatment services. It is strongly encouraged that individuals from historically marginalized and underrepresented communities are given preference. These individuals may not be elected officials and may not have any fiduciary obligation to a health facility or other health agency, and may not have a material financial interest in the rendering of health services; and

(iii) Other community stakeholders. This category consists of persons representing the following types of organizations located in the county:

(A) Community-based organizations or nonprofits that work with populations experiencing health inequities in the county;

(B) Active, reserve, or retired armed services members;

(C) The business community; or

(D) The environmental public health regulated community.

(b) The board members selected under (a) of this subsection must be approved by a majority vote of the board of county commissioners.

(c) If the number of board members selected under (a) of this subsection is evenly divisible by three, there must be an equal number of members selected from each of the three categories. If there are one or two members over the nearest multiple of three, those members may be selected from any of the three categories. However, if the board of health demonstrates that it attempted to recruit members from all three categories and was unable to do so, the board may select members only from the other two categories.

(d) There may be no more than one member selected under (a) of this subsection from one type of background or position.

(e) If a federally recognized Indian tribe holds reservation, trust lands, or has usual and accustomed areas within the county, or if a 501(c)(3) organization registered in Washington that serves American Indian and Alaska Native people and provides services within the county, the board of health must include a tribal representative selected by the American Indian health commission.

(f) The board of county commissioners may, at its discretion, adopt an ordinance expanding the size and composition of the board of health to include

elected officials from cities and towns and persons other than elected officials as members so long as the city and county elected officials do not constitute a majority of the total membership of the board.

(g) Except as provided in (a) and (e) of this subsection, an ordinance adopted under this section shall include provisions for the appointment, term, and compensation, or reimbursement of expenses.

(h) The jurisdiction of the local board of health shall be coextensive with the boundaries of the county.

(i) The local health officer, as described in RCW 70.05.050, shall be appointed by the official designated under the provisions of the county charter. The same official designated under the provisions of the county charter may appoint an administrative officer, as described in RCW 70.05.045.

(j) The number of members selected under (a) and (e) of this subsection must equal the number of city and county elected officials on the board of health.

(k) At the first meeting of a district board of health the members shall elect a chair to serve for a period of one year.

(l) Any decision by the board of health related to the setting or modification of permit, licensing, and application fees may only be determined by the city and county elected officials on the board.

(2) A local board of health comprised solely of elected officials may retain this composition if the local health jurisdiction had a public health advisory committee or board with its own bylaws established on January 1, 2021. By January 1, 2022, the public health advisory committee or board must meet the requirements established in RCW 70.46.140 for community health advisory boards. Any future changes to local board of health composition must meet the requirements of subsection (1) of this section.

Passed by the Senate February 6, 2024.
Passed by the House February 22, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 38

[Engrossed Substitute Senate Bill 5974]

DISPOSITION OF UNENFORCEABLE JUVENILE FINANCIAL OBLIGATIONS

AN ACT Relating to the disposition of unenforceable legal financial obligations other than restitution imposed by a court or an agent of the court against a juvenile prior to July 1, 2023; amending RCW 13.40.192; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 13.40.192 and 2023 c 449 s 20 are each amended to read as follows:

(1) If a juvenile is ordered to pay restitution, the money judgment remains enforceable for a period of 10 years. When the juvenile reaches the age of 18 years or at the conclusion of juvenile court jurisdiction, whichever occurs later, the superior court clerk must docket the remaining balance of the juvenile's restitution in the same manner as other judgments for the payment of money. The judgment remains valid and enforceable until 10 years from the date of its imposition. The clerk of the superior court may seek extension of the judgment

for restitution in the same manner as RCW 6.17.020 for purposes of collection as allowed under RCW 36.18.190.

(2)(a) A judgment against a juvenile for any legal financial obligation other than restitution including, but not limited to, fines, penalty assessments, attorneys' fees, court costs, and other administrative fees, is not enforceable after July 1, 2023. The superior court clerk shall not accept payments from a respondent who was ordered to pay legal financial obligations, including fines, penalty assessments, attorneys' fees, and court costs after July 1, 2023. Any such debts shall be rendered null and void, and considered satisfied and paid in full by July 1, 2027, according to the following schedule:

(i) By June 30, 2025, debts resulting from cases filed from July 1, 2018, through June 30, 2023;

(ii) By June 30, 2026, debts resulting from cases filed from July 1, 2013, through June 30, 2018; and

(iii) By June 30, 2027, debts resulting from cases filed prior to July 1, 2013.

(b) Nothing in this section shall prevent a court from granting individual relief at any time in response to a motion.

(c) The presiding judge of a superior court may at any time authorize an administrative process to waive outstanding debt for any uncollectible legal financial obligation, other than restitution, imposed against a juvenile. The administrative process must ensure that debts:

(i) Are waived within any statutorily required deadlines;

(ii) Do not affect an individual's credit;

(iii) Are recalled from any collections agency; and

(iv) Do not appear in any background check.

(d) For the purposes of this section, the clerk of the superior court may seek a judicial order to waive outstanding debt for any uncollectible legal financial obligations, other than restitution, in the same manner as the clerk is authorized to seek an extension of jurisdiction under RCW 6.17.020 for purposes of collection as allowed under RCW 36.18.190. Any motion filed by the clerk of the superior court under this section does not constitute the practice of law.

NEW SECTION. **Sec. 2.** The administrative office of the courts shall submit an annual report to the relevant committees of the legislature on the implementation of this act beginning on November 1, 2024, in compliance with RCW 43.01.036.

Passed by the Senate January 31, 2024.
Passed by the House February 22, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 39

[Senate Bill 5979]

ACCRUED SICK LEAVE—CONSTRUCTION WORKERS

AN ACT Relating to accrued leave for construction workers; amending RCW 49.46.210; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 49.46.210 and 2023 c 267 s 1 are each amended to read as follows:

(1) Beginning January 1, 2018, except as provided in RCW 49.46.180, every employer shall provide each of its employees paid sick leave as follows:

(a) An employee shall accrue at least one hour of paid sick leave for every forty hours worked as an employee. An employer may provide paid sick leave in advance of accrual provided that such front-loading meets or exceeds the requirements of this section for accrual, use, and carryover of paid sick leave.

(b) An employee is authorized to use paid sick leave for the following reasons:

(i) An absence resulting from an employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care;

(ii) To allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care; and

(iii) When the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason.

(c) An employee is authorized to use paid sick leave for absences that qualify for leave under the domestic violence leave act, chapter 49.76 RCW.

(d) An employee is entitled to use accrued paid sick leave beginning on the ninetieth calendar day after the commencement of his or her employment.

(e) Employers are not prevented from providing more generous paid sick leave policies or permitting use of paid sick leave for additional purposes.

(f) An employer may require employees to give reasonable notice of an absence from work, so long as such notice does not interfere with an employee's lawful use of paid sick leave.

(g) For absences exceeding three days, an employer may require verification that an employee's use of paid sick leave is for an authorized purpose. If an employer requires verification, verification must be provided to the employer within a reasonable time period during or after the leave. An employer's requirements for verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements otherwise established by law.

(h) An employer may not require, as a condition of an employee taking paid sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave.

(i) For each hour of paid sick leave used, an employee shall be paid the greater of the minimum hourly wage rate established in this chapter or his or her normal hourly compensation. The employer is responsible for providing regular notification to employees about the amount of paid sick leave available to the employee.

(j) Except as provided in (l) of this subsection, accrued and unused paid sick leave carries over to the following year, but an employer is not required to allow an employee to carry over paid sick leave in excess of 40 hours.

(k) Except as provided in (l) of this subsection, an employer is not required to provide financial or other reimbursement for accrued and unused paid sick leave to any employee upon the employee's termination, resignation, retirement, or other separation from employment. When there is a separation from employment and the employee is rehired within 12 months of separation by the same employer, whether at the same or a different business location of the employer, previously accrued unused paid sick leave shall be reinstated and the previous period of employment shall be counted for purposes of determining the employee's eligibility to use paid sick leave under subsection (1)(d) of this section. For purposes of this subsection (1)(k), "previously accrued and unused paid sick leave" does not include sick leave paid out to a construction worker under (l) of this subsection.

(l) ((~~For workers covered under the North American industry classification system industry code 23, except for North American industry classification system code 236100, residential building construction,~~)) (i) A construction industry employer must pay a construction worker, who ((~~have~~)) has not met the 90th day eligibility under (d) of this subsection at the time of separation, ((~~the employer must pay the former worker~~)) the balance of ((~~their~~)) the worker's accrued and unused paid sick leave at the end of the established pay period((~~, pursuant to RCW 49.48.010(2),~~)) following the worker's separation pursuant to RCW 49.48.010(2).

(ii) The definitions in this subsection (1)(l)(ii) apply throughout this subsection (1)(l) unless the context clearly requires otherwise.

(A) "Construction worker" means a worker who performed service, maintenance, or construction work on a jobsite, in the field or in a fabrication shop using the tools of the worker's trade or craft.

(B) "Construction industry employer" means an employer in the industry described in North American industry classification system industry code 23, except for residential building construction code 2361.

(2) For purposes of this section, "family member" means any of the following:

(a) A child, including a biological, adopted, or foster child, stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status;

(b) A biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child;

(c) A spouse;

(d) A registered domestic partner;

(e) A grandparent;

(f) A grandchild; or

(g) A sibling.

(3) An employer may not adopt or enforce any policy that counts the use of paid sick leave time as an absence that may lead to or result in discipline against the employee.

(4) An employer may not discriminate or retaliate against an employee for his or her exercise of any rights under this chapter including the use of paid sick leave.

(5)(a) The definitions in this subsection apply to this subsection:

(i) "Average hourly compensation" means a driver's compensation during passenger platform time from, or facilitated by, the transportation network company, during the 365 days immediately prior to the day that paid sick time is used, divided by the total hours of passenger platform time worked by the driver on that transportation network company's driver platform during that period. "Average hourly compensation" does not include tips.

(ii) "Driver," "driver platform," "passenger platform time," and "transportation network company" have the meanings provided in RCW 49.46.300.

(iii) "Earned paid sick time" is the time provided by a transportation network company to a driver as calculated under this subsection. For each hour of earned paid sick time used by a driver, the transportation network company shall compensate the driver at a rate equal to the driver's average hourly compensation.

(iv) For purposes of drivers, "family member" means any of the following:

(A) A child, including a biological, adopted, or foster child, stepchild, or a child to whom the driver stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status;

(B) A biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of a driver or the driver's spouse or registered domestic partner, or a person who stood in loco parentis when the driver was a minor child;

(C) A spouse;

(D) A registered domestic partner;

(E) A grandparent;

(F) A grandchild; or

(G) A sibling.

(b) Beginning January 1, 2023, a transportation network company must provide to each driver operating on its driver platform compensation for earned paid sick time as required by this subsection and subject to the provisions of this subsection. A driver shall accrue one hour of earned paid sick time for every 40 hours of passenger platform time worked.

(c) A driver is entitled to use accrued earned paid sick time upon recording 90 hours of passenger platform time on the transportation network company's driver platform.

(d) For each hour of earned paid sick time used, a driver shall be paid the driver's average hourly compensation.

(e) A transportation network company shall establish an accessible system for drivers to request and use earned paid sick time. The system must be available to drivers via smartphone application and online web portal.

(f) A driver may carry over up to 40 hours of unused earned paid sick time to the next calendar year. If a driver carries over unused earned paid sick time to the following year, accrual of earned paid sick time in the subsequent year must be in addition to the hours accrued in the previous year and carried over.

(g) A driver is entitled to use accrued earned paid sick time if the driver has used the transportation network company's platform as a driver within 90 calendar days preceding the driver's request to use earned paid sick time.

(h) A driver is entitled to use earned paid sick time for the following reasons:

(i) An absence resulting from the driver's mental or physical illness, injury, or health condition; to accommodate the driver's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care;

(ii) To allow the driver to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care;

(iii) When the driver's child's school or place of care has been closed by order of a public official for any health-related reason;

(iv) For absences for which an employee would be entitled for leave under RCW 49.76.030; and

(v) During a deactivation or other status that prevents the driver from performing network services on the transportation network company's platform, unless the deactivation or status is due to a verified allegation of sexual assault or physical assault perpetrated by the driver.

(i) If a driver does not record any passenger platform time in a transportation network company's driver platform for 365 or more consecutive days, any unused earned paid sick time accrued up to that point with that transportation network company is no longer valid or recognized.

(j) Drivers may use accrued days of earned paid sick time in increments of a minimum of four or more hours. Drivers are entitled to request four or more hours of earned paid sick time for immediate use, including consecutive days of use. Drivers are not entitled to use more than eight hours of earned paid sick time within a single calendar day.

(k) A transportation network company shall compensate a driver for requested hours or days of earned paid sick time no later than 14 calendar days or the next regularly scheduled date of compensation following the requested hours or days of earned paid sick time.

(l) A transportation network company shall not request or require reasonable verification of a driver's qualifying illness except as would be permitted to be requested of an employee under subsection (1)(g) of this section. If a transportation network company requires verification pursuant to this subsection, the transportation network company must compensate the driver for the requested hours or days of earned paid sick time no later than the driver's next regularly scheduled date of compensation after satisfactory verification is provided.

(m) If a driver accepts an offer of prearranged services for compensation from a transportation network company during the four-hour period or periods for which the driver requested earned paid sick time, a transportation network company may determine that the driver did not use earned paid sick time for an authorized purpose.

(n) A transportation network company shall provide each driver with:

(i) Written notification of the current rate of average hourly compensation while a passenger is in the vehicle during the most recent calendar month for use of earned paid sick time;

(ii) An updated amount of accrued earned paid sick time since the last notification;

(iii) Reduced earned paid sick time since the last notification;

(iv) Any unused earned paid sick time available for use; and

(v) Any amount that the transportation network company may subtract from the driver's compensation for earned paid sick time. The transportation network company shall provide this information to the driver no less than monthly. The transportation network company may choose a reasonable system for providing this notification, including but not limited to: A pay stub; a weekly summary of compensation information; or an online system where drivers can access their own earned paid sick time information. A transportation network company is not required to provide this information to a driver if the driver has not worked any days since the last notification.

(o) A transportation network company may not adopt or enforce any policy that counts the use of earned paid sick time as an absence that may lead to or result in any action that adversely affects the driver's use of the transportation network.

(p) A transportation network company may not take any action against a driver that adversely affects the driver's use of the transportation network due to his or her exercise of any rights under this subsection including the use of earned paid sick time.

(q) The department may adopt rules to implement this subsection.

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.

Passed by the Senate February 6, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 40

[Substitute Senate Bill 5980]

INDUSTRIAL SAFETY AND HEALTH ACT—RESIDENTIAL BUILDING CONSTRUCTION—NOTICE OF IDENTIFIED HAZARDS

AN ACT Relating to the timeline for issuing a citation for a violation of the Washington industrial safety and health act; and amending RCW 49.17.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 49.17.120 and 1999 c 93 s 1 are each amended to read as follows:

(1) If upon inspection or investigation the director or ((~~his or her~~)) the director's authorized representative believes that an employer has violated a requirement of RCW 49.17.060, or any safety or health standard promulgated by rule adopted by the director, or the conditions of any order granting a variance pursuant to this chapter, the director shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provisions of the statute, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation.

(2) The director may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no direct or immediate relationship to safety or health.

(3) Each citation, or a copy or copies thereof, issued under the authority of this section and RCW 49.17.130 shall be prominently posted, at or near each place a violation referred to in the citation occurred or as may otherwise be prescribed in regulations issued by the director. The director shall provide by rule for procedures to be followed by an employee representative upon written application to receive copies of citations and notices issued to any employer having employees who are represented by such employee representative. Such rule may prescribe the form of such application, the time for renewal of applications, and the eligibility of the applicant to receive copies of citations and notices.

(4) No citation may be issued under this section or RCW 49.17.130 after the expiration of six months following a compliance inspection, investigation, or survey revealing any such violation.

(5)(a) No citation may be issued under this section if there is unpreventable employee misconduct that led to the violation, but the employer must show the existence of:

(i) A thorough safety program, including work rules, training, and equipment designed to prevent the violation;

(ii) Adequate communication of these rules to employees;

(iii) Steps to discover and correct violations of its safety rules; and

(iv) Effective enforcement of its safety program as written in practice and not just in theory.

(b) This subsection (5) does not eliminate or modify any other defenses that may exist to a citation.

(6)(a) When conducting inspections of employer worksites where workers are engaged in activities as defined by North American industry classification system 2361, residential building construction, the department shall make a good faith effort to notify the employer or owner within 10 working days where a hazard that could cause injury to a worker was immediately identified during an inspection. Such notice does not eliminate or modify any other right, responsibility, or authority provided in this chapter.

(b) The notice requirement in (a) of this subsection applies only until June 30, 2026.

(c) By December 1, 2026, the department shall report to the appropriate committees of the legislature the number and percent of inspections in (a) of this subsection when timely notice was not given to the owner or employer and the reasons why the department did not or could not comply.

Passed by the Senate February 13, 2024.

Passed by the House February 27, 2024.

Approved by the Governor March 13, 2024.

Filed in Office of Secretary of State March 14, 2024.

CHAPTER 41

[Senate Bill 5982]

VACCINES—DEFINITION

AN ACT Relating to updating the definition of "vaccine" in RCW 70.290.010 to include all federal food and drug administration-approved immunizations recommended by the centers for disease control and prevention; amending RCW 70.290.010; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.290.010 and 2010 c 174 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) "Association" means the Washington vaccine association.

(2) "Covered lives" means all persons under the age of nineteen in Washington state who are:

(a) Covered under an individual or group health benefit plan issued or delivered in Washington state or an individual or group health benefit plan that otherwise provides benefits to Washington residents; or

(b) Enrolled in a group health benefit plan administered by a third-party administrator. Persons under the age of nineteen for whom federal funding is used to purchase vaccines or who are enrolled in state purchased health care programs covering low-income children including, but not limited to, apple health for kids under RCW 74.09.470 and the basic health plan under chapter 70.47 RCW are not considered "covered lives" under this chapter.

(3) "Estimated vaccine cost" means the estimated cost to the state over the course of a state fiscal year for the purchase and distribution of vaccines purchased at the federal discount rate by the department of health.

(4) "Health benefit plan" has the same meaning as defined in RCW 48.43.005 and also includes health benefit plans administered by a third-party administrator.

(5) "Health carrier" has the same meaning as defined in RCW 48.43.005.

(6) "Secretary" means the secretary of the department of health.

(7) "State supplied vaccine" means vaccine purchased by the state department of health for covered lives for whom the state is purchasing vaccine using state funds raised via assessments on health carriers and third-party administrators as provided in this chapter.

(8) "Third-party administrator" means any person or entity who, on behalf of a health insurer or health care purchaser, receives or collects charges, contributions, or premiums for, or adjusts or settles claims on or for, residents of Washington state or Washington health care providers and facilities.

(9) "Total nonfederal program cost" means the estimated vaccine cost less the amount of federal revenue available to the state for the purchase and distribution of vaccines.

(10) "Vaccine" means ((~~a preparation of killed or attenuated living microorganisms, or fraction thereof, that upon administration stimulates immunity that protects against disease and is~~)) an immunization approved by the federal food and drug administration as safe and effective and recommended by the advisory committee on immunization practices of the centers for disease control and prevention for administration to children under the age of nineteen years.

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.

Passed by the Senate February 1, 2024.
Passed by the House February 22, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 42

[Senate Bill 6027]
INSURER HOLDING COMPANY ACT—REVISION

AN ACT Relating to the insurer holding company act; and amending RCW 48.31B.005, 48.31B.025, and 48.31B.038.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.31B.005 and 2020 c 243 s 1 are each amended to read as follows:

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

(1) "Affiliate" means an affiliate of, or person affiliated with, a specific person, and includes a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) "Commissioner" means the insurance commissioner, the commissioner's deputies, or the office of the insurance commissioner, as appropriate.

(3) "Control," including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in a manner similar to that provided by RCW 48.31B.025(11) that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(4) "Enterprise risk" means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level as set forth in RCW 48.05.440 or 48.43.310 or would cause the insurer to be in hazardous financial condition as defined in WAC 284-16-310.

(5) "Group capital calculation instructions" means the group capital calculation instructions as adopted by the national association of insurance commissioners and as amended by the national association of insurance commissioners from time to time in accordance with the procedures adopted by the national association of insurance commissioners.

(6) "Group-wide supervisor" means the regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is determined or acknowledged by the commissioner under RCW 48.31B.036 to have sufficient contacts with the internationally active insurance group.

(((~~(6)~~))) (7) "Insurance holding company system" means a system that consists of two or more affiliated persons, one or more of which is an insurer.

(((~~(7)~~))) (8) "Insurer" includes an insurer authorized under chapter 48.05 RCW, a fraternal mutual insurer or society holding a license under RCW 48.36A.290, a health care service contractor registered under chapter 48.44 RCW, a health maintenance organization registered under chapter 48.46 RCW, and a self-funded multiple employer welfare arrangement under chapter 48.125 RCW, as well as all persons engaged as, or purporting to be engaged as insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements in this state, and to persons in process of organization to become insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements, except it does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

(((~~(8)~~))) (9) "Internationally active insurance group" means an insurance holding company system that:

(a) Includes an insurer registered under RCW 48.31B.025; and

(b) Meets the following criteria:

(i) Premiums written in at least three countries;

(ii) The percentage of gross premiums written outside the United States is at least ten percent of the insurance holding company system's total gross written premiums; and

(iii) Based on a three-year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars or the total gross written premiums of the insurance holding company system are at least ten billion dollars.

(((~~(9)~~))) (10) "National association of insurance commissioners liquidity stress test framework" means a separate national association of insurance commissioners publication which includes a history of the national association of insurance commissioners' development of regulatory liquidity stress testing, the scope criteria applicable for a specific data year, and the liquidity stress test instructions and reporting templates for a specific data year, such scope criteria, instructions, and reporting template being as adopted by the national association of insurance commissioners and as amended by the national association of insurance commissioners from time to time in accordance with the procedures adopted by the national association of insurance commissioners.

(11) "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any

similar entity, or any combination of the foregoing acting in concert, but does not include a joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

(((~~(10)~~))) (12) "Scope criteria" means the designated exposure bases along with minimum magnitudes thereof for the specified data year, used to establish a preliminary list of insurers considered scoped into the national association of insurance commissioners liquidity stress test framework for that data year.

(13) "Securityholder" means a securityholder of a specified person who owns any security of that person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

(((~~(11)~~))) (14) "Subsidiary" means a subsidiary of a specified person who is an affiliate controlled by that person directly or indirectly through one or more intermediaries.

(((~~(12)~~))) (15) "Voting security" includes any security convertible into or evidencing a right to acquire a voting security.

Sec. 2. RCW 48.31B.025 and 2015 c 122 s 5 are each amended to read as follows:

(1) Every insurer that is authorized to do business in this state and is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in:

(a) This section;

(b) RCW 48.31B.030 (1)(a), (2), and (3); and

(c) Either RCW 48.31B.030(1)(b) or a provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within fifteen days after the end of the month in which it learns of each change or addition.

Any insurer which is subject to registration under this section shall register within fifteen days after it becomes subject to registration, and annually thereafter by May 1st of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for registration, and then within the extended time. The commissioner may require any insurer authorized to do business in the state that is a member of a holding company system, and which is not subject to registration under this section, to furnish a copy of the registration statement, the summary specified in subsection (3) of this section, or other information filed by the insurance company with the insurance regulatory authority of its domiciliary jurisdiction.

(2) Every insurer subject to registration shall file the registration statement on a form and in a format prescribed by the national association of insurance commissioners, containing the following current information:

(a) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(b) The identity and relationship of every member of the insurance holding company system;

(c) The following agreements in force, and transactions currently outstanding or that have occurred during the last calendar year between the insurer and its affiliates:

(i) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) Purchases, sales, or exchange of assets;

(iii) Transactions not in the ordinary course of business;

(iv) Guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) All management agreements, service contracts, and cost-sharing arrangements;

(vi) Reinsurance agreements;

(vii) Dividends and other distributions to shareholders; and

(viii) Consolidated tax allocation agreements;

(d) Any pledge of the insurer's stock, including stock of subsidiary or controlling affiliate, for a loan made to a member of the insurance holding company system;

(e) If requested by the commissioner, the insurer must include financial statements of or within an insurance holding company system, including all affiliates. Financial statements may include but are not limited to annual audited financial statements filed with the United States securities and exchange commission pursuant to the securities act of 1933, as amended, or the securities exchange act of 1934, as amended. An insurer required to file financial statements pursuant to this subsection (2)(e) may satisfy the request by providing the commissioner with the most recently filed parent corporation financial statements that have been filed with the United States securities and exchange commission;

(f) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in registration forms adopted or approved by the commissioner;

(g) Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures; and

(h) Any other information required by the commissioner by rule.

(3) All registration statements must contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(4) No information need be disclosed on the registration statement filed under subsection (2) of this section if the information is not material for the purposes of this section. Unless the commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of one percent or less of an insurer's admitted assets as of December 31st next preceding are not deemed material for purposes of this section. The definition of materiality provided in this subsection shall not apply for purposes of the group capital calculation or the liquidity stress test framework.

(5) Subject to RCW 48.31B.030(2), each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within fifteen business days after their declaration.

(6) Any person within an insurance holding company system subject to registration is required to provide complete and accurate information to an insurer, where the information is reasonably necessary to enable the insurer to comply with this chapter.

(7) The commissioner shall terminate the registration of an insurer that demonstrates that it no longer is a member of an insurance holding company system.

(8) The commissioner may require or allow two or more affiliated insurers subject to registration under this section to file a consolidated registration statement.

(9) The commissioner may allow an insurer authorized to do business in this state and which is part of an insurance holding company system to register on behalf of an affiliated insurer which is required to register under subsection (1) of this section and to file all information and material required to be filed under this section.

(10) This section does not apply to an insurer, information, or transaction if and to the extent that the commissioner by rule or order exempts the insurer, information, or transaction from this section.

(11) Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer, or any insurer or any member of an insurance holding company system may file the disclaimer. The disclaimer must fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. A disclaimer of affiliation is deemed to have been granted unless the commissioner, within thirty days following receipt of a complete disclaimer, notifies the filing party the disclaimer is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted. The disclaiming party is relieved of its duty to register under this section if approval of the disclaimer has been granted by the commissioner, or if the disclaimer is deemed to have been approved.

(12) The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report. The report must, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report must be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.

(13)(a) The ultimate controlling person of every insurer subject to registration shall concurrently file with the registration an annual group capital calculation as directed by the lead state commissioner. The report shall be completed in accordance with the national association of insurance commissioners group capital calculation instructions, which may permit the lead state commissioner to allow a controlling person that is not the ultimate controlling person to file the group capital calculation. The report shall be filed with the lead state commissioner of the insurance holding company system as

determined by the commissioner in accordance with the procedures within the financial analysis handbook adopted by the national association of insurance commissioners. Insurance holding company systems described below are exempt from filing the group capital calculation:

(i) An insurance holding company system that has only one insurer within its holding company structure, that only writes business and is only licensed in its domestic state, and assumes no business from any other insurer;

(ii) An insurance holding company system that is required to perform a group capital calculation specified by the United States federal reserve board. The lead state commissioner shall request the calculation from the federal reserve board under the terms of information sharing agreements in effect. If the federal reserve board cannot share the calculation with the lead state commissioner, the insurance holding company system is not exempt from the group capital calculation filing;

(iii) An insurance holding company system whose non-United States group-wide supervisor is located within a reciprocal jurisdiction as described in RCW 48.12.462 that recognizes the United States state regulatory approach to group supervision and group capital;

(iv) An insurance holding company system:

(A) That provides information to the lead state that meets the requirements for accreditation under the national association of insurance commissioners financial standards and accreditation program, either directly or indirectly through the group-wide supervisor, who has determined such information is satisfactory to allow the lead state to comply with the national association of insurance commissioners group supervision approach, as detailed in the national association of insurance commissioners financial analysis handbook; and

(B) Whose non-United States group-wide supervisor that is not in a reciprocal jurisdiction recognizes and accepts, as specified by the commissioner in rule, the group capital calculation as the worldwide group capital assessment for United States insurance groups who operate in that jurisdiction.

(b) Notwithstanding the provisions of (a)(iii) and (iv) of this subsection, the lead state commissioner shall require the group capital calculation for United States operations of any non-United States based insurance holding company system where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead state commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace.

(c) Notwithstanding the exemptions from filing the group capital calculation stated in (a) of this subsection, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation or to accept a limited group capital filing or report in accordance with criteria as specified by the commissioner in regulation.

(d) If the lead state commissioner determines that an insurance holding company system no longer meets one or more of the requirements for an exemption from filing the group capital calculation under this section, the insurance holding company system shall file the group capital calculation at the next annual filing date unless given an extension by the lead state commissioner based on reasonable grounds shown.

(14) The ultimate controlling person of every insurer subject to registration and also scoped into the national association of insurance commissioners liquidity stress test framework shall file the results of a specific year's liquidity stress test. The filing shall be made to the lead state commissioner of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.

(a) The national association of insurance commissioners liquidity stress test framework must include scope criteria applicable to a specific data year. These scope criteria must be reviewed at least annually by the financial stability task force or its successor. Any change to the national association of insurance commissioners liquidity stress test framework or to the data year for which the scope criteria are to be measured shall be effective on January 1st of the year following the calendar year when such changes are adopted. Insurers meeting at least one threshold of the scope criteria are considered scoped into the national association of insurance commissioners liquidity stress test framework for the specified data year unless the lead state commissioner, in consultation with the national association of insurance commissioners financial stability task force or its successor, determines the insurer should not be scoped into the framework for that data year. Similarly, insurers that do not trigger at least one threshold of the scope criteria are considered scoped out of the national association of insurance commissioners liquidity stress test framework for the specified data year, unless the lead state commissioner, in consultation with the national association of insurance commissioners financial stability task force or its successor, determines the insurer should be scoped into the framework for that data year.

(b) The performance of, and filing of the results from, a specific year's liquidity stress test shall comply with the national association of insurance commissioners liquidity stress test framework's instructions and reporting templates for that year and any lead state commissioner determinations, in consultation with the financial stability task force or its successor, provided within the framework.

(15) The failure to file a registration statement or any summary of the registration statement or enterprise risk filing required by this section within the time specified for filing is a violation of this section.

Sec. 3. RCW 48.31B.038 and 2020 c 243 s 2 are each amended to read as follows:

(1) Documents, materials, or other information in the possession or control of the commissioner that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to RCW 48.31B.035 and all information reported or provided to the commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, and 48.31B.036 are recognized by this state as being proprietary and to contain trade secrets, and are confidential by law and privileged, are not subject to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials, or other information public without the prior written

consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interest of policyholders, shareholders, or the public is served by the publication thereof, in which event the commissioner may publish all or any part in such manner as may be deemed appropriate.

(a) For purposes of the information reported and provided to the commissioner pursuant to RCW 48.31B.025(13), the commissioner shall maintain the confidentiality of the group capital calculation and group capital ratio produced within the calculation and any group capital information received from an insurance holding company supervised by the federal reserve board or any United States group-wide supervisor.

(b) For purposes of the information reported and provided to the commissioner pursuant to RCW 48.31B.025(14), the commissioner shall maintain the confidentiality of the liquidity stress test results and supporting disclosures and any liquidity stress test information received from an insurance holding company supervised by the federal reserve board and non-United States group-wide supervisors.

(2) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared pursuant to this chapter is permitted or may be required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (1) of this section.

(3) In order to assist in the performance of the commissioner's duties, the commissioner:

(a) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (1) of this section, including proprietary and trade secret documents and materials, with other state, federal, and international regulatory agencies, with the national association of insurance commissioners ((~~and its affiliates and subsidiaries~~)), with any third-party consultants designated by the commissioner, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in RCW 48.31B.037, provided the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality;

(b) Notwithstanding (a) of this subsection, may only share confidential and privileged documents, material, or information reported pursuant to RCW 48.31B.025(12) with commissioners of states having statutes or rules substantially similar to subsection (1) of this section and who have agreed in writing not to disclose such information;

(c) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade secret information, from the national association of insurance commissioners ((~~and its affiliates and subsidiaries~~)) or a third-party consultant designated by the commissioner, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information

received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(d) Shall enter into written agreements with the national association of insurance commissioners and any third-party consultant designated by the commissioner governing sharing and use of information provided pursuant to this chapter consistent with this subsection that shall:

(i) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners ((~~and its affiliates and subsidiaries~~)) or a third-party consultant designated by the commissioner pursuant to this chapter, including procedures and protocols for sharing by the national association of insurance commissioners with other state, federal, or international regulators. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, or other information and has verified in writing the legal authority to maintain such confidentiality;

(ii) Specify that ownership of information shared with the national association of insurance commissioners ((~~and its affiliates and subsidiaries~~)) or a third-party consultant designated by the commissioner pursuant to this chapter remains with the commissioner and the national association of insurance commissioners' or third-party consultant's use of the information is subject to the direction of the commissioner;

(iii) Excluding documents, materials, or other information reported pursuant to RCW 48.31B.025(14), prohibit the national association of insurance commissioners or third-party consultant designated by the commissioner from storing the information shared pursuant to this act in a permanent database after the underlying analysis is completed;

(iv) Require prompt notice to be given to an insurer whose confidential information in the possession of the national association of insurance commissioners or a third-party consultant designated by the commissioner pursuant to this chapter is subject to a request or subpoena to the national association of insurance commissioners or a third-party consultant designated by the commissioner for disclosure or production; ((~~and~~

~~(iv)~~)) (v) Require the national association of insurance commissioners ((~~and its affiliates and subsidiaries~~)) or a third-party consultant designated by the commissioner to consent to intervention by an insurer in any judicial or administrative action in which the national association of insurance commissioners ((~~and its affiliates and subsidiaries~~)) or third-party consultant designated by the commissioner may be required to disclose confidential information about the insurer shared with the national association of insurance commissioners ((~~and its affiliates and subsidiaries~~)) or a third-party consultant designated by the commissioner pursuant to this chapter; and

(vi) For documents, materials, or other information reporting pursuant to RCW 48.31B.025(14), in the case of an agreement involving a third-party consultant, provide for notification of the identity of the consultant to the applicable insurer.

(4) The sharing of information by the commissioner pursuant to this chapter does not constitute a delegation of regulatory authority or rule making, and the

commissioner is solely responsible for the administration, execution, and enforcement of this chapter.

(5) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.

(6) Documents, materials, or other information in the possession or control of the national association of insurance commissioners or a third-party consultant designated by the commissioner pursuant to this chapter are confidential by law and privileged, are not subject to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action.

(7) The group capital calculation and resulting group capital ratio required under RCW 48.31B.025(13) and the liquidity stress test along with its results and supporting disclosures required under RCW 48.318.025(14) are regulatory tools for assessing group risks and capital adequacy and group liquidity risks, respectively, and are not intended as a means to rank insurers or insurance holding company systems generally. Therefore, except as otherwise may be required under the provisions of this act, the making, publishing, disseminating, circulating, or placing before the public, or causing directly or indirectly to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station or any electronic means of communication available to the public, or in any other way as an advertisement, announcement, or statement containing a representation or statement with regard to the group capital calculation, group capital ratio, the liquidity stress test results, or supporting disclosures for the liquidity stress test of any insurer or any insurer group, or of any component derived in the calculation by any insurer, broker, or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited; provided, however, that if any materially false statement with respect to the group capital calculation, resulting group capital ratio, an inappropriate comparison of any amount to an insurer's or insurance group's group capital calculation or resulting group capital ratio, liquidity stress test result, supporting disclosures for the liquidity stress test, or an inappropriate comparison of any amount to an insurer's or insurance group's liquidity stress test result or supporting disclosures is published in any written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity of such statement or the inappropriateness, as the case may be, then the insurer may publish announcements in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

Passed by the Senate February 7, 2024.

Passed by the House February 27, 2024.

Approved by the Governor March 13, 2024.

Filed in Office of Secretary of State March 14, 2024.

CHAPTER 43

[Engrossed Senate Bill 6296]

RETAIL WORK GROUP

AN ACT Relating to establishing a retail industry work group; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A 2023 report examining the future of the retail workforce in Washington state found that prioritizing ways to reduce turnover and increase internal promotion would offer benefits to both employers and workers simultaneously. To accomplish this, the report recommends the standardization of the credentials, degrees, and postsecondary awards that are of benefit to individuals in the retail industry as well as identifying credential pathways toward academic degrees and state-registered apprenticeship programs that would support a retail career path.

(1) The state board for community and technical colleges shall establish a retail work group consisting of higher education, business, labor, and workforce development representatives with expertise in the retail workforce. The work group shall identify and report to the legislature by October 1, 2025, the following:

(a) Degrees, certificates, state-registered apprenticeship programs, and education programs of value to the retail workforce;

(b) Gaps in educational opportunities and skill development in existing academic programs;

(c) Best practices in program design and curriculum for high quality credentials in support of the retail sector;

(d) Career pathways for individuals in the retail sector with a focus on stackable credentials; and

(e) Any barriers individuals face in attaining high quality credentials in support of a retail career.

(2) The work group shall recommend up to four colleges for pilot programs for short-term credentials and microcredentials in support of the retail workforce. These pilot programs must be designed with the best practices from subsection (1) of this section.

(3) "State-registered apprenticeship program" means an approved apprenticeship program under chapter 49.04 RCW that has been approved to participate in state financial aid programs.

(4) This section expires July 1, 2026.

Passed by the Senate February 13, 2024.

Passed by the House February 27, 2024.

Approved by the Governor March 13, 2024.

Filed in Office of Secretary of State March 14, 2024.

CHAPTER 44

[House Bill 1146]

HIGH SCHOOL DUAL CREDIT PROGRAMS—NOTICE TO STUDENTS

AN ACT Relating to notifying high school students and their families about available dual credit programs and any available financial assistance; and adding a new section to chapter 28A.600 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.600 RCW to read as follows:

(1) Prior to course scheduling or course registration for the next school term, each public school that serves students in any of grades nine through 12 must provide all students and their parents or legal guardians with: Information about each available dual credit program and any financial assistance available to reduce dual credit course and exam costs for students and their families. The information must be provided via email and other communication methods, and, to the extent feasible, must be translated into the primary language of each parent or legal guardian.

(2) Public schools are encouraged to include in the notification required under subsection (1) of this section other information about advanced course taking that must be provided to parents and legal guardians under RCW 28A.320.195, 28A.600.287, and 28A.600.320.

(3) As used in this section, "public school" has the same meaning as in RCW 28A.150.010.

Passed by the House January 11, 2024.

Passed by the Senate February 29, 2024.

Approved by the Governor March 13, 2024.

Filed in Office of Secretary of State March 14, 2024.

CHAPTER 45

[House Bill 1153]

OCTOPUS AQUACULTURE

AN ACT Relating to prohibiting octopus farming; and amending RCW 15.85.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 15.85.020 and 2003 c 39 s 7 are each amended to read as follows:

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

(1) "Aquaculture" means the process of growing, farming, or cultivating private sector cultured aquatic products in marine or fresh waters and includes management by an aquatic farmer.

(2) "Aquatic farmer" is a private sector person who commercially farms and manages the cultivating of private sector cultured aquatic products on the person's own land or on land in which the person has a present right of possession.

(3)(a) "Private sector cultured aquatic products" are native, nonnative, or hybrids of marine or freshwater plants and animals that are propagated, farmed, or cultivated on aquatic farms under the supervision and management of a private sector aquatic farmer or that are naturally set on aquatic farms which at the time of setting are under the active supervision and management of a private sector aquatic farmer. When produced under such supervision and management, private sector cultured aquatic products include, but are not limited to, the following plants and animals:

Scientific Name	Common Name
Enteromorpha	green nori
Monostroma	awo-nori
Ulva	sea lettuce
Laminaria	konbu
Nereocystis	bull kelp
Porphyra	nori
Iridaea	
Haliotis	abalone
Zhlamys	pink scallop
Hinnites	rock scallop
Tatinopecten	Japanese or weathervane scallop
Protothaca	native littleneck clam
Tapes	manila clam
Saxidomus	butter clam
Mytilus	mussels
Crassostrea	Pacific oysters
Ostrea	Olympia and European oysters
Pacifasticus	crayfish
Macrobrachium	freshwater prawn
Salmo and Salvelinus	trout, char, and Atlantic salmon
Oncorhynchus	salmon
Ictalurus	catfish
Cyprinus	carp
Acipenseridae	Sturgeon

(b) Private sector cultured aquatic products do not include herring spawn on kelp and other products harvested under a herring spawn on kelp permit issued in accordance with RCW 77.70.210.

(c) Private sector cultured aquatic products do not include octopus and a person may not participate in octopus aquaculture in Washington.

(4) "Department" means the department of agriculture.

(5) "Director" means the director of agriculture.

Passed by the House February 6, 2024.

Passed by the Senate February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 46

[House Bill 1726]

FIREFIGHTER TRAINING EXPENSES—REIMBURSEMENT RATE CALCULATION

AN ACT Relating to the director of fire protection's administration and reimbursement of fire service-related training programs; and amending RCW 43.43.934.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.43.934 and 2015 c 43 s 1 are each amended to read as follows:

The director of fire protection shall:

(1)(a)(i) With the state board for community and technical colleges, provide academic, vocational, and field training programs for the fire service; and (ii) with the state colleges and universities, provide instructional programs requiring advanced training, especially in command and management skills;

(b) Cooperate with the common schools, technical and community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule;

(c) Develop and adopt a master plan for constructing, equipping, maintaining, and operating necessary fire service training and education facilities subject to the provisions of chapter 43.19 RCW;

(d) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary for fire service training and education facilities in a manner provided by law; and

(e)(i) Develop and adopt a plan for the Washington state patrol fire training academy to deliver basic firefighter training and testing to all city fire departments, fire protection districts, regional fire protection service authorities, and other public fire agencies in the state. The plan required by this subsection (1)(e) must specify that the delivery of training and testing services will be provided:

(A) To recipients in the following order of priority:

(I) Volunteer departments;

(II) Combination departments; and

(III) Fire agencies that employ only career firefighters and fire officers; and

(B) By personnel of the fire training academy, either at the academy's facilities in North Bend, Washington, or regionally at local fire agencies.

(ii)(((~~(A) In lieu of receiving training and testing services from the fire training academy, city~~)) City fire departments, fire protection districts, regional fire protection service authorities, and other public fire agencies in the state may

seek reimbursement for their firefighter I training expenses in accordance with the rules established by the Washington state patrol, director of fire protection. ((~~The amount of reimbursement will be calculated on a per capita basis. The per capita amount is equal to the three-year statewide firefighter per capita average for the regional direct delivery of training by the fire training academy. The three-year statewide firefighter per capita average is calculated by dividing the number of firefighters trained using the regional direct delivery program during the three-year period into the total cost of providing regional direct delivery during the same three-year period. The regional direct delivery costs used for the basis of these calculations does not include the costs of the fire training academy personnel used to coordinate the direct delivery programs, the state's indirect costs, or any other indirect costs.~~

~~(B) Prior to the implementation of the reimbursement provisions in (e)(ii)(A) of this subsection, the amount of reimbursement for city fire departments, fire protection districts, regional fire protection service authorities, and other public fire agencies must be not less than three dollars for every one hour of firefighter I training, and may not exceed two hundred hours.~~))

(iii) Subject to approval by the director of fire protection, and in accordance with the plan required by this subsection (1)(e), the fire training academy facilities ((~~and programs~~)) must be made available at no cost to fire service youth programs. The goal of making these facilities ((~~and programs~~)) available is to increase enrollment of volunteer firefighters, and to improve gender, cultural, and ethnic diversity within the fire service.

(iv) For purposes of this subsection (1)(e), the following definitions apply:

(A) "Basic firefighter training and testing" means training and testing for firefighters that is up to and includes the requirements of firefighter I, as identified by the national fire protection association standard 1001;

(B) "Combination department" means a fire department with emergency service personnel comprising less than eighty-five percent of either volunteer or career membership;

(C) "Delivery of training" includes all resources, personnel, and equipment necessary to deliver training at the fire academy in North Bend, Washington, or regionally at local fire agencies; and

(D) "Volunteer department" means a fire department with volunteer emergency service personnel comprising eighty-five percent or greater of its department membership.

(2)(a) Promote mutual aid and disaster planning for fire services in this state;

(b) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention; and

(c) Implement any legislation enacted by the legislature to meet the requirements of any acts of congress that apply to this section.

(3) In carrying out its statutory duties, the office of the state fire marshal shall give particular consideration to the appropriate roles to be played by the state and by local jurisdictions with fire protection responsibilities. Any determinations on the division of responsibility shall be made in consultation with local fire officials and their representatives.

To the extent possible, the office of the state fire marshal shall encourage development of regional units along compatible geographic, population, economic, and fire risk dimensions. Such regional units may serve to: (a) Reinforce coordination among state and local activities in fire service training, reporting, inspections, and investigations; (b) identify areas of special need, particularly in smaller jurisdictions with inadequate resources; (c) assist the state in its oversight responsibilities; (d) identify funding needs and options at both the state and local levels; and (e) provide models for building local capacity in fire protection programs.

(4) The Washington state patrol, through the director of fire protection, may adopt rules necessary to carry out the purposes of this section.

Passed by the House January 17, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 47

[Engrossed Substitute House Bill 1835]

FRONTIER COUNTIES—DEFINITION

AN ACT Relating to defining frontier counties; and amending RCW 43.160.020, 43.330.010, and 82.02.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.160.020 and 2012 c 225 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 community economic revitalization board.

(2) "Department" means the department of commerce.

(3) "Frontier county" means a county with a population density of fewer than 50 persons per square mile as determined by the office of financial management and published each year by the department. A county with a population density of 21 or fewer persons per square mile is a "frontier one" county. A county with a population density of more than 21 but fewer than 50 persons per square mile is a "frontier two" county. Every frontier county is also a rural county under this chapter and eligible for all benefits, services, and programs of a rural county unless a frontier county is specifically excluded in the authorizing statute.

(4) "Local government" or "political subdivision" means any port district, county, city, town, special purpose district, and any other municipal corporations or quasi-municipal corporations in the state providing for public facilities under this chapter.

(((~~(4)~~))) (5) "Public facilities" means a project of a local government or a federally recognized Indian tribe for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of: Bridges; roads; research, testing, training, and incubation facilities in areas designated as innovation partnership zones under RCW 43.330.270; buildings or structures; domestic and industrial water, earth stabilization, sanitary sewer, storm sewer,

railroad, electricity, telecommunications, transportation, natural gas, and port facilities; all for the purpose of job creation, job retention, or job expansion.

((~~(5)~~)) (6) "Rural county" means a county with a population density of fewer than ((~~one hundred~~)) 100 persons per square mile or a county smaller than ((~~two hundred twenty-five~~)) 225 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.

Sec. 2. RCW 43.330.010 and 2021 c 39 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) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

(2) "Department" means the department of commerce.

(3) "Director" means the director of the department of commerce.

(4) "Family resource center" means a unified single point of entry where families, individuals, children, and youth in communities can obtain information, an assessment of needs, referral to, or direct delivery of family services in a manner that is welcoming and strength-based.

(a) A family resource center is designed to meet the needs, cultures, and interests of the communities that the family resource center serves.

(b) Family services may be delivered directly to a family at the family resource center by family resource center staff or by providers who contract with or have provider agreements with the family resource center. Any family resource center that provides family services shall comply with applicable state and federal laws and regulations regarding the delivery of such family services, unless required waivers or exemptions have been granted by the appropriate governing body.

(c) Each family resource center shall have one or more family advocates who screen and assess a family's needs and strengths. If requested by the family, the family advocate shall assist the family with setting its own goals and, together with the family, develop a written plan to pursue the family's goals in working towards a greater level of self-reliance or in attaining self-sufficiency.

(5) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business in this state under state or federal law.

(6) "Frontier county" means a county with a population density of fewer than 50 persons per square mile as determined by the office of financial management and published each year by the department. A county with a population density of 21 or fewer persons per square mile is a "frontier one" county. A county with a population density of more than 21 but fewer than 50 persons per square mile is a "frontier two" county. Every frontier county is also a rural county under this chapter and eligible for all benefits, services, and programs of a rural county unless a frontier county is specifically excluded in the authorizing statute.

(7) "Small business" has the same meaning as provided in RCW 39.26.010.

Sec. 3. RCW 82.02.010 and 2022 c 16 s 137 are each amended to read as follows:

For the purpose of this title, unless the context clearly requires otherwise:

(1) "Cannabis," "cannabis-infused products," and "useable cannabis" have the meanings provided in RCW 69.50.101;

(2) "Department" means the department of revenue of the state of Washington;

(3) "Director" means the director of the department of revenue of the state of Washington;

(4) "Frontier county" means a county with a population density of fewer than 50 persons per square mile as determined by the office of financial management and published each year by the department. A county with a population density of 21 or fewer persons per square mile is a "frontier one" county. A county with a population density of more than 21 but fewer than 50 persons per square mile is a "frontier two" county. Every frontier county is also a rural county as defined in RCW 82.14.370 and eligible for all benefits, services, and programs unless a frontier county is specifically excluded in the authorizing statute;

(5) "Taxpayer" includes any individual, group of individuals, corporation, or association liable for any tax or the collection of any tax hereunder, or who engages in any business or performs any act for which a tax is imposed by this title. "Taxpayer" also includes any person liable for any fee or other charge collected by the department under any provision of law, including registration assessments and delinquency fees imposed under RCW 59.30.050; and

((~~(5)~~)) (6) Words in the singular number include the plural and the plural include the singular. Words in one gender include all other genders.

Passed by the House February 9, 2024.

Passed by the Senate February 28, 2024.

Approved by the Governor March 13, 2024.

Filed in Office of Secretary of State March 14, 2024.

CHAPTER 48

[House Bill 1876]

CONFIDENTIAL FISHERIES INFORMATION—PUBLIC RECORDS ACT EXEMPTION

AN ACT Relating to confidential fisheries information collected by other states and maintaining that confidentiality under the public records act; amending RCW 42.56.430 and 42.56.430; creating a new section; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** Fishery data and recordkeeping occurs primarily at the state level on the west coast, but many fishers participate in multiple fisheries along the coast and deliver their catches into multiple states. Coastal states regularly share confidential data to ensure regulations are enforced, to understand fisheries performance, and to analyze the need for and likely effects of potential rule changes. The goal of this act is to expressly authorize the department of fish and wildlife to protect data received from other coastal states if that data is confidential under the originating state's laws.

Sec. 2. RCW 42.56.430 and 2018 c 214 s 1 are each amended to read as follows:

The following information relating to fish and wildlife is exempt from disclosure under this chapter:

(1) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data, however, this information may be released to government agencies concerned with the management of fish and wildlife resources;

(2) Sensitive fish and wildlife data. Sensitive fish and wildlife data may be released to the following entities and their agents for fish, wildlife, land management purposes, or scientific research needs: Government agencies, public utilities, and accredited colleges and universities. Sensitive fish and wildlife data may be released to tribal governments. Sensitive fish and wildlife data may also be released to the owner, lessee, or right-of-way or easement holder of the private land to which the data pertains. The release of sensitive fish and wildlife data must be subject to a confidentiality agreement, except upon release of sensitive fish and wildlife data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data. Sensitive fish and wildlife data does not include data related to reports of predatory wildlife as specified in RCW 77.12.885. Sensitive fish and wildlife data must meet at least one of the following criteria of this subsection as applied by the department of fish and wildlife:

(a) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(b) Radio frequencies used in, or locational data generated by, telemetry studies; or

(c) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(i) The species has a known commercial or black market value;

(ii) There is a history of malicious take of that species and the species behavior or ecology renders it especially vulnerable;

(iii) There is a known demand to visit, take, or disturb the species; or

(iv) The species has an extremely limited distribution and concentration;

(3) The following information regarding any damage prevention cooperative agreement, or nonlethal preventative measures deployed to minimize wolf interactions with pets and livestock:

(a) The name, telephone number, residential address, and other personally identifying information of any person who has a current damage prevention cooperative agreement with the department, including a pet or livestock owner, and his or her employees or immediate family members, who agrees to deploy, or is responsible for the deployment of, nonlethal, preventative measures; and

(b) The legal description or name of any residential property, ranch, or farm, that is owned, leased, or used by any person included in (a) of this subsection;

(4) The following information regarding a reported depredation by wolves on pets or livestock:

(a) The name, telephone number, residential address, and other personally identifying information of:

(i) Any person who reported the depredation;

(ii) Any pet or livestock owner, and his or her employees or immediate family members, whose pet or livestock was the subject of a reported depredation; and

(iii) Any department of fish and wildlife employee, range rider contractor, or trapper contractor who directly:

(A) Responds to a depredation; or

(B) Assists in the lethal removal of a wolf; and

(b) The legal description, location coordinates, or name that identifies any residential property, or ranch or farm that contains a residence, that is owned, leased, or used by any person included in (a) of this subsection;

(5) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag; however, the department of fish and wildlife may disclose personally identifying information to:

(a) Government agencies concerned with the management of fish and wildlife resources;

(b) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(c) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040;

(6)(a) Information that the department of fish and wildlife has received or accessed but may not disclose due to confidentiality requirements in the Magnuson-Stevens fishery conservation and management reauthorization act of 2006 (16 U.S.C. Sec. 1861(h)(3) and (i), and Sec. 1881a(b)); and

(b) Fisheries related information that was collected by another state and is confidential under the laws of that state;

(7) The following tribal fish and shellfish harvest information, shared with the department of fish and wildlife:

(a) Fisher name;

(b) Fisher signature;

(c) Total harvest value per species;

(d) Total harvest value;

(e) Price per pound; and

(f) Tribal tax information; and

(8) The following commercial shellfish harvest information, shared with the department of fish and wildlife:

(a) Individual farmer name;

(b) Individual farmer signature;

(c) Total harvest value per species;

(d) Total harvest value;

(e) Price per pound; and

(f) Tax information.

Sec. 3. RCW 42.56.430 and 2018 c 214 s 2 are each amended to read as follows:

The following information relating to fish and wildlife is exempt from disclosure under this chapter:

(1) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data, however, this information may be released to government agencies concerned with the management of fish and wildlife resources;

(2) Sensitive fish and wildlife data. Sensitive fish and wildlife data may be released to the following entities and their agents for fish, wildlife, land management purposes, or scientific research needs: Government agencies, public utilities, and accredited colleges and universities. Sensitive fish and wildlife data may be released to tribal governments. Sensitive fish and wildlife data may also be released to the owner, lessee, or right-of-way or easement holder of the private land to which the data pertains. The release of sensitive fish and wildlife data must be subject to a confidentiality agreement, except upon release of sensitive fish and wildlife data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data. Sensitive fish and wildlife data does not include data related to reports of predatory wildlife as specified in RCW 77.12.885. Sensitive fish and wildlife data must meet at least one of the following criteria of this subsection as applied by the department of fish and wildlife:

(a) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(b) Radio frequencies used in, or locational data generated by, telemetry studies; or

(c) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(i) The species has a known commercial or black market value;

(ii) There is a history of malicious take of that species and the species behavior or ecology renders it especially vulnerable;

(iii) There is a known demand to visit, take, or disturb the species; or

(iv) The species has an extremely limited distribution and concentration;

(3) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag; however, the department of fish and wildlife may disclose personally identifying information to:

(a) Government agencies concerned with the management of fish and wildlife resources;

(b) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(c) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040;

(4)(a) Information that the department of fish and wildlife has received or accessed but may not disclose due to confidentiality requirements in the

Magnuson-Stevens fishery conservation and management reauthorization act of 2006 (16 U.S.C. Sec. 1861(h)(3) and (i), and Sec. 1881a(b)); and

(b) Fisheries related information that was collected by another state and is confidential under the laws of that state;

(5) The following tribal fish and shellfish harvest information, shared with the department of fish and wildlife:

(a) Fisher name;

(b) Fisher signature;

(c) Total harvest value per species;

(d) Total harvest value;

(e) Price per pound; and

(f) Tribal tax information; and

(6) The following commercial shellfish harvest information, shared with the department of fish and wildlife:

(a) Individual farmer name;

(b) Individual farmer signature;

(c) Total harvest value per species;

(d) Total harvest value;

(e) Price per pound; and

(f) Tax information.

NEW SECTION. **Sec. 4.** Section 2 of this act expires June 30, 2027.

NEW SECTION. **Sec. 5.** Section 3 of this act takes effect June 30, 2027.

Passed by the House February 12, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 49

[Substitute House Bill 1880]

ARCHITECT LICENSING—EXAMINATION TIMELINE

AN ACT Relating to architecture licensing examinations; amending RCW 18.08.360; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.08.360 and 2019 c 67 s 4 are each amended to read as follows:

(1) The examination for an architect's certificate of registration shall be held at least annually at such time and place as the board determines.

(2) The board shall determine the content, scope, and grading process of the examination. The board may adopt an appropriate national examination and grading procedure.

(3) Applicants who fail to pass any section of the examination shall be permitted to retake the parts failed as prescribed by the board. Applicants ((~~have five years from the date of the first passed examination section to pass all remaining sections. If the entire examination is not successfully completed within five years, any sections that were passed more than five years prior must be retaken. If a candidate fails to pass all remaining sections within the initial five-year period, the candidate is given a new five-year period from the date of~~

~~the second oldest passed section. All sections of the examination must be passed within a single five-year period for the applicant to be deemed to have passed the complete examination~~)) shall pass all sections of the examination as prescribed by the board.

(4) Applicants for registration may begin taking the examination upon enrollment in a structured training program as approved by the board.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2024.

Passed by the House January 31, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 50

[Substitute House Bill 1889]

PROFESSIONAL LICENSES AND CERTIFICATIONS—IMMIGRATION STATUS

AN ACT Relating to allowing persons to receive professional licenses and certifications regardless of immigration or citizenship status; amending RCW 18.235.020, 18.53.060, 18.185.020, 19.230.040, 19.230.090, and 42.45.200; reenacting and amending RCW 18.130.040; adding a new section to chapter 28A.410 RCW; adding a new section to chapter 28A.413 RCW; adding a new chapter to Title 18 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** For the businesses and professions included under this title, except for interstate compacts:

(1) An individual who is not lawfully present in the United States is eligible for a professional license, commercial license, certificate, permit, or registration as allowed under Title 8 U.S.C. Sec. 1621. A state agency, regulatory authority, or disciplining authority shall not deny an application for a professional license, commercial license, certificate, permit, or registration solely on the basis of a person's immigration or citizenship status if the person has met all other qualifications.

(2) An applicant for a professional license, commercial license, certificate, permit, or registration may provide an individual taxpayer identification number in lieu of a social security number when completing an application.

(3) A state agency, regulatory authority, or disciplining authority shall not disclose to any person who is not employed by the state agency, regulatory authority, or disciplining authority the social security number or individual taxpayer identification number of an applicant or licensee for any purpose except:

(a) Tax purposes;

(b) Licensing purposes; and

(c) Enforcement of an order for the payment of child support.

(4) A social security number or individual taxpayer identification number provided to a state agency, regulatory authority, or disciplining authority is confidential and is exempt from disclosure under chapter 42.56 RCW.

(5) Nothing in this section shall affect the requirements to obtain a professional license, commercial license, certificate, permit, or registration that are not directly related to citizenship status or immigration status.

(6) This chapter does not apply to licensees under chapters 18.165 and 18.170 RCW and RCW 18.185.250.

Sec. 2. RCW 18.235.020 and 2017 c 281 s 37 are each amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and 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 director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

(xi) Notaries public under chapter 42.45 RCW;

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;

(xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Scrap metal processors, scrap metal recyclers, and scrap metal suppliers under chapter 19.290 RCW;

(xvii) Security guards under chapter 18.170 RCW;

(xviii) Sellers of travel under chapter 19.138 RCW;

(xix) Timeshares and timeshare salespersons under chapter 64.36 RCW;

(xx) Whitewater river outfitters under chapter 79A.60 RCW;

(xxi) Home inspectors under chapter 18.280 RCW;

(xxii) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and

(xxiii) Appraisal management companies under chapter 18.310 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The state board for architects established in chapter 18.08 RCW;

(ii) The Washington state collection agency board established in chapter 19.16 RCW;

(iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

(v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter, chapter 18.--- RCW (the new chapter created in section 11 of this act), and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.410 RCW to read as follows:

An individual who is not lawfully present in the United States is eligible for a permit or certificate as allowed under Title 8 U.S.C. Sec. 1621. The professional educator standards board and the superintendent of public instruction shall not deny an application for a permit or certificate solely on the basis of a person's immigration or citizenship status if the person has met all other qualifications.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.413 RCW to read as follows:

An individual who is not lawfully present in the United States is eligible for a certificate as allowed under Title 8 U.S.C. Sec. 1621. The paraeducator board shall not deny an application for a certificate for a person solely on the basis of a person's immigration or citizenship status if the person has met all other qualifications.

Sec. 5. RCW 18.130.040 and 2023 c 469 s 18, 2023 c 460 s 15, 2023 c 425 s 27, 2023 c 270 s 14, 2023 c 175 s 11, and 2023 c 123 s 21 are each reenacted and 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) Acupuncturists or acupuncture and Eastern 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 registered, agency affiliated counselors registered, certified, or licensed, 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) Substance use disorder professionals, substance use disorder professional trainees, or co-occurring disorder specialists 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;

(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW;

(xxvii) Birth doulas certified under chapter 18.47 RCW;

(xxviii) Music therapists licensed under chapter 18.233 RCW;

(xxix) Behavioral health support specialists certified under chapter 18.227 RCW; and

(xxx) Certified peer specialists and certified peer specialist trainees under chapter 18.420 RCW.

(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, licenses issued under chapter 18.265 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 chapter 18.57 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 Washington medical 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 board of nursing as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter and under chapter 18.80 RCW;

(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, governing licenses and certifications issued under that chapter; 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, which must be in compliance with chapter 18.--- RCW (the new chapter created in section 11 of this act).

(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. 6. RCW 18.53.060 and 1995 c 198 s 6 are each amended to read as follows:

From and after January 1, 1940, in order to be eligible for examination for registration, a person ((~~shall be a citizen of the United States of America, who~~)) shall have a preliminary education of or equal to four years in a state accredited high school and has completed a full attendance course in a regularly chartered school of optometry maintaining a standard which is deemed sufficient and satisfactory by the optometry board, who is a person of good moral character, who has a visual acuity in at least one eye, of a standard known as 20/40 under correction: PROVIDED, That from and after January 1, 1975, in order to be eligible for examination for a license, a person shall have the following qualifications:

(1) Be a graduate of a state accredited high school or its equivalent;

(2) Have a diploma or other certificate of completion from an accredited college of optometry or school of optometry, maintaining a standard which is deemed sufficient and satisfactory by the optometry board, conferring its degree of doctor of optometry or its equivalent, maintaining a course of four scholastic years in addition to preprofessional college-level studies, and teaching

substantially all of the following subjects: General anatomy, anatomy of the eyes, physiology, physics, chemistry, pharmacology, biology, bacteriology, general pathology, ocular pathology, ocular neurology, ocular myology, psychology, physiological optics, optometrical mechanics, clinical optometry, visual field charting and orthoptics, general laws of optics and refraction and use of the ophthalmoscope, retinoscope and other clinical instruments necessary in the practice of optometry; and

(3) Be of good moral character.

Such person shall file an application for an examination and license with said board at any time thirty days prior to the time fixed for such examination, or at a later date if approved by the board, and such application must be on forms approved by the board, and properly attested, and if found to be in accordance with the provisions of this chapter shall entitle the applicant upon payment of the proper fee, to take the examination prescribed by the board. Such examination shall not be out of keeping with the established teachings and adopted textbooks of the recognized schools of optometry, and shall be confined to such subjects and practices as are recognized as essential to the practice of optometry. All candidates without discrimination, who shall successfully pass the prescribed examination, shall be registered by the board and shall, upon payment of the proper fee, be issued a license. Any license to practice optometry in this state issued by the secretary, and which shall be in full force and effect at the time of passage of chapter 69, Laws of 1975 1st ex. sess., shall be continued.

Sec. 7. RCW 18.185.020 and 1993 c 260 s 3 are each amended to read as follows:

An applicant must meet the following minimum requirements to obtain a bail bond agent license:

(1) Be at least eighteen years of age;

(2) ((~~Be a citizen or resident alien of the United States;~~

~~(3)~~)) Not have been convicted of a crime in any jurisdiction in the preceding ten years, if the director determines that the applicant's particular crime directly relates to a capacity to perform the duties of a bail bond agent and the director determines that the license should be withheld to protect the citizens of Washington state. If the director shall make a determination to withhold a license because of previous convictions, the determination shall be consistent with the restoration of employment rights act, chapter 9.96A RCW;

((~~(4)~~)) (3) Be employed by a bail bond agency or be licensed as a bail bond agency; and

((~~(5)~~)) (4) Pay the required fee.

Sec. 8. RCW 19.230.040 and 2017 c 30 s 4 are each amended to read as follows:

(1) A person applying for a money transmitter license under this chapter shall do so in a form and in a medium prescribed in rule by the director. The application must state or contain:

(a) The legal name, business addresses, and residential address, if applicable, of the applicant and any fictitious or trade name used by the applicant in conducting its business;

(b) The legal name, residential and business addresses, date of birth, social security number((~~,~~)) or tax payer identification number, and employment history

for the five-year period preceding the submission of the application of the applicant's proposed responsible individual((~~, and documentation that the proposed responsible individual is a citizen of the United States or has obtained legal immigration status to work in the United States~~)). In addition, the proposed responsible individual must reside in the United States, and the applicant shall provide the fingerprints of the proposed responsible individual upon the request of the director;

(c) For the ten-year period preceding submission of the application, a list of any criminal convictions of the proposed responsible individual of the applicant, any material litigation in which the applicant has been involved, and any litigation involving the proposed responsible individual relating to the provision of money services;

(d) A description of any money services previously provided by the applicant and the money services that the applicant seeks to provide to persons in Washington state;

(e) A list of the applicant's proposed authorized delegates and the locations where the applicant and its authorized delegates will engage in the provision of money services to persons in Washington state on behalf of the licensee;

(f) A list of other states in which the applicant is licensed to engage in money transmission, or provide other money services, and any license revocations, suspensions, restrictions, or other disciplinary action taken against the applicant in another state;

(g) A list of any license revocations, suspensions, restrictions, or other disciplinary action taken against any money services business involving the proposed responsible individual;

(h) Information concerning any bankruptcy or receivership proceedings involving or affecting the applicant or the proposed responsible individual;

(i) A sample form of contract for authorized delegates, if applicable;

(j) A description of the source of money and credit to be used by the applicant to provide money services; and

(k) Any other information regarding the background, experience, character, financial responsibility, and general fitness of the applicant, the applicant's responsible individual, or authorized delegates that the director may require in rule.

(2) If an applicant is a corporation, limited liability company, partnership, or other entity, the applicant shall also provide:

(a) The date of the applicant's incorporation or formation and state or country of incorporation or formation;

(b) If applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;

(c) A brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(d) The legal name, any fictitious or trade name, all business and residential addresses, date of birth, social security number, and employment history in the ten-year period preceding the submission of the application for each executive officer, board director, or person that has control of the applicant;

(e) If the applicant or its corporate parent is not a publicly traded entity, the director may request the fingerprints of each executive officer, board director, or person that has control of the applicant;

(f) A list of any criminal convictions, material litigation, and any litigation related to the provision of money services, in the ten-year period preceding the submission of the application in which any executive officer, board director, or person in control of the applicant has been involved;

(g) A copy of the applicant's audited financial statements for the most recent fiscal year or, if the applicant is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the applicant's most recent audited consolidated annual financial statement, and in each case, if available, for the two-year period preceding the submission of the application;

(h) A copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period preceding the submission of the application;

(i) If the applicant is publicly traded, a copy of the most recent report filed with the United States securities and exchange commission under section 13 of the federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78m);

(j) If the applicant is a wholly owned subsidiary of:

(i) A corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under section 13 of the federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78m); or

(ii) A corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;

(k) If the applicant has a registered agent in this state, the name and address of the applicant's registered agent in this state; and

(l) Any other information that the director may require in rule regarding the applicant, each executive officer, or each board director to determine the applicant's background, experience, character, financial responsibility, and general fitness.

(3) A nonrefundable application fee and an initial license fee, as determined in rule by the director, must accompany an application for a license under this chapter. The initial license fee must be refunded if the application is denied.

(4) As part of or in connection with an application for any license under this section, or periodically upon license renewal, each officer, director, responsible individual, and owner applicant shall furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol or the federal bureau of investigation for a state and national criminal history background check, personal history, experience, business record, purposes, and other pertinent facts, as the director may reasonably require. As part of or in connection with an application for a license under this chapter, or periodically upon license renewal, the director is authorized to receive criminal history record information that includes nonconviction data as defined in RCW 10.97.030. The department may only disseminate nonconviction data obtained under this section to criminal justice agencies. This section does not apply to financial institutions regulated under chapters 31.12 and 31.13 RCW and Titles

32 and 33 RCW. The requirements of this subsection do not apply when the applicant or its corporate parents are publicly traded entities.

(5) For business models that store virtual currency on behalf of others, the applicant must provide a third-party security audit of all electronic information and data systems acceptable to the director.

(6) The director or the director's designated representative may deny an application for a proposed license or trade name if the proposed license or trade name is similar to a currently existing licensee name, including trade names.

(7) The director may waive one or more requirements of this section or permit an applicant to submit other information in lieu of the required information.

Sec. 9. RCW 19.230.090 and 2003 c 287 s 11 are each amended to read as follows:

(1) A person applying for a currency exchange license under this chapter shall do so in a form and in a medium prescribed in rule by the director. The application must state or contain:

(a) The legal name, business addresses, and residential address, if applicable, of the applicant and any fictitious or trade name used by the applicant in conducting its business, and the legal name, residential and business addresses, date of birth, social security number or tax payer identification number, employment history for the five-year period preceding the submission of the application; and upon request of the director, fingerprints of the applicant's proposed responsible individual ((~~and documentation that the proposed responsible individual is a citizen of the United States or has obtained legal immigration status to work in the United States~~)). In addition, the proposed responsible individual must reside in the United States;

(b) For the ten-year period preceding the submission of the application, a list of any criminal convictions of the proposed responsible individual of the applicant, any material litigation in which the applicant has been involved, and any litigation involving the proposed responsible individual relating to the provision of money services;

(c) A description of any money services previously provided by the applicant and the money services that the applicant seeks to provide in this state;

(d) A list of the applicant's proposed authorized delegates and the locations in this state where the applicant and its authorized delegates propose to engage in currency exchange;

(e) A list of other states in which the applicant engages in currency exchange or provides other money services and any license revocations, suspensions, restrictions, or other disciplinary action taken against the applicant in another state;

(f) A list of any license revocations, suspensions, restrictions, or other disciplinary action taken against any money services business involving the proposed responsible individual;

(g) Information concerning any bankruptcy or receivership proceedings involving or affecting the applicant or the proposed responsible individual;

(h) A sample form of contract for authorized delegates, if applicable;

(i) A description of the source of money and credit to be used by the applicant to provide currency exchange; and

(j) Any other information regarding the background, experience, character, financial responsibility, and general fitness of the applicant, the applicant's responsible individual, or authorized delegates that the director may require in rule.

(2) If an applicant is a corporation, limited liability company, partnership, or other entity, the applicant shall also provide:

(a) The date of the applicant's incorporation or formation and state or country of incorporation or formation;

(b) If applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;

(c) A brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(d) The legal name, any fictitious or trade name, all business and residential addresses, date of birth, social security number, and employment history in the ten-year period preceding the submission of the application for each executive officer, board director, or person that has control of the applicant;

(e) If the applicant or its corporate parent is not a publicly traded entity, the director may request the fingerprints for each executive officer, board director, or person that has control of the applicant; and

(f) A list of any criminal convictions, material litigation, and any litigation related to the provision of money services, in which any executive officer, board director, or person in control of the applicant has been involved in the ten-year period preceding the submission of the application.

(3) A nonrefundable application fee and an initial license fee, as determined in rule by the director, must accompany an application for a currency exchange license under this chapter. The license fee must be refunded if the application is denied.

(4) The director may waive one or more requirements of subsection (1) or (2) of this section or permit an applicant to submit other information in lieu of the required information.

Sec. 10. RCW 42.45.200 and 2017 c 281 s 22 are each amended to read as follows:

(1) An individual qualified under subsection (2) of this section may apply to the director for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the director and pay any application fee.

(2) An applicant for a commission as a notary public must:

(a) Be at least eighteen years of age;

(b) ((~~Be a citizen or permanent legal resident of the United States;~~

~~(c)~~)) Be a resident of or have a place of employment or practice in this state;

(((~~(d)~~))) (c) Be able to read and write English; and

(((~~(e)~~))) (d) Not be disqualified to receive a commission under RCW 42.45.210.

(3) Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office and submit it to the department in the format prescribed by the director in rule.

(4) Before issuance of a commission as a notary public, the applicant for a commission shall submit to the director an assurance in the form of a surety

bond in the amount established by the director in rule. The assurance must be issued by a surety or other entity licensed or authorized to write surety bonds in this state. The assurance must be effective for a four-year term or for a term that expires on the date the notary public's commission expires. The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the director. If a notary public violates law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give at least thirty days' notice to the department before canceling the assurance. The surety or issuing entity shall notify the department not later than thirty days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the department.

(5) On compliance with this section, the director shall issue a commission as a notary public to an applicant for a term of four years or for a term that expires on the date of expiration of the assurance, whichever comes first.

(6) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees.

(7) An individual qualified under (a) of this subsection may apply to the director for a commission as an electronic records notary public. The applicant shall comply with and provide the information required by rules established by the director and pay the relevant application fee.

(a) An applicant for a commission as an electronic records notary public must hold a commission as notary public.

(b) An electronic records notary public commission may take the form of an endorsement to the notary public commission if deemed appropriate by the director.

NEW SECTION. **Sec. 11.** Section 1 of this act constitutes a new chapter in Title 18 RCW.

NEW SECTION. **Sec. 12.** This act takes effect July 1, 2024.

Passed by the House February 9, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 51

[House Bill 1898]

UNEMPLOYMENT INSURANCE BENEFIT CHARGING—VARIOUS PROVISIONS

AN ACT Relating to unemployment insurance benefit charging; amending RCW 50.12.200; and reenacting and amending RCW 50.29.021.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 50.29.021 and 2023 c 451 s 2 and 2023 c 240 s 3 are each reenacted and amended to read as follows:

(1)(a) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010, 50.44.030,

and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department.

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

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

(i) The individual qualifies for benefits under RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and became unemployed after having worked and earned wages in the bona fide work;

(ii) The individual qualifies for benefits under RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through (x); or

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

(2) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows((:)) in (a) through (i) of this subsection. The department may not require an employer to submit a request in order for these benefits to not be charged.

(a) Benefits paid to any individual later determined to be ineligible for those benefits or disqualified to receive those benefits shall not be charged to the experience rating account of any contribution paying employer, except ((~~as~~)):

(i) As provided in subsection (4) of this section; or

(ii) As provided in subsection (5) of this section.

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

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

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

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

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the

disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) ((~~Benefits paid to an individual who qualifies for benefits under~~)) If the department determines an individual left the employ of the separating employer under the circumstances described in RCW 50.20.050(1)(b) (iv) or (xi), (2)(b)(ii), only for separation that was necessary because the care for a child or a vulnerable adult in the claimant's care is inaccessible, (iv), (xi), (xii), or (xiii), or (3), as applicable, benefits paid to that individual shall not be charged to the experience rating account of any base year contribution paying employer.

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

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

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

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

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

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

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

(i) Last left the employ of such employer voluntarily for reasons not attributable to the employer. In addition to other circumstances identified by the department by rule, an individual who leaves the employ of such employer under the circumstances described in RCW 50.20.050(1)(b) (iv) or (xi), (2)(b) (iv), (xi), or (xii), or (3) must be deemed to have left their employ for reasons not attributable to the employer;

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

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

infectious disease that is the subject of a public health emergency at the employer's plant, building, worksite, or other facility;

(iv) Continues to be employed by the employer seeking relief and: (A) The employer furnished part-time work to the individual during the base year; (B) the individual has become eligible for benefits because of loss of employment with one or more other employers; and (C) the employer has continued to furnish or make available part-time work to the individual in substantially the same amount as during the individual's base year. This subsection does not apply to shared work employers under chapter 50.60 RCW;

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

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

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

(b) The employer requesting relief of charges under this subsection must request relief in writing within 30 days following mailing to the last known address of the notification of the valid initial determination of such claim, stating the date and reason for the separation or the circumstances of continued employment. The department may waive this time limitation for good cause. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

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

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

(a) For the purposes of this subsection, "adequately" means providing accurate information of sufficient quantity and quality that would allow a

reasonable person to determine ((~~eligibility for~~)) whether an individual is eligible for or qualified to receive benefits.

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

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

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

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

Sec. 2. RCW 50.12.200 and 2020 c 86 s 1 are each amended to read as follows:

(1) The commissioner shall appoint a state advisory council composed of not more than nine ((~~men and women~~)) persons, of which three shall be representatives of employers, three shall be representatives of employees, and three shall be representatives of the general public. Such council shall aid the commissioner in formulating policies and discussing problems related to the administration of this title and of assuring impartiality and freedom from political influence in the solution of such problems. The council shall serve without compensation. The commissioner may also appoint committees, and industrial or other special councils, to perform appropriate services. Advisory councilmembers shall be reimbursed for travel expenses incurred in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) Beginning in 2021 and ending in 2030, the commissioner shall annually report to the state advisory council the amount of benefits that were not charged to employers as a direct consequence of RCW 50.29.021(3)(a)(((~~(viii)~~))) (vii).

Passed by the House January 25, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 52

[House Bill 1901]

UNEMPLOYMENT INSURANCE VOLUNTARY CONTRIBUTION PROGRAM—SUNSET REMOVAL

AN ACT Relating to removing the sunset on changes to the unemployment insurance voluntary contribution program; and amending RCW 50.29.026.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 50.29.026 and 2021 c 2 s 18 are each amended to read as follows:

(1) ((~~Except as provided in subsection (3) of this section, a~~)) A qualified employer's contribution rate or array calculation factor rate determined under RCW 50.29.025 may be modified as follows:

(a) Subject to the limitations of this subsection, an employer may make a voluntary contribution of an amount equal to part or all of the benefits charged to the employer's account during the two years most recently ended on June 30th

that were used for the purpose of computing the employer's contribution rate or array calculation factor rate. On receiving timely payment of a voluntary contribution, ((~~plus a surcharge of ten percent of the amount of the voluntary contribution,~~)) the commissioner shall cancel the benefits equal to the amount of the voluntary contribution((~~, excluding the surcharge,~~)) and compute a new benefit ratio for the employer. The employer shall then be assigned the contribution rate ((~~applicable for rate years beginning before January 1, 2005,~~)) or array calculation factor rate applicable for rate years beginning on or after January 1, 2005, applicable to the rate class within which the recomputed benefit ratio is included. The minimum amount of a voluntary contribution((~~, excluding the surcharge,~~)) must be an amount that will result in a recomputed benefit ratio that is in a rate class at least ((~~four~~)) two rate classes lower than the rate class that included the employer's original benefit ratio.

(b) Payment of a voluntary contribution is considered timely if received by the department during the period beginning on the date of mailing to the employer the notice of contribution rate required under this title for the rate year for which the employer is seeking a modification of the employer's rate and ending on ((~~February 15th~~)) March 31st of that rate year.

(c) A benefit ratio may not be recomputed nor a rate be reduced under this section as a result of a voluntary contribution received after the payment period prescribed in (b) of this subsection.

(2) ((~~Except as provided in subsection (3) of this section, this~~)) This section does not apply to any employer who has not had an increase of at least ((~~twelve~~)) eight rate classes from the previous tax rate year.

(((~~(3) From February 8, 2021, and until May 31, 2026, the following applies:~~

~~(a) The surcharge in subsection (1)(a) of this section will not be charged or used in the calculations;~~

~~(b) The ending payment date in subsection (1)(b) of this section is March 31st;~~

~~(c) The minimum amount of a voluntary contribution must be an amount that will result in a recomputed benefit ratio that is in a rate class at least two rate classes lower than the rate class that included the employer's original benefit ratio; and~~

~~(d) This section does not apply to any employer who has not had an increase of at least eight rate classes from the previous tax rate year.~~))

Passed by the House February 9, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 53

[House Bill 1917]

PHYSICIAN ASSISTANT COMPACT

AN ACT Relating to the physician assistant compact; adding a new section to chapter 42.56 RCW; and adding a new chapter to Title 18 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** PURPOSE. In order to strengthen access to medical services, and in recognition of the advances in the delivery of medical services, the participating states of the physician assistant licensure compact have allied in common purpose to develop a comprehensive process that complements the existing authority of state licensing boards to license and discipline physician assistants and seeks to enhance the portability of a license to practice as a physician assistant while safeguarding the safety of patients. This compact allows medical services to be provided by physician assistants, via the mutual recognition of the licensee's qualifying license by other compact participating states. This compact also adopts the prevailing standard for physician assistant licensure and affirms that the practice and delivery of medical services by the physician assistant occurs where the patient is located at the time of the patient encounter, and therefore requires the physician assistant to be under the jurisdiction of the state licensing board where the patient is located. State licensing boards that participate in this compact retain the jurisdiction to impose adverse action against a compact privilege in that state issued to a physician assistant through the procedures of this compact. The physician assistant licensure compact will alleviate burdens for military families by allowing active duty military personnel and their spouses to obtain a compact privilege based on having an unrestricted license in good standing from a participating state.

NEW SECTION. **Sec. 2.** DEFINITIONS. In this compact:

(1) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a physician assistant license or license application or compact privilege such as license denial, censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

(2) "Compact privilege" means the authorization granted by a remote state to allow a licensee from another participating state to practice as a physician assistant to provide medical services and other licensed activity to a patient located in the remote state under the remote state's laws and regulations.

(3) "Conviction" means a finding by a court that an individual is guilty of a felony or misdemeanor offense through adjudication or entry of a plea of guilt or no contest to the charge by the offender.

(4) "Criminal background check" means the submission of fingerprints or other biometric-based information for a license applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 C.F.R. Sec. 20.3(d), from the state's criminal history record repository as defined in 28 C.F.R. Sec. 20.3(f).

(5) "Data system" means the repository of information about licensees, including but not limited to license status and adverse actions, which is created and administered under the terms of this compact.

(6) "Executive committee" means a group of directors and ex officio individuals elected or appointed pursuant to section 7(6)(b) of this act.

(7) "Impaired practitioner" means a physician assistant whose practice is adversely affected by health-related condition(s) that impact their ability to practice.

(8) "Investigative information" means information, records, or documents received or generated by a licensing board pursuant to an investigation.

(9) "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of a physician assistant in a state.

(10) "License" means current authorization by a state, other than authorization pursuant to a compact privilege, for a physician assistant to provide medical services, which would be unlawful without current authorization.

(11) "Licensee" means an individual who holds a license from a state to provide medical services as a physician assistant.

(12) "Licensing board" means any state entity authorized to license and otherwise regulate physician assistants.

(13) "Medical services" means health care services provided for the diagnosis, prevention, treatment, cure or relief of a health condition, injury, or disease, as defined by a state's laws and regulations.

(14) "Model compact" means the model for the physician assistant licensure compact on file with the council of state governments or other entity as designated by the commission.

(15) "Participating state" means a state that has enacted this compact.

(16) "Physician assistant" means an individual who is licensed as a physician assistant in a state. For purposes of this compact, any other title or status adopted by a state to replace the term "physician assistant" shall be deemed synonymous with "physician assistant" and shall confer the same rights and responsibilities to the licensee under the provisions of this compact at the time of its enactment.

(17) "Physician assistant licensure compact commission," "compact commission," or "commission" mean the national administrative body created pursuant to section 7(1) of this act.

(18) "Qualifying license" means an unrestricted license issued by a participating state to provide medical services as a physician assistant.

(19) "Remote state" means a participating state where a licensee who is not licensed as a physician assistant is exercising or seeking to exercise the compact privilege.

(20) "Rule" means a regulation promulgated by an entity that has the force and effect of law.

(21) "Significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the physician assistant to respond if required by state law, has reason to believe is not groundless and, if proven true, would indicate more than a minor infraction.

(22) "State" means any state, commonwealth, district, or territory of the United States.

NEW SECTION. **Sec. 3.** STATE PARTICIPATION IN THIS COMPACT. (1) To participate in this compact, a participating state shall:

(a) License physician assistants;

(b) Participate in the compact commission's data system;

(c) Have a mechanism in place for receiving and investigating complaints against licensees and license applicants;

(d) Notify the commission, in compliance with the terms of this compact and commission rules, of any adverse action against a licensee or license

applicant and the existence of significant investigative information regarding a licensee or license applicant;

(e) Fully implement a criminal background check requirement, within a time frame established by commission rule, by its licensing board receiving the results of a criminal background check and reporting to the commission whether the license applicant has been granted a license;

(f) Comply with the rules of the compact commission;

(g) Utilize passage of a recognized national exam such as the national commission on certification of physician assistants' physician assistant national certifying examination as a requirement for physician assistant licensure; and

(h) Grant the compact privilege to a holder of a qualifying license in a participating state.

(2) Nothing in this compact prohibits a participating state from charging a fee for granting the compact privilege.

NEW SECTION. **Sec. 4.** COMPACT PRIVILEGE. (1) To exercise the compact privilege, a licensee must:

(a) Have graduated from a physician assistant program accredited by the accreditation review commission on education for the physician assistant, inc. or other programs authorized by commission rule;

(b) Hold current national commission on certification of physician assistants' certification;

(c) Have no felony or misdemeanor conviction;

(d) Have never had a controlled substance license, permit, or registration suspended or revoked by a state or by the United States drug enforcement administration;

(e) Have a unique identifier as determined by commission rule;

(f) Hold a qualifying license;

(g) Have had no revocation of a license or limitation or restriction on any license currently held due to an adverse action;

(i) If a licensee has had a limitation or restriction on a license or compact privilege due to an adverse action, two years must have elapsed from the date on which the license or compact privilege is no longer limited or restricted due to the adverse action;

(ii) If a compact privilege has been revoked or is limited or restricted in a participating state for conduct that would not be a basis for disciplinary action in a participating state in which the licensee is practicing or applying to practice under a compact privilege, that participating state shall have the discretion not to consider such action as an adverse action requiring the denial or removal of a compact privilege in that state;

(h) Notify the compact commission that the licensee is seeking the compact privilege in a remote state;

(i) Meet any jurisprudence requirement of a remote state in which the licensee is seeking to practice under the compact privilege and pay any fees applicable to satisfying the jurisprudence requirement; and

(j) Report to the commission any adverse action taken by a nonparticipating state within 30 days after the action is taken.

(2) The compact privilege is valid until the expiration or revocation of the qualifying license unless terminated pursuant to an adverse action. The licensee must also comply with all of the requirements of subsection (1) of this section to

maintain the compact privilege in a remote state. If the participating state takes adverse action against a qualifying license, the licensee shall lose the compact privilege in any remote state in which the licensee has a compact privilege until all of the following occur:

(a) The license is no longer limited or restricted; and

(b) Two years have elapsed from the date on which the license is no longer limited or restricted due to the adverse action.

(3) Once a restricted or limited license satisfies the requirements of subsection (2)(a) and (b) of this section, the licensee must meet the requirements of subsection (1) of this section to obtain a compact privilege in any remote state.

(4) For each remote state in which a physician assistant seeks authority to prescribe controlled substances, the physician assistant shall satisfy all requirements imposed by such state in granting or renewing such authority.

NEW SECTION. **Sec. 5.** DESIGNATION OF THE STATE FROM WHICH LICENSEE IS APPLYING FOR A COMPACT PRIVILEGE. Upon a licensee's application for a compact privilege, the licensee shall identify to thecommission the participating state from which the licensee is applying, in accordance with applicable rules adopted by the commission, and subject to the following requirements:

(1) When applying for a compact privilege, the licensee shall provide the commission with the address of the licensee's primary residence and thereafter shall immediately report to the commission any change in the address of the licensee's primary residence.

(2) When applying for a compact privilege, the licensee is required to consent to accept service of process by mail at the licensee's primary residence on file with the commission with respect to any action brought against the licensee by the commission or a participating state, including a subpoena, with respect to any action brought or investigation conducted by the commission or a participating state.

NEW SECTION. **Sec. 6.** ADVERSE ACTIONS. (1) A participating state in which a licensee is licensed shall have exclusive power to impose adverse action against the qualifying license issued by that participating state.

(2)(a) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to do all of the following:

(i) Take adverse action against a physician assistant's compact privilege within that state to remove a licensee's compact privilege or take other action necessary under applicable law to protect the health and safety of its citizens;

(ii) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a participating state for the attendance and testimony of witnesses or the production of evidence from another participating state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(b) Notwithstanding (a)(ii) of this subsection, subpoenas may not be issued by a participating state to gather evidence of conduct in another state that is lawful in that other state for the purpose of taking adverse action against a licensee's compact privilege or application for a compact privilege in that participating state.

(c) Nothing in this compact authorizes a participating state to impose discipline against a physician assistant's compact privilege or to deny an application for a compact privilege in that participating state for the individual's otherwise lawful practice in another state.

(3) For purposes of taking adverse action, the participating state which issued the qualifying license shall give the same priority and effect to reported conduct received from any other participating state as it would if the conduct had occurred within the participating state which issued the qualifying license. In so doing, that participating state shall apply its own state laws to determine appropriate action.

(4) A participating state, if otherwise permitted by state law, may recover from the affected physician assistant the costs of investigations and disposition of cases resulting from any adverse action taken against that physician assistant.

(5) A participating state may take adverse action based on the factual findings of a remote state, provided that the participating state follows its own procedures for taking the adverse action.

(6) Joint investigations.

(a) In addition to the authority granted to a participating state by its respective state physician assistant laws and regulations or other applicable state law, any participating state may participate with other participating states in joint investigations of licensees.

(b) Participating states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under this compact.

(7) If an adverse action is taken against a physician assistant's qualifying license, the physician assistant's compact privilege in all remote states shall be deactivated until two years have elapsed after all restrictions have been removed from the state license. All disciplinary orders by the participating state which issued the qualifying license that impose adverse action against a physician assistant's license shall include a statement that the physician assistant's compact privilege is deactivated in all participating states during the pendency of the order.

(8) If any participating state takes adverse action, it promptly shall notify the administrator of the data system.

NEW SECTION. **Sec. 7.** ESTABLISHMENT OF THE PHYSICIAN ASSISTANT LICENSURE COMPACT COMMISSION. (1) The participating states hereby create and establish a joint government agency and national administrative body known as the physician assistant licensure compact commission. The commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in section 11(1) of this act.

(2) Membership, voting, and meetings.

(a) Each participating state shall have and be limited to one delegate selected by that participating state's licensing board or, if the state has more than one licensing board, selected collectively by the participating state's licensing boards.

(b) The delegate shall be either:

(i) A current physician assistant, physician, or public member of a licensing board or physician assistant council/committee; or

(ii) An administrator of a licensing board.

(c) Any delegate may be removed or suspended from office as provided by the laws of the state from which the delegate is appointed.

(d) The participating state licensing board shall fill any vacancy occurring in the commission within 60 days.

(e) Each delegate shall be entitled to one vote on all matters voted on by the commission and shall otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telecommunications, video conference, or other means of communication.

(f) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in this compact and the bylaws.

(g) The commission shall establish by rule a term of office for delegates.

(3) The commission shall have the following powers and duties:

(a) Establish a code of ethics for the commission;

(b) Establish the fiscal year of the commission;

(c) Establish fees;

(d) Establish bylaws;

(e) Maintain its financial records in accordance with the bylaws;

(f) Meet and take such actions as are consistent with the provisions of this compact and the bylaws;

(g) Promulgate rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all participating states;

(h) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law shall not be affected;

(i) Purchase and maintain insurance and bonds;

(j) Borrow, accept, or contract for services of personnel including, but not limited to, employees of a participating state;

(k) Hire employees and engage contractors, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(l) Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(m) Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal, or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

(n) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(o) Establish a budget and make expenditures;

(p) Borrow money;

(q) Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(r) Provide and receive information from, and cooperate with, law enforcement agencies;

(s) Elect a chair, vice chair, secretary, and treasurer and such other officers of the commission as provided in the commission's bylaws;

(t) Reserve for itself, in addition to those reserved exclusively to the commission under the compact, powers that the executive committee may not exercise;

(u) Approve or disapprove a state's participation in the compact based upon its determination as to whether the state's compact legislation departs in a material manner from the model compact language;

(v) Prepare and provide to the participating states an annual report; and

(w) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of physician assistant licensure and practice.

(4) Meetings of the commission.

(a) All meetings of the commission that are not closed pursuant to this subsection shall be open to the public. Notice of public meetings shall be posted on the commission's website at least 30 days prior to the public meeting.

(b) Notwithstanding (a) of this subsection, the commission may convene a public meeting by providing at least 24 hours prior notice on the commission's website, and any other means as provided in the commission's rules, for any of the reasons it may dispense with notice of proposed rule making under section 9(12) of this act.

(c) The commission may convene in a closed, nonpublic meeting or nonpublic part of a public meeting to receive legal advice or to discuss:

(i) Noncompliance of a participating state with its obligations under this compact;

(ii) The employment, compensation, discipline or other matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(iii) Current, threatened, or reasonably anticipated litigation;

(iv) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(v) Accusing any person of a crime or formally censuring any person;

(vi) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(vii) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(viii) Disclosure of investigative records compiled for law enforcement purposes;

(ix) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to this compact;

(x) Legal advice; or

(xi) Matters specifically exempted from disclosure by federal or participating states' statutes.

(d) If a meeting, or portion of a meeting, is closed pursuant to this provision, the chair of the meeting or the chair's designee shall certify that the meeting or portion of the meeting may be closed and shall reference each relevant exempting provision.

(e) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(5) Financing of the commission.

(a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(c) The commission may levy on and collect an annual assessment from each participating state and may impose compact privilege fees on licensees of participating states to whom a compact privilege is granted to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount levied on participating states shall be allocated based upon a formula to be determined by commission rule.

(i) A compact privilege expires when the licensee's qualifying license in the participating state from which the licensee applied for the compact privilege expires.

(ii) If the licensee terminates the qualifying license through which the licensee applied for the compact privilege before its scheduled expiration, and the licensee has a qualifying license in another participating state, the licensee shall inform the commission that it is changing to that participating state the participating state through which it applies for a compact privilege and pay to the commission any compact privilege fee required by commission rule.

(d) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the participating states, except by and with the authority of the participating state.

(e) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures established under its

bylaws. All receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(6) The executive committee.

(a) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact and commission rules.

(b) The executive committee shall be composed of nine members:

(i) Seven voting members who are elected by the commission from the current membership of the commission;

(ii) One ex officio, nonvoting member from a recognized national physician assistant professional association; and

(iii) One ex officio, nonvoting member from a recognized national physician assistant certification organization.

(c) The ex officio members will be selected by their respective organizations.

(d) The commission may remove any member of the executive committee as provided in its bylaws.

(e) The executive committee shall meet at least annually.

(f) The executive committee shall have the following duties and responsibilities:

(i) Recommend to the commission changes to the commission's rules or bylaws, changes to this compact legislation, fees to be paid by compact participating states such as annual dues, and any commission compact fee charged to licensees for the compact privilege;

(ii) Ensure compact administration services are appropriately provided, contractual or otherwise;

(iii) Prepare and recommend the budget;

(iv) Maintain financial records on behalf of the commission;

(v) Monitor compact compliance of participating states and provide compliance reports to the commission;

(vi) Establish additional committees as necessary;

(vii) Exercise the powers and duties of the commission during the interim between commission meetings, except for issuing proposed rule making or adopting commission rules or bylaws, or exercising any other powers and duties exclusively reserved to the commission by the commission's rules; and

(viii) Perform other duties as provided in the commission's rules or bylaws.

(g) All meetings of the executive committee at which it votes or plans to vote on matters in exercising the powers and duties of the commission shall be open to the public and public notice of such meetings shall be given as public meetings of the commission are given.

(h) The executive committee may convene in a closed, nonpublic meeting for the same reasons that the commission may convene in a nonpublic meeting as set forth in subsection (4)(c) of this section and shall announce the closed meeting as the commission is required to under subsection (4)(d) of this section and keep minutes of the closed meeting as the commission is required to under subsection (4)(e) of this section.

(7) Qualified immunity, defense, and indemnification.

(a) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing in this subsection (7)(a) shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

(b) The commission shall defend any member, officer, executive director, employee, and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(c) The commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

(d) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses in any proceedings as authorized by commission rules.

(e) Nothing herein shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(f) Nothing herein shall be construed to designate the venue or jurisdiction to bring actions for alleged acts of malpractice, professional misconduct, negligence, or other such civil action pertaining to the practice of a physician assistant. All such matters shall be determined exclusively by state law other than this compact.

(g) Nothing in this compact shall be interpreted to waive or otherwise abrogate a participating state's state action immunity or state action affirmative defense with respect to antitrust claims under the sherman act, clayton act, or any other state or federal antitrust or anticompetitive law or regulation.

(h) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the participating states or by the commission.

NEW SECTION. **Sec. 8.** DATA SYSTEM. (1) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated data and reporting system containing licensure, adverse action, and the reporting of the existence of significant investigative information on all licensed physician assistants and applicants denied a license in participating states.

(2) Notwithstanding any other state law to the contrary, a participating state shall submit a uniform data set to the data system on all physician assistants to whom this compact is applicable, utilizing a unique identifier, as required by the rules of the commission, including:

(a) Identifying information;

(b) Licensure data;

(c) Adverse actions against a license or compact privilege;

(d) Any denial of application for licensure, and the reason(s) for such denial, excluding the reporting of any criminal history record information where prohibited by law;

(e) The existence of significant investigative information; and

(f) Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(3) Significant investigative information pertaining to a licensee in any participating state shall only be available to other participating states.

(4) The commission shall promptly notify all participating states of any adverse action taken against a licensee or an individual applying for a license that has been reported to it. This adverse action information shall be available to any other participating state.

(5) Participating states contributing information to the data system may, in accordance with state or federal law, designate information that may not be shared with the public without the express permission of the contributing state. Notwithstanding any such designation, such information shall be reported to the commission through the data system.

(6) Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the participating state contributing the information shall be removed from the data system upon reporting of such by the participating state to the commission.

(7) The records and information provided to a participating state pursuant to this compact or through the data system, when certified by the commission or an agent thereof, shall constitute the authenticated business records of the commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a participating state.

NEW SECTION. **Sec. 9.** RULE MAKING. (1) The commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Commission rules shall become binding as of the date specified by the commission for each rule.

(2) The commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer this compact and achieve

its purposes. A commission rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rule-making authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, or based upon another applicable standard of review.

(3) The rules of the commission shall have the force of law in each participating state, provided however that where the rules of the commission conflict with the laws of the participating state that establish the medical services a physician assistant may perform in the participating state, as held by a court of competent jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the conflict.

(4) If a majority of the legislatures of the participating states rejects a commission rule, by enactment of a statute or resolution in the same manner used to adopt this compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any participating state or to any state applying to participate in the compact.

(5) Commission rules shall be adopted at a regular or special meeting of the commission.

(6) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rule making:

(a) On the website of the commission or other publicly accessible platform; and

(b) To persons who have requested notice of the commission's notices of proposed rule making; and

(c) In such other way(s) as the commission may by rule specify.

(7) The notice of proposed rule making shall include:

(a) The time, date, and location of the public hearing on the proposed rule and the proposed time, date, and location of the meeting in which the proposed rule will be considered and voted upon;

(b) The text of the proposed rule and the reason for the proposed rule;

(c) A request for comments on the proposed rule from any interested person and the date by which written comments must be received; and

(d) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing or provide any written comments.

(8) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(9) If the hearing is to be held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

(a) All persons wishing to be heard at the hearing shall as directed in the notice of proposed rule making, not less than five business days before the scheduled date of the hearing, notify the commission of their desire to appear and testify at the hearing.

(b) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(c) All hearings shall be recorded. A copy of the recording and the written comments, data, facts, opinions, and arguments received in response to the proposed rule making shall be made available to a person upon request.

(d) Nothing in this section shall be construed as requiring a separate hearing on each proposed rule. Proposed rules may be grouped for the convenience of the commission at hearings required by this section.

(10) Following the public hearing the commission shall consider all written and oral comments timely received.

(11) The commission shall, by majority vote of all delegates, take final action on the proposed rule and shall determine the effective date of the rule, if adopted, based on the rule-making record and the full text of the rule.

(a) If adopted, the rule shall be posted on the commission's website.

(b) The commission may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.

(c) The commission shall provide on its website an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

(d) The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection (12) of this section, the effective date of the rule shall be no sooner than 30 days after the commission issued the notice that it adopted the rule.

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 24 hours' prior notice, without the opportunity for comment, or hearing, provided that the usual rule-making procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately by the commission in order to:

(a) Meet an imminent threat to public health, safety, or welfare;

(b) Prevent a loss of commission or participating state funds;

(c) Meet a deadline for the promulgation of a commission rule that is established by federal law or rule; or

(d) Protect public health and safety.

(13) The commission or an authorized committee of the commission may direct revisions to a previously adopted commission rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made as set forth in the notice of revisions and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

(14) No participating state's rule-making requirements shall apply under this compact.

NEW SECTION. **Sec. 10.** OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT. (1) Oversight.

(a) The executive and judicial branches of state government in each participating state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

(b) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

(c) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact or the commission's rules and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission with service of process shall render a judgment or order in such proceeding void as to the commission, this compact, or commission rules.

(2) Default, technical assistance, and termination.

(a) If the commission determines that a participating state has defaulted in the performance of its obligations or responsibilities under this compact or the commission rules, the commission shall provide written notice to the defaulting state and other participating states. The notice shall describe the default, the proposed means of curing the default, and any other action that the commission may take and shall offer remedial training and specific technical assistance regarding the default.

(b) If a state in default fails to cure the default, the defaulting state may be terminated from this compact upon an affirmative vote of a majority of the delegates of the participating states, and all rights, privileges, and benefits conferred by this compact upon such state may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(c) Termination of participation in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and to the licensing board(s) of each of the participating states.

(d) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(e) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from this compact, unless agreed upon in writing between the commission and the defaulting state.

(f) The defaulting state may appeal its termination from the compact by the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(g) Upon the termination of a state's participation in the compact, the state shall immediately provide notice to all licensees within that state of such termination:

(i) Licensees who have been granted a compact privilege in that state shall retain the compact privilege for 180 days following the effective date of such termination.

(ii) Licensees who are licensed in that state who have been granted a compact privilege in a participating state shall retain the compact privilege for 180 days unless the licensee also has a qualifying license in a participating state or obtains a qualifying license in a participating state before the 180-day period ends, in which case the compact privilege shall continue.

(3) Dispute resolution.

(a) Upon request by a participating state, the commission shall attempt to resolve disputes related to this compact that arise among participating states and between participating and nonparticipating states.

(b) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(4) Enforcement.

(a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact and rules of the commission.

(b) If compliance is not secured after all means to secure compliance have been exhausted, by majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices, against a participating state in default to enforce compliance with the provisions of this compact and the commission's promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(c) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

(5) Legal action against the commission.

(a) Participating states may initiate legal action against the commission in the United States district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(b) No person other than a participating state shall enforce this compact against the commission.

NEW SECTION. **Sec. 11.** DATE OF IMPLEMENTATION OF THE PHYSICIAN ASSISTANT LICENSURE COMPACT COMMISSION. (1) This compact shall come into effect on the date on which this compact statute is enacted into law in the seventh participating state.

(a) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the states that enacted the compact prior to the commission convening ("charter participating states") to determine if the statute enacted by each such charter participating state is materially different than the model compact.

(i) A charter participating state whose enactment is found to be materially different from the model compact shall be entitled to the default process set forth in section 10(2) of this act.

(ii) If any participating state later withdraws from the compact or its participation is terminated, the commission shall remain in existence and the compact shall remain in effect even if the number of participating states should be less than seven. Participating states enacting the compact subsequent to the commission convening shall be subject to the process set forth in section 7(3)(u) of this act to determine if their enactments are materially different from the model compact and whether they qualify for participation in the compact.

(b) Participating states enacting the compact subsequent to the seven initial charter participating states shall be subject to the process set forth in section 7(3)(u) of this act to determine if their enactments are materially different from the model compact and whether they qualify for participation in the compact.

(c) All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence shall be considered to be actions of the commission unless specifically repudiated by the commission.

(2) Any state that joins this compact shall be subject to the commission's rules and bylaws as they exist on the date on which this compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day this compact becomes law in that state.

(3) Any participating state may withdraw from this compact by enacting a statute repealing the same.

(a) A participating state's withdrawal shall not take effect until 180 days after enactment of the repealing statute. During this 180-day period, all compact privileges that were in effect in the withdrawing state and were granted to licensees licensed in the withdrawing state shall remain in effect. If any licensee licensed in the withdrawing state is also licensed in another participating state or obtains a license in another participating state within the 180 days, the licensee's compact privileges in other participating states shall not be affected by the passage of the 180 days.

(b) Withdrawal shall not affect the continuing requirement of the state licensing board(s) of the withdrawing state to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(c) Upon the enactment of a statute withdrawing a state from this compact, the state shall immediately provide notice of such withdrawal to all licensees within that state. Such withdrawing state shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

(4) Nothing contained in this compact shall be construed to invalidate or prevent any physician assistant licensure agreement or other cooperative arrangement between participating states and between a participating state and nonparticipating state that does not conflict with the provisions of this compact.

(5) This compact may be amended by the participating states. No amendment to this compact shall become effective and binding upon any

participating state until it is enacted materially in the same manner into the laws of all participating states as determined by the commission.

NEW SECTION. **Sec. 12.** CONSTRUCTION AND SEVERABILITY. (1) This compact and the commission's rule-making authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rule-making authority solely for those purposes.

(2) The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any participating state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.

(3) Notwithstanding subsection (2) of this section, the commission may deny a state's participation in the compact or, in accordance with the requirements of section 10(2) of this act, terminate a participating state's participation in the compact, if it determines that a constitutional requirement of a participating state is, or would be with respect to a state seeking to participate in the compact, a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining participating states and in full force and effect as to the participating state affected as to all severable matters.

NEW SECTION. **Sec. 13.** BINDING EFFECT OF COMPACT. (1) Nothing herein prevents the enforcement of any other law of a participating state that is not inconsistent with this compact.

(2) Any laws in a participating state in conflict with this compact are superseded to the extent of the conflict.

(3) All agreements between the commission and the participating states are binding in accordance with their terms.

NEW SECTION. **Sec. 14.** Sections 1 through 13 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. **Sec. 15.** A new section is added to chapter 42.56 RCW to read as follows:

(1) Information in documents distributed to the Washington medical commission by the interstate physician assistant licensure compact as described in section 8(2) of this act, including identifying information, licensure data, adverse actions against a license or compact privilege, or license application denials and the reason(s) for such denial, is exempt from disclosure under this chapter. Such information may be requested from the state of origin.

(2) The exemption in subsection (1) of this section does not pertain to any records created by the Washington medical commission from the documents described in subsection (1) of this section or any other materials created by the Washington medical commission.

Passed by the House January 29, 2024.

Passed by the Senate February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 54

[Substitute House Bill 1947]

STATE TECHNOLOGY GOVERNANCE—WASHINGTON TECHNOLOGY SOLUTIONS

AN ACT Relating to governance of technology services in state government; amending RCW 43.105.006, 43.105.007, 43.105.020, 43.105.025, 43.105.052, 43.105.054, 43.105.220, 43.105.240, 43.105.245, 43.105.255, 43.105.265, 43.105.285, 43.105.287, 43.105.342, 43.105.359, 43.105.369, 43.105.375, 43.105.385, 43.105.450, 43.105.331, 2.36.054, 2.36.057, 2.36.0571, 2.68.060, 19.27.076, 29A.08.760, 38.52.040, 39.26.090, 39.26.100, 39.26.235, 40.14.020, 40.26.020, 41.05.031, 41.06.070, 41.06.094, 41.06.142, 41.07.020, 42.17A.060, 42.17A.705, 43.41.391, 43.41.440, 43.41.442, 43.41.444, 43.63A.550, 43.70.054, 43.88.090, 43.88.092, 43.371.090, 43.42A.030, 43.41.430, 43.330.534, 43.371.020, 44.68.065, 46.20.037, 46.20.157, 70A.02.110, and 71.24.898; reenacting and amending RCW 39.94.040, 43.88.160, and 50A.25.070; adding a new section to chapter 38.52 RCW; recodifying RCW 43.105.331; and repealing RCW 41.06.101 and 43.105.205.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.105.006 and 2011 1st sp.s. c 43 s 801 are each amended to read as follows:

To achieve maximum benefit from advances in information technology the state establishes a centralized provider and procurer of certain information technology services as an agency to support the needs of state agencies. This agency shall be known as ((~~the consolidated technology services agency~~)) Washington technology solutions. To ensure maximum benefit to the state, state agencies shall rely on ((~~the consolidated technology services agency~~)) Washington technology solutions for those services with a business case of broad use, uniformity, scalability, and price sensitivity to aggregation and volume. The agency shall also establish clear policies and standards for efficient and acceptable use of technology in state government, providing guidance and leadership to state agencies in deploying technology to meet their business objectives.

To successfully meet agency needs and meet its obligation as the primary service provider for these services, ((~~the consolidated technology services agency~~)) Washington technology solutions must offer high quality services at the lowest possible price. It must be able to attract an adaptable and competitive workforce, be authorized to procure services where the business case justifies it, create policy and standards to address changes in the technology industry, and be accountable to its customers for the efficient and effective delivery of critical business services.

((~~The consolidated technology services agency~~)) Washington technology solutions is established as an agency in state government. The agency is established with clear accountability to the agencies it serves and to the public. This accountability will come through enhanced transparency in the agency's operation and performance. The agency is also established with broad flexibility to adapt its operations, policies and standards, and service catalog to address the needs of customer agencies, and to do so in the most cost-effective ways.

Sec. 2. RCW 43.105.007 and 2015 3rd sp.s. c 1 s 101 are each amended to read as follows:

Information technology is a tool used by state agencies to improve their ability to deliver public services efficiently and effectively. Advances in information technology, including advances in hardware, software, and business processes for implementing and managing these resources, offer new opportunities to improve the level of support provided to citizens and state agencies and to reduce the per-transaction cost of these services. These advances are one component in the process of reengineering how government delivers services to citizens.

To fully realize the service improvements and cost efficiency from the effective application of information technology to its business processes, state government must establish decision-making structures that connect business processes and information technology in an operating model. Many of these business practices transcend individual agency processes and should be worked at the enterprise level. To do this requires an effective partnership of executive management, business processes owners, and providers of support functions necessary to efficiently and effectively deliver services to citizens.

To maximize the potential for information technology to contribute to government business process reengineering, the state must establish clear central authority to plan, set enterprise policies and standards, and provide project oversight and management analysis of the various aspects of a business process.

Establishing ((~~a state chief information officer as the director of the consolidated technology services agency~~)) Washington technology solutions will provide state government with the cohesive structure necessary to develop improved operating models with agency directors and reengineer business process to enhance service delivery while capturing savings.

To achieve maximum benefit from advances in information technology, the state establishes a centralized provider and procurer of certain information technology services as an agency to support the needs of public agencies. This agency shall be known as ((~~the consolidated technology services agency~~)) Washington technology solutions. To ensure maximum benefit to the state, state agencies shall rely on ((~~the consolidated technology services agency~~)) Washington technology solutions for those services with a business case of broad use, uniformity, scalability, and price sensitivity to aggregation and volume.

To successfully meet public agency needs and meet its obligation as the primary service provider for these services, ((~~the consolidated technology services agency~~)) Washington technology solutions must offer high quality services at the best value. It must be able to attract an adaptable and competitive workforce, be authorized to procure services where the business case justifies it, and be accountable to its customers for the efficient and effective delivery of critical business services.

((~~The consolidated technology services agency~~)) Washington technology solutions is established with clear accountability to the agencies it serves and to the public. This accountability will come through enhanced transparency in the agency's operation and performance. The agency is also established with broad flexibility to adapt its operations and service catalog to address the needs of customer agencies, and to do so in the most cost-effective ways.

Sec. 3. RCW 43.105.020 and 2023 c 124 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) "Agency" means ((~~the consolidated technology services agency~~)) Washington technology solutions.

(2) "Board" means the technology services board.

(3) "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 or its successor publications.

(4) "Customer agencies" means all entities that purchase or use information technology resources, telecommunications, or services from ((~~the consolidated technology services agency~~)) Washington technology solutions.

(5) "Director" means the state chief information officer, who is the director of ((~~the consolidated technology services agency~~)) Washington technology solutions.

(6) "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.

(7) "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.

(8) "Information" includes, but is not limited to, data, text, voice, and video.

(9) "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.

(10) "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.

(11) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments.

(12) "K-20 network" means the network established in RCW 43.41.391.

(13) "Local governments" includes all municipal and quasi-municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately.

(14) ((~~"Office" means the office of the state chief information officer within the consolidated technology services agency.~~

((~~(15)~~)) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications.

((~~(16)~~)) (15) "Proprietary software" means that software offered for sale or license.

((~~(17)~~)) (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.

((~~(18)~~)) (17) "Public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03A.245 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.

((~~(19)~~)) (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.

((~~(20)~~)) (19) "Public safety" refers to any entity or services that ensure the welfare and protection of the public.

((~~(21)~~)) (20) "Ransomware" means a type of malware that attempts to deny a user or organization access to data or systems, usually through encryption, until a sum of money or other currency is paid or the user or organization is forced to take a specific action.

((~~(22)~~)) (21) "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.

((~~(23)~~)) (22) "State agency" means every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official.

((~~(24)~~)) (23) "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.

((~~(25)~~)) (24) "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.

Sec. 4. RCW 43.105.025 and 2015 3rd sp.s. c 1 s 103 are each amended to read as follows:

(1) There is created ((~~the consolidated technology services agency~~)) Washington technology solutions, an agency of state government. The agency shall be headed by a director, who is the state chief information officer. The director shall be appointed by the governor with the consent of the senate. The director shall serve at the governor's pleasure and shall receive such salary as determined by the governor. If a vacancy occurs in the position while the senate is not in session, the governor shall make a temporary appointment until the next

meeting of the senate at which time he or she shall present to that body his or her nomination for the position.

(2) The director shall:

(a) Appoint a confidential secretary and such deputy and assistant directors as needed to administer the agency; ((~~and~~))

(b) Appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed by this chapter in accordance with chapter 41.06 RCW, except as otherwise provided by law; and

(c) Establish standards and policies to govern information technology in the state of Washington.

(3) The director may create such administrative structures as he or she deems appropriate and may delegate any power or duty vested in him or her by this chapter or other law.

(4) The director shall exercise all the powers and perform all the duties prescribed by law with respect to the administration of this chapter including:

(a) Reporting to the governor any matters relating to abuses and evasions of this chapter;

(b) Accepting and expending gifts and grants that are related to the purposes of this chapter;

(c) Applying for grants from public and private entities, and receiving and administering any grant funding received for the purpose and intent of this chapter; and

(d) Performing other duties as are necessary and consistent with law.

Sec. 5. RCW 43.105.052 and 2015 3rd sp.s. c 1 s 104 are each amended to read as follows:

(1) The agency shall:

(((~~(1)~~))) (a) Make available information services to public agencies and public benefit nonprofit corporations;

(((~~(2)~~))) (b) Establish rates and fees for services provided by the agency;

(((~~(3)~~))) (c) Develop a billing rate plan for a two-year period to coincide with the budgeting process. The rate plan must be subject to review at least annually by the office of financial management. The rate plan must show the proposed rates by each cost center and show the components of the rate structure as mutually determined by the agency and the office of financial management. The rate plan and any adjustments to rates must be approved by the office of financial management;

(((~~(4)~~))) (d) Develop a detailed business plan for any service or activity to be contracted under RCW 41.06.142(((~~(7)~~))) (11)(b);

(((~~(5)~~))) (e) Develop plans for the agency's achievement of statewide goals and objectives set forth in the state strategic information technology plan required under RCW 43.105.220;

(((~~(6)~~))) (f) Enable the standardization and consolidation of information technology infrastructure across all state agencies to support enterprise-based system development and improve and maintain service delivery; ((~~and~~

~~(7)~~)) (g) Prepare and lead the implementation of a strategic direction and enterprise architecture for information technology for state government;

(h) Establish standards and policies for the consistent and efficient operation of information technology services throughout state government;

(i) Establish statewide enterprise architecture that will serve as the organizing standard for information technology for state agencies;

(j) Educate and inform state managers and policymakers on technological developments, industry trends and best practices, industry benchmarks that strengthen decision making and professional development, and industry understanding for public managers and decision makers; and

(k) Perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

(2) In the case of institutions of higher education, the powers of the agency and the provisions of this chapter apply to business and administrative applications but do not apply to: (a) Academic and research applications; and (b) medical, clinical, and health care applications, including the business and administrative applications for such operations. However, institutions of higher education must disclose to the agency any proposed academic applications that are enterprise-wide in nature relative to the needs and interests of other institutions of higher education. Institutions of higher education shall provide to the director sufficient data and information on proposed expenditures on business and administrative applications to permit the director to evaluate the proposed expenditures pursuant to RCW 43.88.092(3).

(3) The legislature and the judiciary, which are constitutionally recognized as separate branches of government, are strongly encouraged to coordinate with the agency and participate in shared services initiatives and the development of enterprise-based strategies, where appropriate. Legislative and judicial agencies of the state may consult with the director on proposed information technology expenditures, where appropriate, to allow the director to provide feedback on an advisory basis.

Sec. 6. RCW 43.105.054 and 2021 c 291 s 9 are each amended to read as follows:

(1) ((~~The director shall establish standards and policies to govern information technology in the state of Washington.~~

~~(2)~~)) The ((~~office~~)) agency shall have the following powers and duties related to the governance of information services:

(a) To develop statewide standards and policies governing the:

(i) Acquisition of equipment, software, and technology-related services;

(ii) Disposition of equipment;

(iii) Licensing of the radio spectrum by or on behalf of state agencies; and

(iv) Confidentiality of computerized data;

(b) To develop statewide and interagency technical policies, standards, and procedures;

(c) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services;

(d) With input from the legislature and the judiciary, to provide direction concerning strategic planning goals and objectives for the state;

(e) To establish policies for the periodic review by the director of state agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education;

(iii) Project management; and

(iv) Cybersecurity, in coordination with the office of cybersecurity;

(f) To coordinate with state agencies with an annual information technology expenditure that exceeds ten million dollars to implement a technology business management program to identify opportunities for savings and efficiencies in information technology expenditures and to monitor ongoing financial performance of technology investments;

(g) ((~~In conjunction with the consolidated technology services agency, to~~)) To develop statewide standards for agency purchases of technology networking equipment and services;

(h) To implement a process for detecting, reporting, and responding to security incidents consistent with the information security standards, policies, and guidelines adopted by the director;

(i) To develop plans and procedures to ensure the continuity of commerce for information resources that support the operations and assets of state agencies in the event of a security incident; and

(j) To work with the office of cybersecurity, department of commerce, and other economic development stakeholders to facilitate the development of a strategy that includes key local, state, and federal assets that will create Washington as a national leader in cybersecurity. The ((~~office~~)) agency shall collaborate with, including but not limited to, community colleges, universities, the national guard, the department of defense, the department of energy, and national laboratories to develop the strategy.

(((~~(3)~~))) (2) Statewide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The ((~~office~~)) agency shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems; and

(b) Require agencies to include an evaluation of electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the ((~~office~~)) agency is encouraged to include the state library, state archives, and appropriate representatives of state and local government.

(3) Each state agency must annually certify to the agency that it is in compliance with the policies and standards developed under this chapter.

Sec. 7. RCW 43.105.220 and 2015 3rd sp.s. c 1 s 203 are each amended to read as follows:

(1) The ((~~office~~)) agency shall prepare a state strategic information technology plan which shall establish a statewide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information, and services. The plan shall be developed in accordance with the standards and policies established by the ((~~office~~)) agency. The ((~~office~~)) agency shall seek the advice of the board in the development of this plan.

The plan shall be updated as necessary and submitted to the governor and the legislature.

(2) The ((~~office~~)) agency shall prepare a biennial state performance report on information technology based on state agency performance reports required under RCW 43.105.235 and other information deemed appropriate by the ((~~office~~)) agency. The report shall include, but not be limited to:

(a) An analysis, based upon agency portfolios, of the state's information technology infrastructure, including its value, condition, and capacity;

(b) An evaluation of performance relating to information technology;

(c) An assessment of progress made toward implementing the state strategic information technology plan, including progress toward electronic access to public information and enabling citizens to have two-way access to public records, information, and services; and

(d) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under RCW 43.105.245. At a minimum, the portion of the report regarding major technology projects must include:

(i) The total cost data for the entire life-cycle of the project, including capital and operational costs, broken down by staffing costs, contracted service, hardware purchase or lease, software purchase or lease, travel, and training. The original budget must also be shown for comparison;

(ii) The original proposed project schedule and the final actual project schedule;

(iii) Data regarding progress towards meeting the original goals and performance measures of the project;

(iv) Discussion of lessons learned on the project, performance of any contractors used, and reasons for project delays or cost increases; and

(v) Identification of benefits generated by major information technology projects developed under RCW 43.105.245.

(3) Copies of the report shall be distributed biennially to the governor and the legislature. The major technology section of the report must examine major information technology projects completed in the previous biennium.

Sec. 8. RCW 43.105.240 and 2015 3rd sp.s. c 1 s 207 are each amended to read as follows:

(1) Pursuant to RCW 43.88.092(3), at the request of the director of financial management, the ((~~office~~)) agency shall evaluate both state agency information technology current spending and technology budget requests, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The ((~~office~~)) agency shall submit recommendations for funding all or part of such requests to the director of financial management. The ((~~office~~)) agency shall also submit recommendations regarding consolidation and coordination of similar proposals or other efficiencies it finds in reviewing proposals.

(2) The ((~~office~~)) agency shall establish criteria, consistent with portfolio-based information technology management, for the evaluation of agency budget requests under this section. Technology budget requests shall be evaluated in the context of the state's information technology portfolio; technology initiatives underlying budget requests are subject to review by the ((~~office~~)) agency. Criteria shall include, but not be limited to: Feasibility of the proposed projects, consistency with the state strategic information technology plan and the state

enterprise architecture, consistency with information technology portfolios, appropriate provision for public electronic access to information, evidence of business process streamlining and gathering of business and technical requirements, services, duration of investment, costs, and benefits.

Sec. 9. RCW 43.105.245 and 2015 3rd sp.s. c 1 s 208 are each amended to read as follows:

(1)(a) The ((~~office~~)) agency shall establish standards and policies governing the planning, implementation, and evaluation of major information technology projects, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The standards and policies shall:

(((~~(a)~~))) (i) Establish criteria to identify projects which are subject to this section. Such criteria shall include, but not be limited to, significant anticipated cost, complexity, or statewide significance of the project; and

(((~~(b)~~))) (ii) Establish a model process and procedures which state agencies shall follow in developing and implementing projects within their information technology portfolios. This process may include project oversight experts or panels, as appropriate. State agencies may propose, for approval by the ((~~office~~)) agency, a process and procedures unique to the agency. The ((~~office~~)) agency may accept or require modification of such agency proposals or the ((~~office~~)) agency may reject those proposals and require use of the model process and procedures established under this subsection. Any process and procedures developed under this subsection shall require (((~~(i)~~))) (A) distinct and identifiable phases upon which funding may be based, (((~~(ii)~~))) (B) user validation of products through system demonstrations and testing of prototypes and deliverables, and (((~~(iii)~~))) (C) other elements identified by the ((~~office~~)) agency.

(b) The director may suspend or terminate a major project((~~, and direct that the project funds be placed into unallotted reserve status,~~)) if the director determines that the project is not meeting or is not expected to meet the project's anticipated performance standards. Upon suspension or termination of a major project, the director of the office of financial management shall direct that the project funds be placed into unallotted reserved status.

(2) The ((~~office of financial management~~)) agency shall establish policies and standards consistent with portfolio-based information technology management to govern the funding of projects developed under this section. The policies and standards shall provide for:

(a) Funding of a project under terms and conditions mutually agreed to by the director, the director of financial management, and the head of the agency proposing the project. However, the ((~~office of financial management~~)) agency, in consultation with the office of financial management, may require incremental funding of a project on a phase-by-phase basis whereby funds for a given phase of a project may be released only when the ((~~office of financial management~~)) agency determines, with the advice of the director, that the previous phase is satisfactorily completed; and

(b) Other elements deemed necessary by the ((~~office of financial management~~)) agency.

Sec. 10. RCW 43.105.255 and 2015 3rd sp.s. c 1 s 209 are each amended to read as follows:

(1) Prior to making a commitment to purchase, acquire, or develop a major information technology project or service, state agencies must provide a proposal to the ((~~office~~)) agency outlining the business case of the proposed product or service, including the up-front and ongoing cost of the proposal.

(2) Within thirty days of receipt of a proposal, the ((~~office~~)) agency shall approve the proposal, reject it, or propose modifications.

(3) In reviewing a proposal, the ((~~office~~)) agency must determine whether the product or service is consistent with:

(a) The standards and policies developed by the director pursuant to RCW 43.105.054 and 43.105.025; and

(b) The state's enterprise-based strategy.

(4) If a substantially similar product or service is offered by the agency, the director may require the state agency to procure the product or service through the agency, if doing so would benefit the state as an enterprise.

(5) The ((~~office~~)) agency shall provide guidance to state agencies as to what threshold of information technology spending constitutes a major information technology product or service under this section.

Sec. 11. RCW 43.105.265 and 2015 3rd sp.s. c 1 s 210 are each amended to read as follows:

(1) The ((~~office~~)) agency shall develop an enterprise-based strategy for information technology in state government informed by portfolio management planning and information technology expenditure information collected from state agencies pursuant to RCW 43.88.092.

(2)(a) The ((~~office~~)) agency shall develop an ongoing enterprise architecture program for translating business vision and strategy into effective enterprise change. This program will create, communicate, and improve the key principles and models that describe the enterprise's future state and enable its evolution, in keeping with the priorities of government and the information technology strategic plan.

(b) The enterprise architecture program will facilitate business process collaboration among agencies statewide; improving the reliability, interoperability, and sustainability of the business processes that state agencies use.

(c) In developing an enterprise-based strategy for the state, the ((~~office~~)) agency is encouraged to consider the following strategies as possible opportunities for achieving greater efficiency:

(i) Developing evaluation criteria for deciding which common enterprise-wide business processes should become managed as enterprise services;

(ii) Developing a road map of priorities for creating enterprise services;

(iii) Developing decision criteria for determining implementation criteria for centralized or decentralized enterprise services;

(iv) Developing evaluation criteria for deciding which technology investments to continue, hold, or drop; and

(v) Performing such other duties as may be needed to promote effective enterprise change.

((~~(c)~~)) (d) The ((~~office~~)) agency will establish performance measurement criteria for each of its initiatives; will measure the success of those initiatives;

and will assess its quarterly results with the director to determine whether to continue, revise, or disband the initiative.

Sec. 12. RCW 43.105.285 and 2015 3rd sp.s. c 1 s 211 are each amended to read as follows:

(1) The technology services board is created within the agency.

(2)(a) The board shall be composed of thirteen members. Six members shall be appointed by the governor, three of whom shall be representatives of state agencies or institutions, and three of whom shall be representatives of the private sector. Of the state agency representatives, at least one of the representatives must have direct experience using the software projects overseen by the board or reasonably expect to use the new software developed under the oversight of the board. Two members shall represent the house of representatives and shall be selected by the speaker of the house of representatives with one representative chosen from each major caucus of the house of representatives; two members shall represent the senate and shall be appointed by the president of the senate with one representative chosen from each major caucus of the senate. One member shall be the director who shall be a voting member of the board and serve as chair. Two nonvoting members with information technology expertise must be appointed by the governor as follows:

((~~(a)~~)) (i) One member representing state agency bargaining units shall be selected from a list of three names submitted by each of the general government exclusive bargaining representatives; and

((~~(b)~~)) (ii) One member representing local governments shall be selected from a list of three names submitted by commonly recognized local government organizations.

(b) The governor may reject all recommendations and request new recommendations.

(3) Of the initial members, three must be appointed for a one-year term, three must be appointed for a two-year term, and four must be appointed for a three-year term. Thereafter, members must be appointed for three-year terms.

(4) Vacancies shall be filled in the same manner that the original appointments were made for the remainder of the member's term.

(5) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(6) The ((~~office~~)) agency shall provide staff support to the board.

Sec. 13. RCW 43.105.287 and 2015 3rd sp.s. c 1 s 212 are each amended to read as follows:

The board shall have the following powers and duties related to information services:

(1) To review and approve standards and policies, developed by the ((~~office~~)) agency, governing the acquisition and disposition of equipment, proprietary software, and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data;

(2) To review and approve statewide or interagency technical policies and standards developed by the ((~~office~~)) agency;

(3) To review, approve, and provide oversight of major information technology projects to ensure that no major information technology project proposed by a state agency is approved or authorized funding by the board

without consideration of the technical and financial business case for the project, including a review of:

(a) The total cost of ownership across the life of the project;

(b) All major technical options and alternatives analyzed, and reviewed, if necessary, by independent technical sources; and

(c) Whether the project is technically and financially justifiable when compared against the state's enterprise-based strategy, long-term technology trends, and existing or potential partnerships with private providers or vendors;

(4) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by state agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services, and to assure the cost-effective development and incremental implementation of a statewide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(5) To develop a policy to determine whether a proposed project, product, or service should undergo an independent technical and financial analysis prior to submitting a request to the office of financial management for the inclusion in any proposed operating, capital, or transportation budget;

(6) To approve contracting for services and activities under RCW 41.06.142((~~(7)~~)) (11) for the agency. To approve any service or activity to be contracted under RCW 41.06.142((~~(7)~~)) (11)(b), the board must also review the proposed business plan and recommendation submitted by the ((~~office~~)) agency;

(7) To consider, on an ongoing basis, ways to promote strategic investments in enterprise-level information technology projects that will result in service improvements and cost efficiency;

(8) To provide a forum to solicit external expertise and perspective on developments in information technology, enterprise architecture, standards, and policy development; and

(9) To provide a forum where ideas and issues related to information technology plans, policies, and standards can be reviewed.

Sec. 14. RCW 43.105.342 and 2015 3rd sp.s. c 1 s 501 are each amended to read as follows:

(1) The ((~~consolidated technology services~~)) Washington technology solutions revolving account is created in the custody of the state treasurer. All receipts from agency fees and charges for services collected from public agencies must be deposited into the account. The account must be used for the:

(a) Acquisition of equipment, software, supplies, and services; and

(b) Payment of salaries, wages, and other costs incidental to the acquisition, development, maintenance, operation, and administration of: (i) Information services; (ii) telecommunications; (iii) systems; (iv) software; (v) supplies; and (vi) equipment, including the payment of principal and interest on debt by the agency and other users as determined by the office of financial management.

(2) The director or the director's designee, with the approval of the technology services board, is authorized to expend up to one million dollars per fiscal biennium for the technology services board to conduct independent technical and financial analysis of proposed information technology projects.

(3) 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 no appropriation is required for expenditures except as provided in subsection (4) of this section.

(4) Expenditures for the strategic planning and policy component of the agency are subject to appropriation.

Sec. 15. RCW 43.105.359 and 2011 1st sp.s. c 43 s 724 are each amended to read as follows:

The state library, with the assistance of the ((~~office~~)) agency and the state archives, shall establish a pilot project to design and test an electronic information locator system, allowing members of the public to locate and access electronic public records. In designing the system, the following factors shall be considered: (1) Ease of operation by citizens; (2) access through multiple technologies, such as direct dial and toll-free numbers, kiosks, and the internet; (3) compatibility with private online services; and (4) capability of expanding the electronic public records included in the system. The pilot project may restrict the type and quality of electronic public records that are included in the system to test the feasibility of making electronic public records and information widely available to the public.

Sec. 16. 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~~)) agency. 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~~)) agency 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.

Sec. 17. RCW 43.105.375 and 2021 c 40 s 3 are each amended to read as follows:

(1) Except as provided by subsection (2) of this section, state agencies shall locate all existing and new information or telecommunications investments in the state data center or within third-party, commercial cloud computing services.

(2) State agencies with a service requirement that precludes them from complying with subsection (1) of this section must receive a waiver from the ((~~office~~)) agency. Waivers must be based upon written justification from the requesting state agency citing specific service or performance requirements for locating servers outside the state's common platform.

(3) The legislature and the judiciary, which are constitutionally recognized as separate branches of government, may enter into an interagency agreement with the ((~~office~~)) agency to migrate its servers into the state data center or third-party, commercial cloud computing services.

(((~~(5) [(4)]~~))) (4) This section does not apply to institutions of higher education.

Sec. 18. RCW 43.105.385 and 2015 3rd sp.s. c 1 s 220 are each amended to read as follows:

(1) The ((~~office~~)) agency shall conduct a needs assessment and develop a migration strategy to ensure that, over time, all state agencies are moving towards using the agency as their central service provider for all utility-based infrastructure services, including centralized PC and infrastructure support. State agency-specific application services shall remain managed within individual agencies.

(2) The ((~~office~~)) agency shall develop short-term and long-term objectives as part of the migration strategy.

(3) This section does not apply to institutions of higher education.

Sec. 19. RCW 43.105.450 and 2021 c 291 s 1 are each amended to read as follows:

(1) The office of cybersecurity is created within the ((~~office of the chief information officer~~)) agency.

(2) The director shall appoint a state chief information security officer, who is the director of the office of cybersecurity.

(3) The primary duties of the office of cybersecurity are:

(a) To establish security standards and policies to protect the state's information technology systems and infrastructure, to provide appropriate governance and application of the standards and policies across information technology resources used by the state, and to ensure the confidentiality, availability, and integrity of the information transacted, stored, or processed in the state's information technology systems and infrastructure;

(b) To develop a centralized cybersecurity protocol for protecting and managing state information technology assets and infrastructure;

(c) To detect and respond to security incidents consistent with information security standards and policies;

(d) To create a model incident response plan for agency adoption, with the office of cybersecurity as the incident response coordinator for incidents that: (i) Impact multiple agencies; (ii) impact more than 10,000 citizens; (iii) involve a nation state actor; or (iv) are likely to be in the public domain;

(e) To ensure the continuity of state business and information resources that support the operations and assets of state agencies in the event of a security incident;

(f) To provide formal guidance to agencies on leading practices and applicable standards to ensure a whole government approach to cybersecurity, which shall include, but not be limited to, guidance regarding: (i) The configuration and architecture of agencies' information technology systems, infrastructure, and assets; (ii) governance, compliance, and oversight; and (iii) incident investigation and response;

(g) To serve as a resource for local and municipal governments in Washington in the area of cybersecurity;

(h) To develop a service catalog of cybersecurity services to be offered to state and local governments;

(i) To collaborate with state agencies in developing standards, functions, and services in order to ensure state agency regulatory environments are understood and considered as part of an enterprise cybersecurity response;

(j) To define core services that must be managed by agency information technology security programs; and

(k) To perform all other matters and things necessary to carry out the purposes of this chapter.

(4) In performing its duties, the office of cybersecurity must address the highest levels of security required to protect confidential information transacted, stored, or processed in the state's information technology systems and infrastructure that is specifically protected from disclosure by state or federal law and for which strict handling requirements are required.

(5) In executing its duties under subsection (3) of this section, the office of cybersecurity shall use or rely upon existing, industry standard, widely adopted cybersecurity standards, with a preference for United States federal standards.

(6) Each state agency, institution of higher education, the legislature, and the judiciary must develop an information technology security program consistent with the office of cybersecurity's standards and policies.

(7)(a) Each state agency information technology security program must adhere to the office of cybersecurity's security standards and policies. Each state agency must review and update its program annually, certify to the office of cybersecurity that its program is in compliance with the office of cybersecurity's security standards and policies, and provide the office of cybersecurity with a list of the agency's cybersecurity business needs and agency program metrics.

(b) The office of cybersecurity shall require a state agency to obtain an independent compliance audit of its information technology security program and controls at least once every three years to determine whether the state agency's information technology security program is in compliance with the standards and policies established by the agency and that security controls identified by the state agency in its security program are operating efficiently.

(c) If a review or an audit conducted under (a) or (b) of this subsection identifies any failure to comply with the standards and policies of the office of cybersecurity or any other material cybersecurity risk, the office of cybersecurity must require the state agency to formulate and implement a plan to resolve the failure or risk. On an annual basis, the office of cybersecurity must provide a confidential report to the governor and appropriate committees of the legislature identifying and describing the cybersecurity risk or failure to comply with the office of cybersecurity's security policy or implementing cybersecurity standards and policies, as well as the agency's plan to resolve such failure or risk. Risks that are not mitigated are to be tracked by the office of cybersecurity and reviewed with the governor and the chair and ranking member of the appropriate committees of the legislature on a quarterly basis.

(d) The reports produced, and information compiled, pursuant to this subsection (7) are confidential and may not be disclosed under chapter 42.56 RCW.

(8) In the case of institutions of higher education, the judiciary, and the legislature, each information technology security program must be comparable to the intended outcomes of the office of cybersecurity's security standards and policies.

Sec. 20. RCW 43.105.331 and 2017 c 92 s 1 are each amended to read as follows:

(1) The director shall appoint a state interoperability executive committee, the membership of which must include, but not be limited to, representatives of the military department, the Washington state patrol, the department of transportation, ((~~the office of the state chief information officer~~)) Washington technology solutions, the department of natural resources, the department of fish and wildlife, the department of health, the department of corrections, city and county governments, state and local fire chiefs, police chiefs, and sheriffs, state and local emergency management directors, tribal nations, and public safety answering points, commonly known as 911 call centers. The chair and legislative members of the board will serve as nonvoting ex officio members of the committee. Voting membership may not exceed twenty-two members.

(2) The director shall appoint the chair of the committee from among the voting members of the committee.

(3) The state interoperability executive committee has the following responsibilities:

(a) Develop policies and make recommendations ((~~to the office~~)) for technical standards for state wireless radio communications systems, including emergency communications systems. The standards must address, among other things, the interoperability of systems, taking into account both existing and future systems and technologies;

(b) Coordinate and manage on behalf of the ((~~office~~)) department the licensing and use of state-designated and state-licensed radio frequencies, including the spectrum used for public safety and emergency communications, and serve as the point of contact with the federal communications commission and the first responders network authority on matters relating to allocation, use, and licensing of radio spectrum;

(c) Coordinate the purchasing of all state wireless radio communications system equipment to ensure that:

(i) Any new trunked radio system shall be, at a minimum, project-25; and

(ii) Any new land-mobile radio system that requires advanced digital features shall be, at a minimum, project-25;

(d) Seek support, including possible federal or other funding, for state-sponsored wireless communications systems;

(e) Develop recommendations for legislation that may be required to promote interoperability of state wireless communications systems;

(f) Foster cooperation and coordination among public safety and emergency response organizations;

(g) Work with wireless communications groups and associations to ensure interoperability among all public safety and emergency response wireless communications systems; and

(h) Perform such other duties as may be assigned by the director to promote interoperability of wireless communications systems.

(4) The ((~~office~~)) department shall provide administrative support to the committee.

Sec. 21. RCW 2.36.054 and 2023 c 316 s 4 are each amended to read as follows:

Unless otherwise specified by rule of the supreme court, the jury source list and master jury list for each county shall be created as provided by this section.

(1) The superior court of each county, after consultation with the county clerk and county auditor of that jurisdiction, shall annually notify ((~~the consolidated technology services agency~~)) Washington technology solutions not later than March 1st of each year of its election to use either a jury source list that is merged by the county or a jury source list that is merged by ((~~the consolidated technology services agency~~)) Washington technology solutions. ((~~The consolidated technology services agency~~)) Washington technology solutions shall annually furnish at no charge to the superior court of each county a separate list of the registered voters residing in that county as supplied annually by the secretary of state and a separate list of driver's license and identicard holders residing in that county as supplied annually by the department of licensing, or a merged list of all such persons residing in that county, in accordance with the annual notification required by this subsection. The lists provided by ((~~the consolidated technology services agency~~)) Washington technology solutions shall be in an electronic format mutually agreed upon by the superior court requesting it and ((~~the consolidated technology services agency~~)) Washington technology solutions. The annual merger of the list of registered voters residing in each county with the list of licensed drivers and identicard holders residing in each county to form a jury source list for each county shall be in accordance with the standards and methodology established in this chapter or by superseding court rule whether the merger is accomplished by ((~~the consolidated technology services agency~~)) Washington technology solutions or by a county.

(2)(a) Persons on the lists of registered voters and driver's license and identicard holders shall be identified by a minimum of last name, first name, middle initial where available, date of birth, gender, and county of residence. Identifying information shall be used when merging the lists to ensure to the extent reasonably possible that persons are only listed once on the merged list. Conflicts in addresses are to be resolved by using the most recent record by date of last vote in a general election, date of driver's license or identicard address change or date of voter registration.

(b) After July 1, 2024, persons who:

(i) Apply for a driver's license or identicard in this state shall have the ability to opt in to allow the department of licensing to share the person's email address with ((~~the consolidated technology services agency~~)) Washington technology solutions for the purpose of electronically receiving jury summons and other communications related to jury service; and

(ii) Apply online to ((~~the~~)) register to vote shall, immediately after completing the voter registration transaction, be directed by the secretary of state to a website where the person shall have the ability to opt in to share the person's email address with ((~~the consolidated technology services agency~~)) Washington technology solutions for the purpose of electronically receiving jury summons and other communications related to jury service. The provisions of ((~~the [this]~~)) this subsection (2)(b)(ii) are subject to appropriation.

(3) ((~~The consolidated technology services agency~~)) Washington technology solutions shall provide counties that elect to receive a jury source list merged by ((~~the consolidated technology services agency~~)) Washington technology solutions with a list of names which are possible duplicates that cannot be resolved based on the identifying information required under subsection (2) of this section. If a possible duplication cannot subsequently be resolved satisfactorily through reasonable efforts by the county receiving the merged list, the possible duplicate name shall be stricken from the jury source list until the next annual jury source list is prepared.

Sec. 22. RCW 2.36.057 and 2015 3rd sp.s. c 1 s 401 are each amended to read as follows:

The supreme court is requested to adopt court rules regarding methodology and standards for merging the list of registered voters in Washington state with the list of licensed drivers and identicard holders in Washington state for purposes of creating an expanded jury source list. The rules should specify the standard electronic format or formats in which the lists will be provided to requesting superior courts by ((~~the consolidated technology services agency~~)) Washington technology solutions. In the interim, and until such court rules become effective, the methodology and standards provided in RCW 2.36.054 shall apply. An expanded jury source list shall be available to the courts for use by September 1, 1994.

Sec. 23. RCW 2.36.0571 and 2015 3rd sp.s. c 1 s 402 are each amended to read as follows:

The secretary of state, the department of licensing, and ((~~the consolidated technology services agency~~)) Washington technology solutions shall adopt administrative rules as necessary to provide for the implementation of the methodology and standards established pursuant to RCW 2.36.057 and 2.36.054 or by supreme court rule.

Sec. 24. RCW 2.68.060 and 2015 3rd sp.s. c 1 s 403 are each amended to read as follows:

The administrative office of the courts, under the direction of the judicial information system committee, shall:

(1) Develop a judicial information system information technology portfolio consistent with the provisions of RCW 43.105.341;

(2) Participate in the development of an enterprise-based statewide information technology strategy;

(3) Ensure the judicial information system information technology portfolio is organized and structured to clearly indicate participation in and use of enterprise-wide information technology strategies;

(4) As part of the biennial budget process, submit the judicial information system information technology portfolio to the chair and ranking member of the ways and means committees of the house of representatives and the senate, the office of financial management, and ((~~the consolidated technology services agency~~)) Washington technology solutions.

Sec. 25. RCW 19.27.076 and 2018 c 207 s 6 are each amended to read as follows:

The building code council, in consultation with ((~~the office of the chief information officer~~)) Washington technology solutions, shall assess the costs

and benefits of the potential acquisition and implementation of open public access information technologies to enhance the council's code adoption process and report back to the appropriate committees of the legislature by November 15, 2018.

Sec. 26. RCW 29A.08.760 and 2023 c 361 s 9 are each amended to read as follows:

The secretary of state shall provide a duplicate copy of the master statewide computer file or electronic data file of registered voters to ((~~the consolidated technology services agency~~)) Washington technology solutions for purposes of creating the jury source list without cost. The information contained in a voter registration application is exempt from inclusion until the applicant reaches age eighteen. Disclosure of information on individuals under the age of 18 is subject to RCW 29A.08.725. Restrictions as to the commercial use of the information on the statewide computer data file of registered voters, and penalties for its misuse, shall be the same as provided in RCW 29A.08.720 and 29A.08.740.

Sec. 27. RCW 38.52.040 and 2023 c 124 s 2 are each amended to read as follows:

(1) There is hereby created the emergency management council (hereinafter called the council), to consist of not more than 21 members who shall be appointed by the adjutant general. The membership of the council shall include, but not be limited to, representatives of city and county governments, two representatives of federally recognized tribes, sheriffs and police chiefs, county coroners and medical examiners, the Washington state patrol, the military department, the department of ecology, state and local fire chiefs, seismic safety experts, state and local emergency management directors, search and rescue volunteers, medical professions who have expertise in emergency medical care, building officials, private industry, and the office of the superintendent of public instruction. The representatives of private industry shall include persons knowledgeable in emergency and hazardous materials management. The councilmembers shall elect a chair from within the council membership. The members of the council shall serve without compensation, but may be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The emergency management council shall advise the governor and the director on all matters pertaining to state and local emergency management. The council may appoint such ad hoc committees, subcommittees, and working groups as are required to develop specific recommendations for the improvement of emergency management practices, standards, policies, or procedures. The council shall ensure that the governor receives an annual assessment of statewide emergency preparedness including, but not limited to, specific progress on hazard mitigation and reduction efforts, implementation of seismic safety improvements, reduction of flood hazards, mitigation of cybersecurity risks to critical infrastructure, and coordination of hazardous materials planning and response activities. The council shall review administrative rules governing state and local emergency management practices and recommend necessary revisions to the director.

(3) The council or a council subcommittee shall serve and periodically convene in special session as the state emergency response commission required by the emergency planning and community right-to-know act (42 U.S.C. Sec. 11001 et seq.). The state emergency response commission shall conduct those activities specified in federal statutes and regulations and state administrative rules governing the coordination of hazardous materials policy including, but not limited to, review of local emergency planning committee emergency response plans for compliance with the planning requirements in the emergency planning and community right-to-know act (42 U.S.C. Sec. 11001 et seq.). Committees shall annually review their plans to address changed conditions, and submit their plans to the state emergency response commission for review when updated, but not less than at least once every five years. The department may employ staff to assist local emergency planning committees in the development and annual review of these emergency response plans, with an initial focus on the highest risk communities through which trains that transport oil in bulk travel. By March 1, 2018, the department shall report to the governor and legislature on progress towards compliance with planning requirements. The report must also provide budget and policy recommendations for continued support of local emergency planning.

(4)(a) The cybersecurity advisory committee is created and is a subcommittee of the emergency management council. The purpose of the cybersecurity advisory committee is to provide advice and recommendations that strengthen cybersecurity in both industry and public sectors across all critical infrastructure sectors.

(b) The cybersecurity advisory committee shall bring together organizations with expertise and responsibility for cybersecurity and incident response among local government, tribes, state agencies, institutions of higher education, the technology sector, and first responders with the goal of providing recommendations on building and sustaining the state's capability to identify and mitigate cybersecurity risk and to respond to and recover from cybersecurity-related incidents, including but not limited to ransomware incidents. With respect to critical infrastructure, the cybersecurity advisory committee shall work with relevant federal agencies, state agencies, institutions of higher education as defined in chapter 28B.92 RCW, industry experts, and technical specialists to:

(i) Identify which local, tribal, and industry infrastructure sectors are at the greatest risk of cyberattacks and need the most enhanced cybersecurity measures;

(ii) Use federal guidance to analyze categories of critical infrastructure in the state that could reasonably result in catastrophic consequences if unauthorized cyber access to the infrastructure occurred;

(iii) Recommend cyber incident response exercises that relate to risk and risk mitigation in the water, transportation, communications, health care, elections, agriculture, energy, and higher education sectors, or other sectors as the cybersecurity advisory committee deems appropriate, in consultation with appropriate state agencies including, but not limited to, the energy resilience and emergency management office at the department of commerce and the secretary of state's office; and

(iv) Examine the inconsistencies between state and federal law regarding cybersecurity.

(c) In fulfilling its duties under this section, the military department and the cybersecurity advisory committee shall collaborate with ((~~the consolidated technology services agency~~)) Washington technology solutions and the technology services board security subcommittee created in RCW 43.105.291.

(d) In order to protect sensitive security topics and information, the cybersecurity advisory committee must follow 6 C.F.R. Part 29, as it existed on July 23, 2023, procedures for handling critical infrastructure information. The reports produced, and information compiled, pursuant to this subsection are confidential and may not be disclosed under chapter 42.56 RCW.

(e) The cybersecurity advisory committee must contribute, as appropriate, to the emergency management council annual report and must meet quarterly. The cybersecurity advisory committee shall hold a joint meeting once a year with the technology services board security subcommittee created in RCW 43.105.291.

(f) For the purpose of this subsection, "ransomware" has the same meaning as in RCW 43.105.020.

(5)(a) The intrastate mutual aid committee is created and is a subcommittee of the emergency management council. The intrastate mutual aid committee consists of not more than five members who must be appointed by the council chair from council membership. The chair of the intrastate mutual aid committee is the military department representative appointed as a member of the council. Meetings of the intrastate mutual aid committee must be held at least annually.

(b) In support of the intrastate mutual aid system established in chapter 38.56 RCW, the intrastate mutual aid committee shall develop and update guidelines and procedures to facilitate implementation of the intrastate mutual aid system by member jurisdictions, including but not limited to the following: Projected or anticipated costs; checklists and forms for requesting and providing assistance; recordkeeping; reimbursement procedures; and other implementation issues. These guidelines and procedures are not subject to the rule-making requirements of chapter 34.05 RCW.

(6) On emergency management issues that involve early learning, kindergarten through twelfth grade, or higher education, the emergency management council must consult with representatives from the following organizations: The department of children, youth, and families; the office of the superintendent of public instruction; the state board for community and technical colleges; and an association of public baccalaureate degree-granting institutions.

Sec. 28. RCW 39.26.090 and 2012 c 224 s 10 are each amended to read as follows:

The director shall:

(1) Establish overall state policies, standards, and procedures regarding the procurement of goods and services by all state agencies;

(2) Develop policies and standards for the use of credit cards or similar methods to make purchases;

(3) Establish procurement processes for information technology goods and services, using technology standards and policies established by ((~~the office of the chief information officer~~)) Washington technology solutions under chapter ((~~43.41A~~)) 43.105 RCW;

(4) Enter into contracts or delegate the authority to enter into contracts on behalf of the state to facilitate the purchase, lease, rent, or otherwise acquire all goods and services and equipment needed for the support, maintenance, and use of all state agencies, except as provided in RCW 39.26.100;

(5) Have authority to delegate to agencies authorization to purchase goods and services. The authorization must specify restrictions as to dollar amount or to specific types of goods and services, based on a risk assessment process developed by the department. Acceptance of the purchasing authorization by an agency does not relieve the agency from conformance with this chapter or from policies established by the director. Also, the director may not delegate to a state agency the authorization to purchase goods and services if the agency is not in substantial compliance with overall procurement policies as established by the director;

(6) Develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of goods and services from Washington small businesses, microbusinesses, and minibusinesses, and minority and women-owned businesses to the maximum extent practicable and consistent with international trade agreement commitments;

(7) Develop and implement an enterprise system for electronic procurement;

(8) Provide for a commodity classification system and provide for the adoption of goods and services commodity standards;

(9) Establish overall state policy for compliance by all agencies regarding:

(a) Food procurement procedures and materials that encourage and facilitate the purchase of Washington grown food by state agencies and institutions to the maximum extent practicable and consistent with international trade agreement commitments; and

(b) Policies requiring all food contracts to include a plan to maximize to the extent practicable and consistent with international trade agreement commitments the availability of Washington grown food purchased through the contract;

(10) Develop guidelines and criteria for the purchase of vehicles, high gas mileage vehicles, and alternate vehicle fuels and systems, equipment, and materials, that reduce overall energy-related costs and energy use by the state, including investigations into all opportunities to aggregate the purchasing of clean technologies by state and local governments, and including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002); and

(11) Develop and enact rules to implement the provisions of this chapter.

Sec. 29. RCW 39.26.100 and 2019 c 152 s 2 are each amended to read as follows:

(1) The provisions of this chapter do not apply in any manner to the operation of the state legislature except as requested by the legislature.

(2) The provisions of this chapter do not apply to the contracting for services, equipment, and activities that are necessary to establish, operate, or manage the state data center, including architecture, design, engineering,

installation, and operation of the facility, that are approved by the technology services board or the acquisition of proprietary software, equipment, and information technology services necessary for or part of the provision of services offered by ((~~the consolidated technology services agency~~)) Washington technology solutions.

(3) Primary authority for the purchase of specialized equipment, and instructional and research material, for their own use rests with the institutions of higher education as defined in RCW 28B.10.016.

(4) Universities operating hospitals with approval from the director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations if documented to be more cost-effective.

(5) Primary authority for the purchase of materials, supplies, and equipment, for resale to other than public agencies, rests with the state agency concerned.

(6) The authority for the purchase of insurance and bonds rests with the risk manager under RCW 43.19.769, except for institutions of higher education that choose to exercise independent purchasing authority under RCW 28B.10.029.

(7) The provisions of this chapter do not apply to information technology purchases by state agencies, other than institutions of higher education and agencies of the judicial branch, if (a) the purchase is less than one hundred thousand dollars, (b) the initial purchase is approved by the chief information officer of the state, and (c) the agency director and the chief information officer of the state jointly prepare a public document providing a detailed justification for the expenditure.

(8) The authority to purchase interpreter services on behalf of applicants and recipients of public assistance who are sensory-impaired rests with the department of social and health services and the health care authority.

Sec. 30. RCW 39.26.235 and 2012 c 229 s 584 are each amended to read as follows:

(1) State agencies that are purchasing wireless devices or services must make such purchases through the state master contract, unless the state agency provides to ((~~the office of the chief information officer~~)) Washington technology solutions evidence that the state agency is securing its wireless devices or services from another source for a lower cost than through participation in the state master contract.

(2) For the purposes of this section, "state agency" means any office, department, board, commission, or other unit of state government, but does not include a unit of state government headed by a statewide elected official, an institution of higher education as defined in RCW 28B.10.016, the student achievement council, the state board for community and technical colleges, or agencies of the legislative or judicial branches of state government.

Sec. 31. RCW 39.94.040 and 2011 1st sp.s. c 43 s 726 and 2011 c 151 s 7 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 28B.10.022, the state may not enter into any financing contract for itself if the aggregate principal amount payable thereunder is greater than an amount to be established from time to time by the state finance committee or participate in a program providing for the issuance of certificates of participation, including any contract for credit enhancement, without the prior approval of the state finance committee. Except as provided in RCW 28B.10.022, the state finance committee shall approve the form of all financing contracts or a standard format for all financing contracts. The state finance committee also may:

(a) Consolidate existing or potential financing contracts into master financing contracts with respect to property acquired by one or more agencies, departments, instrumentalities of the state, the state board for community and technical colleges, or a state institution of higher learning; or to be acquired by another agency;

(b) Approve programs providing for the issuance of certificates of participation in master financing contracts for the state or for other agencies;

(c) Enter into agreements with trustees relating to master financing contracts; and

(d) Make appropriate rules for the performance of its duties under this chapter.

(2) In the performance of its duties under this chapter, the state finance committee may consult with representatives from the department of general administration, the office of financial management, and ((~~the office of the chief information officer~~)) Washington technology solutions.

(3) With the approval of the state finance committee, the state also may enter into agreements with trustees relating to financing contracts and the issuance of certificates of participation.

(4) Except for financing contracts for real property used for the purposes described under chapter 28B.140 RCW, the state may not enter into any financing contract for real property of the state without prior approval of the legislature. For the purposes of this requirement, a financing contract must be treated as used for real property if it is being entered into by the state for the acquisition of land; the acquisition of an existing building; the construction of a new building; or a major remodeling, renovation, rehabilitation, or rebuilding of an existing building. Prior approval of the legislature is not required under this chapter for a financing contract entered into by the state under this chapter for energy conservation improvements to existing buildings where such improvements include: (a) Fixtures and equipment that are not part of a major remodeling, renovation, rehabilitation, or rebuilding of the building, or (b) other improvements to the building that are being performed for the primary purpose of energy conservation. Such energy conservation improvements must be determined eligible for financing under this chapter by the office of financial management in accordance with financing guidelines established by the state treasurer, and are to be treated as personal property for the purposes of this chapter.

(5) The state may not enter into any financing contract on behalf of another agency without the approval of such a financing contract by the governing body of the other agency.

Sec. 32. RCW 40.14.020 and 2011 1st sp.s. c 43 s 727 are each amended to read as follows:

All public records shall be and remain the property of the state of Washington. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with the provisions of this chapter. In order to insure the proper management and safeguarding of public records, the division of archives and records management is established in the office of the secretary of state. The state archivist, who shall administer the division and have reasonable access to all public records, wherever kept, for purposes of information, surveying, or cataloguing, shall undertake the following functions, duties, and responsibilities:

(1) To manage the archives of the state of Washington;

(2) To centralize the archives of the state of Washington, to make them available for reference and scholarship, and to insure their proper preservation;

(3) To inspect, inventory, catalog, and arrange retention and transfer schedules on all record files of all state departments and other agencies of state government;

(4) To insure the maintenance and security of all state public records and to establish safeguards against unauthorized removal or destruction;

(5) To establish and operate such state record centers as may from time to time be authorized by appropriation, for the purpose of preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;

(6) To adopt rules under chapter 34.05 RCW:

(a) Setting standards for the durability and permanence of public records maintained by state and local agencies;

(b) Governing procedures for the creation, maintenance, transmission, cataloging, indexing, storage, or reproduction of photographic, optical, electronic, or other images of public documents or records in a manner consistent with current standards, policies, and procedures of ((~~the office of the chief information officer~~)) Washington technology solutions for the acquisition of information technology;

(c) Governing the accuracy and durability of, and facilitating access to, photographic, optical, electronic, or other images used as public records; or

(d) To carry out any other provision of this chapter;

(7) To gather and disseminate to interested agencies information on all phases of records management and current practices, methods, procedures, techniques, and devices for efficient and economical management and preservation of records;

(8) To operate a central microfilming bureau which will microfilm, at cost, records approved for filming by the head of the office of origin and the archivist; to approve microfilming projects undertaken by state departments and all other agencies of state government; and to maintain proper standards for this work;

(9) To maintain necessary facilities for the review of records approved for destruction and for their economical disposition by sale or burning; directly to supervise such destruction of public records as shall be authorized by the terms of this chapter;

(10) To assist and train state and local agencies in the proper methods of creating, maintaining, cataloging, indexing, transmitting, storing, and reproducing photographic, optical, electronic, or other images used as public records;

(11) To solicit, accept, and expend donations as provided in RCW 43.07.037 for the purpose of the archive program. These purposes include, but are not limited to, acquisition, accession, interpretation, and display of archival materials. Donations that do not meet the criteria of the archive program may not be accepted.

Sec. 33. RCW 40.26.020 and 2017 2nd sp.s. c 1 s 1 are each amended to read as follows:

(1) Unless authorized by law, an agency may not collect, capture, purchase, or otherwise obtain a biometric identifier without first providing notice and obtaining the individual's consent, as follows:

(a) The notice provided must clearly specify the purpose and use of the biometric identifier; and

(b) The consent obtained must be specific to the terms of the notice, and must be recorded and maintained by the agency for the duration of the retention of the biometric identifier.

(2) Any biometric identifier obtained by an agency:

(a) May not be sold;

(b) May only be used consistent with the terms of the notice and consent obtained under subsection (1) of this section, or as authorized by law; and

(c) May be shared, including with other state agencies or local governments, only:

(i) As needed to execute the purposes of the collection, consistent with the notice and consent obtained under subsection (1) of this section, or as authorized by law; or

(ii) If such sharing is specified within the original consent.

(3) An agency that collects, purchases, or otherwise obtains biometric identifiers must:

(a) Establish security policies that ensure the integrity and appropriate confidentiality of the biometric identifiers;

(b) Address biometric identifiers in the agency's privacy policies;

(c) Only retain biometric identifiers necessary to fulfill the original purpose and use, as specified in the notice and consent obtained under subsection (1) of this section, or as authorized by law;

(d) Set record retention schedules tailored to the original purpose of the collection of biometric identifiers;

(e) Otherwise minimize the review and retention of the biometric identifiers, consistent with state record retention requirements; and

(f) Design a biometric policy to ensure that the agency is minimizing the collection of biometric identifiers to the fewest number necessary to accomplish the agency mission.

(4) The use and storage of biometric identifiers obtained by an agency must comply with all other applicable state and federal laws and regulations, including the health insurance portability and accountability act (HIPAA), the family educational rights and privacy act (FERPA), regulations regarding data breach notifications and individual privacy protections, and any policies or standards published by ((~~the office of the chief information officer~~)) Washington technology solutions.

(5) Biometric identifiers may not be disclosed under the public records act, chapter 42.56 RCW.

(6) Agency policies, regulations, guidance, and retention schedules regarding biometric identifiers must be reviewed annually to incorporate any new technology, as appropriate, and respond to citizen complaints.

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

(a) "Agency" means every state office, department, division, bureau, board, commission, or other state agency.

(b) "Biometric identifier" means any information, regardless of how it is captured, converted, stored, or shared, based on an individual's retina or iris scan, fingerprint, voiceprint, DNA, or scan of hand or face geometry, except when such information is derived from:

(i) Writing samples, written signatures, photographs, human biological samples used for valid scientific testing or screening, demographic data, tattoo descriptions, or physical descriptions such as height, weight, hair color, or eye color;

(ii) Donated organ tissues or parts, or blood or serum stored on behalf of recipients or potential recipients of living or cadaveric transplants and obtained or stored by a federally designated organ procurement agency;

(iii) Information captured from a patient in a health care setting or information collected, used, or stored for health care treatment, payment, or operations under the federal health insurance portability and accountability act of 1996; or

(iv) X-ray, roentgen process, computed tomography, magnetic resonance imaging (MRI), positron emission tomography (PET) scan, mammography, or other image or film of the human anatomy used to diagnose, develop a prognosis for, or treat an illness or other medical condition or to further validate scientific testing or screening.

(8) Subsection (1) of this section does not apply to general authority Washington law enforcement agencies, as defined under RCW 10.93.020.

(9)(a) For purposes of the restrictions and obligations in subsection (1) of this section, "biometric identifier" does not include fingerprints or DNA for the following:

(i) Limited authority Washington law enforcement agencies, as defined under RCW 10.93.020;

(ii) Agencies authorized by statute to confine a person involuntarily, or to petition for such confinement; and

(iii) The attorney general's office when obtaining or using biometric identifiers is necessary for law enforcement, legal advice, or legal representation.

(b) When an agency listed under (a) of this subsection has a need to collect, capture, purchase, or otherwise obtain a biometric identifier other than a fingerprint or DNA to fulfill a purpose authorized by law, for either an individual circumstance or a categorical circumstance, the requirements of subsection (1) of this section are waived upon such agency providing prompt written notice to the state's chief privacy officer and to the appropriate committees of the legislature, stating the type of biometric identifier at issue and the general circumstances requiring the waiver.

Sec. 34. RCW 41.05.031 and 2023 c 51 s 7 are each amended to read as follows:

The Washington state health information technology office is located within the authority. The following state agencies are directed to cooperate with the authority to establish appropriate health care information systems in their programs: The department of social and health services, the department of health, the department of labor and industries, the basic health plan, the department of veterans affairs, the department of corrections, the department of children, youth, and families, and the superintendent of public instruction.

The authority, in conjunction with these agencies and in collaboration with ((~~the consolidated technology services agency~~)) Washington technology solutions, shall determine:

(1) Definitions of health care services;

(2) Health care data elements common to all agencies;

(3) Health care data elements unique to each agency; and

(4) A mechanism for program and budget review of health care data.

Sec. 35. RCW 41.06.070 and 2023 c 148 s 3 are each amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, and temporary employees, and part-time professional consultants, as defined by the director;

(m) Officers and employees of the Washington state fruit commission;

(n) Officers and employees of the Washington apple commission;

(o) Officers and employees of the Washington state dairy products commission;

(p) Officers and employees of the Washington tree fruit research commission;

(q) Officers and employees of the Washington state beef commission;

(r) Officers and employees of the Washington grain commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(u) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(v) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(w) Staff employed by the department of commerce to administer energy policy functions;

(x) The manager of the energy facility site evaluation council;

(y) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (v) of this subsection;

(z) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5);

(aa) Officers and employees of ((~~the consolidated technology services agency~~)) Washington technology solutions created in RCW 43.105.006 that perform the following functions or duties: Systems integration; data center engineering and management; network systems engineering and management; information technology contracting; information technology customer relations management; and network and systems security;

(bb) The executive director of the Washington statewide reentry council.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the office of financial management stating the reasons for requesting such exemptions. The director shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, or is a senior expert in enterprise information technology infrastructure, engineering, or systems, the director shall grant the request. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and

related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

(4) The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (t) and (2) of this section, shall be determined by the director. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

(5)(a) Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

(b) Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

(c) A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

(6)(a) Notwithstanding the provisions of subsection (5) of this section, a person cannot exercise the right of reversion to a classified position if the employee has been given written notice that they are the subject of an active workplace investigation in which the allegations being investigated, if founded, could result in a finding of gross misconduct or malfeasance. The right of reversion is suspended during the pendency of the investigation. For the purposes of this subsection, written notice includes notice sent by email to the employee's work email address.

(b) The office of financial management must adopt rules implementing this section.

Sec. 36. RCW 41.06.094 and 2015 c 225 s 54 are each amended to read as follows:

In addition to the exemptions under RCW 41.06.070, the provisions of this chapter shall not apply in ((~~the consolidated technology services agency~~)) Washington technology solutions to the chief information officer, the chief information officer's confidential secretary, and assistant directors, and up to twelve positions in the planning component involved in policy development and/or senior professionals.

Sec. 37. RCW 41.06.142 and 2020 c 269 s 2 are each amended to read as follows:

(1) If any department, agency, or institution of higher education intends to contract for services that, on or after July 1, 2005, have been customarily and historically provided by, and would displace or relocate, employees in the

classified service under this chapter, a department, agency, or institution of higher education may do so by contracting with individuals, nonprofit organizations, businesses, employee business units, or other entities if the following criteria are met:

(a) A comprehensive impact assessment is completed by the agency, department, or institution of higher education to assist it in determining whether the decision to contract out is beneficial.

(i) The comprehensive impact assessment must include at a minimum the following analysis:

(A) An estimate of the cost of performance of the service by employees, including the fully allocated costs of the service, the cost of the employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the function. The estimate must not include the state's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed in state service;

(B) An estimate of the cost of performance of the services if contracted out, including the cost of administration of the program and allocating sufficient employee staff time and resources to monitor the contract and ensure its proper performance by the contractor;

(C) The reason for proposing to contract out, including the objective the agency would like to achieve; and

(D) The reasons for the determination made under (e) of this subsection.

(ii) When the contract will result in termination of state employees or elimination of state positions, the comprehensive impact assessment may also include an assessment of the potential adverse impacts on the public from outsourcing the contract, such as loss of employment, effect on social services and public assistance programs, economic impacts on local businesses and local tax revenues, and environmental impacts;

(b) The invitation for bid or request for proposal contains measurable standards for the performance of the contract;

(c) Employees whose positions or work would be displaced by the contract are provided an opportunity to offer alternatives to purchasing services by contract and, if these alternatives are not accepted, compete for the contract under competitive contracting procedures in subsection (7) of this section;

(d) The department, agency, or institution of higher education has established a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards; and

(e) The department, agency, or institution of higher education has determined that the contract results in savings or efficiency improvements. The contracting agency, department, or institution of higher education must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(2)(a) The agency, department, or institution of higher education must post on its website the request for proposal, the contract or a statement that the agency, department, or institution of higher education did not move forward with contracting out, and the comprehensive impact assessment pursuant to subsection (1) of this section.

(b) The agency, department, or institution of higher education must maintain the information in (a) of this subsection in its files in accordance with the record retention schedule under RCW 40.14.060.

(3) Every five years or upon completion of the contract, whichever comes first, the agency, department, or institution of higher education must prepare and maintain in the contract file a report, which must include at a minimum the following information:

(a) Documentation of the contractor's performance as measured by the itemized performance standards;

(b) Itemization of any contract extensions or change orders that resulted in a change in the dollar value or cost of the contract; and

(c) A report of any remedial actions that were taken to enforce compliance with the contract, together with an estimate of the cost incurred by the agency, department, or institution of higher education in enforcing such compliance.

(4) In addition to any other terms required by law, the terms of any agreement to contract out a service pursuant to this section must include terms that address the following:

(a) The contract's contract management provision must allow review of the contractor's performance;

(b) The contract's termination clauses must allow termination of the contract if the contractor fails to meet the terms of the contract, including failure to meet performance standards or failure to provide the services at the contracted price;

(c) The contract's damages provision must allow recovery of direct damages and, when applicable, indirect damages that the agency, department, or institution of higher education incurs due to the contractor's breach of the agreement;

(d) If the contractor will be using a subcontractor for performance of services under the contract, the contract must allow the agency, department, or institution of higher education to obtain information about the subcontractor, as applicable to the performance of services under the agreement; and

(e) A provision requiring the contractor to consider employment of employees who may be displaced by the contract, if the contract is with an entity other than an employee business unit.

(5) Any provision contrary to or in conflict with this section in any collective bargaining agreement in effect on July 1, 2005, is not effective beyond the expiration date of the agreement.

(6) When contracting out for services as authorized in this section the agency, department, or institution of higher education must ensure firms adhere to the values of the state of Washington under RCW 49.60.030, which provide its citizens freedom from discrimination. Any relationship with a potential or current industry partner that is found to have violated RCW 49.60.030 by the attorney general shall not be considered and must be immediately terminated unless:

(a) The industry partner has fulfilled the conditions or obligations associated with any court order or settlement resulting from that violation; or

(b) The industry partner has taken significant and meaningful steps to correct the violation, as determined by the Washington state human rights commission.

(7) Competitive contracting shall be implemented as follows:

(a) At least ninety days prior to the date the contracting agency, department, or institution of higher education requests bids from private entities for a contract for services provided by employees, the contracting agency, department, or institution of higher education shall notify the employees whose positions or work would be displaced by the contract. The employees shall have sixty days from the date of notification to offer alternatives to purchasing services by contract, and the agency, department, or institution of higher education shall consider the alternatives before requesting bids.

(b) If the employees decide to compete for the contract, they shall notify the contracting agency, department, or institution of higher education of their decision. Employees must form one or more employee business units for the purpose of submitting a bid or bids to perform the services.

(c) The department of enterprise services, with the advice and assistance of the office of financial management, shall develop and make available to employee business units training in the bidding process and general bid preparation.

(d) The director of enterprise services, with the advice and assistance of the office of financial management, shall, by rule, establish procedures to ensure that bids are submitted and evaluated in a fair and objective manner and that there exists a competitive market for the service. Such rules shall include, but not be limited to: (i) Prohibitions against participation in the bid evaluation process by employees who prepared the business unit's bid or who perform any of the services to be contracted; (ii) provisions to ensure no bidder receives an advantage over other bidders and that bid requirements are applied equitably to all parties; and (iii) procedures that require the contracting agency, department, or institution of higher education to receive complaints regarding the bidding process and to consider them before awarding the contract. Appeal of an agency's, department's, or institution of higher education's actions under this subsection is an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act, with the final decision to be rendered by an administrative law judge assigned under chapter 34.12 RCW.

(e) An employee business unit's bid must include the fully allocated costs of the service, including the cost of the employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the function. An employee business unit's cost shall not include the state's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed in state service.

(f) A department, agency, or institution of higher education may contract with the department of enterprise services to conduct the bidding process.

(8)(a) As used in this section:

(i) "Employee business unit" means a group of employees who perform services to be contracted under this section and who submit a bid for the performance of those services under subsection (7) of this section.

(ii) "Indirect overhead costs" means the pro rata share of existing agency administrative salaries and benefits, and rent, equipment costs, utilities, and materials associated with those administrative functions.

(iii) "Competitive contracting" means the process by which employees of a department, agency, or institution of higher education compete with businesses, individuals, nonprofit organizations, or other entities for contracts authorized by subsection (1) of this section.

(b) Unless otherwise specified, for the purpose of chapter 269, Laws of 2020, "employee" means state employees in the classified service under this chapter except employees in the Washington management service as defined under RCW 41.06.022 and 41.06.500.

(9) The processes set forth in subsections (1)(a), (2), (3), and (4)(a) through (d) of this section do not apply to contracts:

(a) Awarded for the purposes of or by the department of transportation;

(b) With an estimated cost of contract performance of twenty thousand dollars or less;

(c) With an estimated cost of contract performance that exceeds five hundred thousand dollars for public work as defined by RCW 39.04.010; or

(d) Relating to mechanical, plumbing as described in chapter 18.106 RCW, and electrical as described in chapter 19.28 RCW, procured to install systems for new construction or life-cycle replacement with an estimated cost of contract performance of seventy-five thousand dollars or more.

(10) The processes set forth in subsections (1) through (4), (7), and (8) of this section do not apply to:

(a) RCW 74.13.031(6);

(b) The acquisition of printing services by a state agency; and

(c) Contracts for services expressly mandated by the legislature, including contracts for fire suppression awarded by the department of natural resources under RCW 76.04.181, or authorized by law prior to July 1, 2005, including contracts and agreements between public entities.

(11) The processes set forth in subsections (1) through (4), (7), and (8) of this section do not apply to ((~~the consolidated technology services agency~~)) Washington technology solutions when contracting for services or activities as follows:

(a) Contracting for services and activities that are necessary to establish, operate, or manage the state data center, including architecture, design, engineering, installation, and operation of the facility that are approved by the technology services board created in RCW 43.105.285.

(b) Contracting for services and activities recommended by the chief information officer through a business plan and approved by the technology services board created in RCW 43.105.285.

Sec. 38. RCW 41.07.020 and 2019 c 146 s 1 are each amended to read as follows:

The office of financial management is authorized to administer, maintain, and operate the central personnel-payroll system and to provide its services for any state agency designated by the director of financial management.

State agencies shall convert personnel and payroll processing to the central personnel-payroll system as soon as administratively and technically feasible as determined by the office of financial management and ((~~the consolidated technology services agency~~)) Washington technology solutions. It is the intent of the legislature to provide, through the central personnel-payroll system, for uniform reporting to the office of financial management and to the legislature

regarding salaries and related costs, and to reduce present costs of manual procedures in personnel and payroll recordkeeping and reporting.

Sec. 39. RCW 42.17A.060 and 2011 1st sp.s. c 43 s 732 are each amended to read as follows:

It is the intent of the legislature to ensure that the commission provide the general public timely access to all contribution and expenditure reports submitted by candidates, continuing political committees, bona fide political parties, lobbyists, and lobbyists' employers. The legislature finds that failure to meet goals for full and timely disclosure threatens to undermine our electoral process.

Furthermore, the legislature intends for the commission to consult with ((~~the office of the chief information officer~~)) Washington technology solutions as it seeks to implement chapter 401, Laws of 1999, and that the commission follow the standards and procedures established by ((~~the office of the chief information officer~~)) Washington technology solutions in chapter 43.105 RCW as they relate to information technology.

Sec. 40. RCW 42.17A.705 and 2017 3rd sp.s. c 6 s 111 are each amended to read as follows:

For the purposes of RCW 42.17A.700, "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the director of the department of services for the blind, the secretary of children, youth, and families, the director of the state system of community and technical colleges, the director of commerce, the director of ((~~the consolidated technology services agency~~)) Washington technology solutions, the secretary of corrections, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the director of enterprise services, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, Eastern Washington University board of trustees, Washington economic development finance authority, Washington energy northwest executive board, The Evergreen State College board of trustees, executive ethics board, fish and wildlife commission, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, student achievement council, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, state investment board, commission on judicial conduct, legislative ethics board, life sciences discovery fund authority board of trustees, state liquor and cannabis board, lottery commission, Pacific Northwest electric power and conservation planning council, parks and recreation commission, Washington personnel resources board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, shorelines hearings board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington State University board of regents, and Western Washington University board of trustees.

Sec. 41. RCW 43.41.391 and 2015 3rd sp.s. c 1 s 214 are each amended to read as follows:

(1) The office has the duty to govern and oversee the technical design, implementation, and operation of the K-20 network including, but not limited to, the following duties: Establishment and implementation of K-20 network technical policy, including technical standards and conditions of use; review and approval of network design; and resolving user/provider disputes.

(2) The office has the following powers and duties:

(a) In cooperation with the educational sectors and other interested parties, to establish goals and measurable objectives for the network;

(b) To ensure that the goals and measurable objectives of the network are the basis for any decisions or recommendations regarding the technical development and operation of the network;

(c) To adopt, modify, and implement policies to facilitate network development, operation, and expansion. Such policies may include but need not be limited to the following issues: Quality of educational services; access to the network by recognized organizations and accredited institutions that deliver educational programming, including public libraries; prioritization of programming within limited resources; prioritization of access to the system and the sharing of technological advances; network security; identification and evaluation of emerging technologies for delivery of educational programs; future expansion or redirection of the system; network fee structures; and costs for the development and operation of the network;

(d) To prepare and submit to the governor and the legislature a coordinated budget for network development, operation, and expansion. The budget shall include the recommendations of the director of ((~~the consolidated technology services agency's recommendations~~)) Washington technology solutions on (i)

any state funding requested for network transport and equipment, distance education facilities and hardware or software specific to the use of the network, and proposed new network end sites, (ii) annual copayments to be charged to public educational sector institutions and other public entities connected to the network, and (iii) charges to nongovernmental entities connected to the network;

(e) To adopt and monitor the implementation of a methodology to evaluate the effectiveness of the network in achieving the educational goals and measurable objectives;

(f) To establish by rule acceptable use policies governing user eligibility for participation in the K-20 network, acceptable uses of network resources, and procedures for enforcement of such policies. The office shall set forth appropriate procedures for enforcement of acceptable use policies, that may include suspension of network connections and removal of shared equipment for violations of network conditions or policies. The office shall have sole responsibility for the implementation of enforcement procedures relating to technical conditions of use.

Sec. 42. RCW 43.41.440 and 2015 3rd sp.s. c 1 s 502 are each amended to read as follows:

(1) The statewide information technology system development revolving account is created in the custody of the state treasurer. All receipts from legislative appropriations and assessments to agencies for the development and acquisition of enterprise information technology systems must be deposited into the account. Moneys in the account may be spent only after appropriation. The account must be used solely for the development and acquisition of enterprise information technology systems that are consistent with the enterprise-based strategy established by ((~~the consolidated technology services agency~~)) Washington technology solutions in RCW 43.105.025. Expenditures from the account may not be used for maintenance and operations of enterprise information technology systems. The account may be used for the payment of salaries, wages, and other costs directly related to the development and acquisition of enterprise information technology systems.

(2) All payment of principal and interest on debt issued for enterprise information technology systems must be paid from the account.

(3) The office may contract for the development or acquisition of enterprise information technology systems.

(4) For the purposes of this section and RCW 43.41.442, "enterprise information technology system" means an information technology system that serves agencies with a certain business need or process that are required to use the system unless the agency has received a waiver from the state chief information officer. "Enterprise information technology system" also includes projects that are of statewide significance including enterprise-level solutions, enterprise resource planning, and shared services initiatives.

Sec. 43. RCW 43.41.442 and 2015 3rd sp.s. c 1 s 503 are each amended to read as follows:

(1) The statewide information technology system maintenance and operations revolving account is created in the custody of the state treasurer. All receipts from fees, charges for services, and assessments to agencies for the maintenance and operations of enterprise information technology systems must

be deposited into the account. The account must be used solely for the maintenance and operations of enterprise information technology systems.

(2) 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 no appropriation is required for expenditure.

(3) The office may contract with ((~~the consolidated technology services agency~~)) Washington technology solutions for the billing of fees, charges for services, and assessments to agencies, and for the maintenance and operations of enterprise information technology systems.

(4) "Enterprise information technology system" has the definition in RCW 43.41.440.

Sec. 44. RCW 43.41.444 and 2015 3rd sp.s. c 1 s 504 are each amended to read as follows:

(1) The shared information technology system revolving account is created in the custody of the state treasurer. All receipts from fees, charges for services, and assessments to agencies for shared information technology systems must be deposited into the account.

(2) 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 no appropriation is required for expenditure.

(3) The office may contract with ((~~the consolidated technology services agency~~)) Washington technology solutions for the billing of fees, charges for services, and assessments to agencies, and for the development, maintenance, and operations of shared information technology systems.

(4) For the purposes of this section, "shared information technology system" means an information technology system that is available to, but not required for use by, agencies.

Sec. 45. RCW 43.63A.550 and 2011 1st sp.s. c 43 s 814 are each amended to read as follows:

(1) The department shall assist in the process of inventorying and collecting data on public and private land for the acquisition of data describing land uses, demographics, infrastructure, critical areas, transportation corridors physical features, housing, and other information useful in managing growth throughout the state. For this purpose the department may contract with ((~~the consolidated technology services agency~~)) Washington technology solutions and shall form an advisory group consisting of representatives from state, local, and federal agencies, colleges and universities, and private firms with expertise in land planning, and geographic information systems.

(2) The department shall establish a sequence for acquiring data, giving priority to rapidly growing areas. The data shall be retained in a manner to facilitate its use in preparing maps, aggregating with data from multiple jurisdictions, and comparing changes over time. Data shall further be retained in a manner which permits its access via computer.

(3) The department shall work with other state agencies, local governments, and private organizations that are inventorying public and private lands to ensure close coordination and to ensure that duplication of efforts does not occur.

Sec. 46. RCW 43.70.054 and 2015 3rd sp.s. c 1 s 408 are each amended to read as follows:

(1) To promote the public interest consistent with chapter 267, Laws of 1995, the department of health, in cooperation with the director of ((~~the consolidated technology services agency~~)) Washington technology solutions established in RCW 43.105.025, shall develop health care data standards to be used by, and developed in collaboration with, consumers, purchasers, health carriers, providers, and state government as consistent with the intent of chapter 492, Laws of 1993 as amended by chapter 267, Laws of 1995, to promote the delivery of quality health services that improve health outcomes for state residents. The data standards shall include content, coding, confidentiality, and transmission standards for all health care data elements necessary to support the intent of this section, and to improve administrative efficiency and reduce cost. Purchasers, as allowed by federal law, health carriers, health facilities and providers as defined in chapter 48.43 RCW, and state government shall utilize the data standards. The information and data elements shall be reported as the department of health directs by rule in accordance with data standards developed under this section.

(2) The health care data collected, maintained, and studied by the department under this section or any other entity: (a) Shall include a method of associating all information on health care costs and services with discrete cases; (b) shall not contain any means of determining the personal identity of any enrollee, provider, or facility; (c) shall only be available for retrieval in original or processed form to public and private requesters; (d) shall be available within a reasonable period of time after the date of request; and (e) shall give strong consideration to data standards that achieve national uniformity.

(3) The cost of retrieving data for state officials and agencies shall be funded through state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data or studies shall be funded by a fee schedule developed by the department that reflects the direct cost of retrieving the data or study in the requested form.

(4) All persons subject to this section shall comply with departmental requirements established by rule in the acquisition of data, however, the department shall adopt no rule or effect no policy implementing the provisions of this section without an act of law.

(5) The department shall submit developed health care data standards to the appropriate committees of the legislature by December 31, 1995.

Sec. 47. RCW 43.88.090 and 2015 3rd sp.s. c 1 s 409 are each amended to read as follows:

(1) For purposes of developing budget proposals to the legislature, the governor shall have the power, and it shall be the governor's duty, to require from proper agency officials such detailed estimates and other information in such form and at such times as the governor shall direct. The governor shall communicate statewide priorities to agencies for use in developing biennial budget recommendations for their agency and shall seek public involvement and input on these priorities. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget without revision. The estimates for state pension contributions shall be based on the rates provided in chapter 41.45 RCW. Copies of all such estimates shall be transmitted

to the standing committees on ways and means of the house and senate at the same time as they are filed with the governor and the office of financial management.

The estimates shall include statements or tables which indicate, by agency, the state funds which are required for the receipt of federal matching revenues. The estimates shall be revised as necessary to reflect legislative enactments and adopted appropriations and shall be included with the initial biennial allotment submitted under RCW 43.88.110. The estimates must reflect that the agency considered any alternatives to reduce costs or improve service delivery identified in the findings of a performance audit of the agency by the joint legislative audit and review committee. Nothing in this subsection requires performance audit findings to be published as part of the budget.

(2) Each state agency shall define its mission and establish measurable goals for achieving desirable results for those who receive its services and the taxpayers who pay for those services. Each agency shall also develop clear strategies and timelines to achieve its goals. This section does not require an agency to develop a new mission or goals in place of identifiable missions or goals that meet the intent of this section. The mission and goals of each agency must conform to statutory direction and limitations.

(3) For the purpose of assessing activity performance, each state agency shall establish quality and productivity objectives for each major activity in its budget. The objectives must be consistent with the missions and goals developed under this section. The objectives must be expressed to the extent practicable in outcome-based, objective, and measurable form unless an exception to adopt a different standard is granted by the office of financial management and approved by the legislative committee on performance review. Objectives must specifically address the statutory purpose or intent of the program or activity and focus on data that measure whether the agency is achieving or making progress toward the purpose of the activity and toward statewide priorities. The office of financial management shall provide necessary professional and technical assistance to assist state agencies in the development of strategic plans that include the mission of the agency and its programs, measurable goals, strategies, and performance measurement systems.

(4) Each state agency shall adopt procedures for and perform continuous self-assessment of each activity, using the mission, goals, objectives, and measurements required under subsections (2) and (3) of this section. The assessment of the activity must also include an evaluation of major information technology systems or projects that may assist the agency in achieving or making progress toward the activity purpose and statewide priorities. The evaluation of proposed major information technology systems or projects shall be in accordance with the standards and policies established by the technology services board. Agencies' progress toward the mission, goals, objectives, and measurements required by subsections (2) and (3) of this section is subject to review as set forth in this subsection.

(a) The office of financial management shall regularly conduct reviews of selected activities to analyze whether the objectives and measurements submitted by agencies demonstrate progress toward statewide results.

(b) The office of financial management shall consult with: (i) The four-year institutions of higher education in those reviews that involve four-year

institutions of higher education; and (ii) the state board for community and technical colleges in those reviews that involve two-year institutions of higher education.

(c) The goal is for all major activities to receive at least one review each year.

(d) ((~~The consolidated technology services agency~~)) Washington technology solutions shall review major information technology systems in use by state agencies periodically.

(5) It is the policy of the legislature that each agency's budget recommendations must be directly linked to the agency's stated mission and program, quality, and productivity goals and objectives. Consistent with this policy, agency budget proposals must include integration of performance measures that allow objective determination of an activity's success in achieving its goals. When a review under subsection (4) of this section or other analysis determines that the agency's objectives demonstrate that the agency is making insufficient progress toward the goals of any particular program or is otherwise underachieving or inefficient, the agency's budget request shall contain proposals to remedy or improve the selected programs. The office of financial management shall develop a plan to merge the budget development process with agency performance assessment procedures. The plan must include a schedule to integrate agency strategic plans and performance measures into agency budget requests and the governor's budget proposal over three fiscal biennia. The plan must identify those agencies that will implement the revised budget process in the 1997-1999 biennium, the 1999-2001 biennium, and the 2001-2003 biennium. In consultation with the legislative fiscal committees, the office of financial management shall recommend statutory and procedural modifications to the state's budget, accounting, and reporting systems to facilitate the performance assessment procedures and the merger of those procedures with the state budget process. The plan and recommended statutory and procedural modifications must be submitted to the legislative fiscal committees by September 30, 1996.

(6) In reviewing agency budget requests in order to prepare the governor's biennial budget request, the office of financial management shall consider the extent to which the agency's activities demonstrate progress toward the statewide budgeting priorities, along with any specific review conducted under subsection (4) of this section.

(7) In the year of the gubernatorial election, the governor shall invite the governor-elect or the governor-elect's designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or the governor-elect's designee with such information as will enable the governor-elect or the governor-elect's designee to gain an understanding of the state's budget requirements. The governor-elect or the governor-elect's designee may ask such questions during the hearings and require such information as the governor-elect or the governor-elect's designee deems necessary and may make recommendations in connection with any item of the budget which, with the governor-elect's reasons therefor, shall be presented to the legislature in writing with the budget document. Copies of all such estimates and other required information shall also be submitted to the standing committees on ways and means of the house and senate.

Sec. 48. RCW 43.88.092 and 2015 3rd sp.s. c 1 s 410 are each amended to read as follows:

(1) As part of the biennial budget process, the office of financial management shall collect from agencies, and agencies shall provide, information to produce reports, summaries, and budget detail sufficient to allow review, analysis, and documentation of all current and proposed expenditures for information technology by state agencies. Information technology budget detail must be included as part of the budget submittal documentation required pursuant to RCW 43.88.030.

(2) The office of financial management must collect, and present as part of the biennial budget documentation, information for all existing information technology projects as defined by technology services board policy. The office of financial management must work with the office of the state chief information officer to maximize the ability to draw this information from the information technology portfolio management data collected by ((~~the consolidated technology services agency~~)) Washington technology solutions. Connecting project information collected through the portfolio management process with financial data developed under subsection (1) of this section provides transparency regarding expenditure data for existing technology projects.

(3) The director of ((~~the consolidated technology services agency~~)) Washington technology solutions shall evaluate proposed information technology expenditures and establish priority ranking categories of the proposals. No more than one-third of the proposed expenditures shall be ranked in the highest priority category.

(4) The biennial budget documentation submitted by the office of financial management pursuant to RCW 43.88.030 must include an information technology plan and a technology budget for the state identifying current baseline funding for information technology, proposed and ongoing major information technology projects, and their associated costs. This plan and technology budget must be presented using a method similar to the capital budget, identifying project costs through stages of the project and across fiscal periods and biennia from project initiation to implementation. This information must be submitted electronically, in a format to be determined by the office of financial management and the legislative evaluation and accountability program committee.

(5) The office of financial management shall also institute a method of accounting for information technology-related expenditures, including creating common definitions for what constitutes an information technology investment.

(6) For the purposes of this section, "major information technology projects" includes projects that have a significant anticipated cost, complexity, or are of statewide significance, such as enterprise-level solutions, enterprise resource planning, and shared services initiatives.

Sec. 49. RCW 43.88.160 and 2015 3rd sp.s. c 1 s 303 and 2015 3rd sp.s. c 1 s 109 are each reenacted and amended to read as follows:

This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in

addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

(2) Except as provided in chapter 43.88C RCW, the director of financial management is responsible for quarterly reporting of primary operating budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

(i) For those agencies that the director determines internal audit is required, the agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following professional audit standards including generally accepted government auditing standards or standards adopted by the institute of internal auditors, or both.

(ii) For those agencies that the director determines internal audit is not required, the agency head or authorized designee may establish and maintain internal audits following professional audit standards including generally accepted government auditing standards or standards adopted by the institute of internal auditors, or both, but at a minimum must comply with policies as established by the director to assess the effectiveness of the agency's systems of internal controls and risk management processes;

(b) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter the plans, except that for the following agencies no amendment or alteration of the plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(f) Fix the number and classes of positions or authorized employee years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix the number or the classes for the following: Agencies headed by elective officials;

(g) Adopt rules to effectuate provisions contained in (a) through (f) of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons: PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW 43.41.180;

(e) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than equipment maintenance providers or as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of enterprise services but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment maintenance services to be performed more than twelve months after such payment except that institutions of higher education as defined in RCW 28B.10.016 and ((~~the consolidated technology services agency~~)) Washington technology solutions created in RCW 43.105.006 may make payments in advance for equipment maintenance services to be performed up to sixty months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with rules issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official, or employee charged with the receipt, custody, or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include determinations as to whether agencies, in making expenditures, complied with the laws of this state. The state auditor is authorized to perform or participate in performance verifications and performance audits as expressly authorized by the legislature in the omnibus biennial appropriations acts or in the performance audit work plan approved by the joint legislative audit and review committee. The state auditor, upon completing an audit for legal and financial compliance under chapter 43.09 RCW or a performance verification, may report to the joint legislative audit and review committee or other appropriate committees of the legislature, in a manner prescribed by the joint legislative audit and review committee, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit or performance verification. The auditor may make such a report to a legislative committee only if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts or in the performance audit work plan. The results of a performance audit conducted by the state auditor that has been requested by the joint legislative audit and review committee must only be transmitted to the joint legislative audit and review committee.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken within six months, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110. The director of financial management shall annually report by December 31st the status of audit resolution to the appropriate committees of the legislature, the state auditor, and the attorney general. The director of financial management shall include in the audit resolution report actions taken as a result of an audit including, but not limited to, types of personnel actions, costs and types of litigation, and value of recouped goods or services.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter 42.40 RCW.

In addition to the authority given to the state auditor in this subsection (6), the state auditor is authorized to conduct performance audits identified in RCW 43.09.470. Nothing in this subsection (6) shall limit, impede, or restrict the state auditor from conducting performance audits identified in RCW 43.09.470.

(7) The joint legislative audit and review committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in chapter 44.28 RCW as well as performance audits and program evaluations. To this end the

joint committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs, and generally for an improved level of fiscal management.

Sec. 50. RCW 43.371.090 and 2019 c 319 s 9 are each amended 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) Online 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~~)) Washington technology solutions; 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.

Sec. 51. RCW 43.42A.030 and 2014 c 68 s 4 are each amended to read as follows:

(1) To provide meaningful customer service that informs project planning and decision making by the citizens and businesses served, each agency must make available to permit applicants the following information through a link from the agency's website to the office's website, as provided in subsection (4) of this section:

(a) A list of the types of permit assistance available and how such assistance may be accessed;

(b) An estimate of the time required by the agency to process a permit application and issue a decision;

(c) Other tools to help applicants successfully complete a thorough application, such as:

(i) Examples of model completed applications;

(ii) Examples of approved applications, appropriately redacted to remove sensitive information; and

(iii) Checklists for ensuring a complete application.

(2) Each agency shall update at reasonable intervals the information it posts pursuant to this section.

(3)(a) Agencies must post the information required under subsection (1) of this section for all permits as soon as practicable, and no later than the deadlines established in this section.

(b) The agency shall post the permit inventory for that agency and the information required under subsection (1)(a) and (c) of this section no later than June 30, 2014.

(c) The agency shall post the estimates of application completion and permit decision times required under subsection (1)(b) of this section based on actual data for calendar year 2015 by March 1, 2016, and update this information for the previous calendar year, by March 1st of each year thereafter.

(d) Agencies must consider the customer experience in ensuring all permit assistance information is simple to use, easy to access, and designed in a customer-friendly manner.

(4) To ensure agencies can post the required information online with minimal expenditure of agency resources, ((~~the office of the chief information officer~~)) Washington technology solutions shall, in consultation with the office of regulatory assistance, establish a central repository of this information, hosted on the office of regulatory assistance's website. Each agency shall include at least one link to the central repository from the agency's website. Agencies shall place the link or links in such locations as the agency deems will be most customer-friendly and maximize accessibility of the information to users of the website.

(5) The office shall ensure the searchability of the information posted on the central repository, applying industry best practices such as search engine optimization, to ensure that the permit performance and assistance information is readily findable and accessible by members of the public.

Sec. 52. RCW 43.41.430 and 2013 2nd sp.s. c 33 s 5 are each amended to read as follows:

(1) Subject to funds appropriated for this specific purpose, the office of financial management may establish an information technology investment pool and may enter into financial contracts for the acquisition of information technology projects for state agencies. Information technology projects funded under this section must meet the following requirements:

(a) The project begins or continues replacement of information technology systems with modern and more efficient information technology systems;

(b) The project improves the ability of an agency to recover from major disaster; or

(c) The project provides future savings and efficiencies for an agency through reduced operating costs, improved customer service, or increased revenue collections.

(2) Preference for project approval under this section must be given to an agency that has prior project approval from ((~~the office of the chief information officer~~)) Washington technology solutions and an approved business plan, and the primary hurdle to project funding is the lack of funding capacity.

(3) The office of financial management with assistance from ((~~the office of the chief information officer~~)) Washington technology solutions shall report to the governor and the fiscal committees of the legislature by November 1st of each year on the status of distributions and expenditures on information technology projects and improved statewide or agency performance results achieved by project funding.

Sec. 53. RCW 43.330.534 and 2022 c 265 s 303 are each amended 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, public housing agencies, 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 project coordination logistics; 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 RCW 43.155.160, the digital equity opportunity program created in RCW 43.330.412, and the digital equity planning grant program created in RCW 43.330.5393 with seeking federal funding or matching grants and other grant opportunities for deploying or increasing adoption of 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 RCW 43.155.165.

(5) The office shall coordinate an outreach effort to hard-to-reach communities and low-income communities across the state to provide information about broadband programs available to consumers of these communities. The outreach effort must include, but is not limited to, providing information to applicable communities about the federal lifeline program and other low-income broadband benefit programs. The outreach effort must be reviewed by the office of equity annually. The office may contract with other public or private entities to conduct outreach to communities as provided under this subsection.

(6) In carrying out its purpose, the office may collaborate with the utilities and transportation commission, ((~~the office of the chief information officer~~)) Washington technology solutions, the department of commerce, the community economic revitalization board, the department of transportation, the public works board, the state librarian, and all other relevant state agencies.

Sec. 54. RCW 43.371.020 and 2019 c 319 s 3 are each amended to read as follows:

(1) The office shall establish a statewide all-payer health care claims database. 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.

(2) The 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 authority must give strong consideration to the following elements in determining the appropriate lead organization contractor: (i) The organization's degree of experience in health care data collection, analysis, analytics, and security; (ii) whether the organization has a long-term self-sustainable financial model; (iii) the 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 organization's experience in meeting budget and timelines for report generations; and (v) the organization's ability to combine cost and quality data to assess total cost of care.

(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. 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 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~~)) Washington technology solutions to ensure robust security methods are in place. ((~~The office of the chief information officer~~)) Washington technology solutions must report its findings to the 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 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 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 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 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. 55. RCW 44.68.065 and 2020 c 114 s 13 are each amended to read as follows:

The legislative service center, under the direction of the joint legislative systems administrative committee, shall:

(1) Develop a legislative information technology portfolio consistent with the provisions of RCW 43.105.341;

(2) Participate in the development of an enterprise-based statewide information technology strategy;

(3) Ensure the legislative information technology portfolio is organized and structured to clearly indicate participation in and use of enterprise-wide information technology strategies;

(4) As part of the biennial budget process, submit the legislative information technology portfolio to the chair and ranking member of the ways and means committees of the house of representatives and the senate, the office of financial management, and ((~~the consolidated technology services agency~~)) Washington technology solutions.

Sec. 56. RCW 46.20.037 and 2012 c 80 s 1 are each amended to read as follows:

(1) The department may implement a facial recognition matching system for drivers' licenses, permits, and identicards. Any facial recognition matching system selected by the department must be used only to verify the identity of an applicant for or holder of a driver's license, permit, or identicard to determine whether the person has been issued a driver's license, permit, or identicard under a different name or names.

(2) Any facial recognition matching system selected by the department must be capable of highly accurate matching, and must be compliant with appropriate standards established by the American association of motor vehicle administrators that exist on June 7, 2012, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(3) The department shall post notices in conspicuous locations at all department driver licensing offices, make written information available to all applicants at department driver licensing offices, and provide information on the

department's website regarding the facial recognition matching system. The notices, written information, and information on the website must address how the facial recognition matching system works, all ways in which the department may use results from the facial recognition matching system, how an investigation based on results from the facial recognition matching system would be conducted, and a person's right to appeal any determinations made under this chapter.

(4) Results from the facial recognition matching system:

(a) Are not available for public inspection and copying under chapter 42.56 RCW;

(b) May only be disclosed when authorized by a court order;

(c) May only be disclosed to a federal government agency if specifically required under federal law; and

(d) May only be disclosed by the department to a government agency, including a court or law enforcement agency, for use in carrying out its functions if the department has determined that person has committed one of the prohibited practices listed in RCW 46.20.0921 and this determination has been confirmed by a hearings examiner under this chapter or the person declined a hearing or did not attend a scheduled hearing.

(5) All personally identifying information derived from the facial recognition matching system must be stored with appropriate security safeguards. ((~~The office of the chief information officer~~)) Washington technology solutions shall develop the appropriate security standards for the department's use of the facial recognition matching system, subject to approval and oversight by the technology services board.

(6) The department shall develop procedures to handle instances in which the facial recognition matching system fails to verify the identity of an applicant for a renewal or duplicate driver's license, permit, or identicard. These procedures must allow an applicant to prove identity without using the facial recognition matching system.

Sec. 57. RCW 46.20.157 and 2011 1st sp.s. c 43 s 811 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the department shall annually provide to ((~~the consolidated technology services agency~~)) Washington technology solutions an electronic data file. The data file must:

(a) Contain information on all licensed drivers and identicard holders who are eighteen years of age or older and whose records have not expired for more than two years;

(b) Be provided at no charge; and

(c) Contain the following information on each such person: Full name, date of birth, residence address including county, sex, and most recent date of application, renewal, replacement, or change of driver's license or identicard.

(2) Before complying with subsection (1) of this section, the department shall remove from the file the names of any certified participants in the Washington state address confidentiality program under chapter 40.24 RCW that have been identified to the department by the secretary of state.

Sec. 58. RCW 50A.25.070 and 2022 c 233 s 10 and 2022 c 18 s 2 are each reenacted and amended to read as follows:

(1) The department may enter into data-sharing contracts and may disclose records and information deemed confidential to state or local government agencies under this chapter only if permitted under subsection (2) of this section and RCW 50A.25.090. A state or local government agency must need the records or information for an official purpose and must also provide:

(a) An application in writing to the department for the records or information containing a statement of the official purposes for which the state or local government agency needs the information or records and specifically identify the records or information sought from the department; and

(b) A written verification of the need for the specific information from the director, commissioner, chief executive, or other official of the requesting state or local government agency either on the application or on a separate document.

(2) The department may disclose information or records deemed confidential under this chapter to the following state or local government agencies:

(a) To the department of social and health services to identify child support obligations as defined in RCW 50A.15.080 and for the purposes of administering the department's responsibilities under Title 50B RCW;

(b) To the department of revenue to determine potential tax liability or employer compliance with registration and licensing requirements;

(c) To the department of labor and industries to compare records or information to detect improper or fraudulent claims;

(d) To the office of financial management for the purpose of conducting periodic salary or fringe benefit studies pursuant to law or for the actuarial services created under chapter 233, Laws of 2022;

(e) To the office of the state treasurer and any financial or banking institutions deemed necessary by the office of the state treasurer and the department for the proper administration of funds;

(f) To the office of the attorney general for purposes of legal representation;

(g) To a county clerk for the purpose of RCW 9.94A.760 if requested by the county clerk's office;

(h) To the office of administrative hearings for the purpose of administering the administrative appeal process;

(i) To the department of enterprise services for the purpose of agency administration and operations;

(j) To ((~~the consolidated technology services agency~~)) Washington technology solutions for the purpose of enterprise technology support; ((~~and~~))

(k) To the health care authority and the office of the state actuary for the purposes of administering the department's responsibilities under Title 50B RCW;

(l) To the office of the state actuary for the purpose of performing actuarial services to assess the financial stability and solvency of the family and medical leave program, and specifically the family and medical leave insurance account created in RCW 50A.05.070; and

(m) To the joint legislative audit and review committee, in accordance with RCW 44.28.110, for the purpose of conducting performance audits.

(3) The department may also enter into data-sharing agreements with other state or local government agencies solely for the purposes of program evaluation under this title or Title 50B RCW.

Sec. 59. RCW 70A.02.110 and 2022 c 181 s 15 are each amended to read as follows:

(1) The environmental justice council is established to advise covered agencies on incorporating environmental justice into agency activities.

(2) The council consists of 14 members, except as provided in RCW 70A.65.040(3), appointed by the governor. The councilmembers must be persons who are well-informed regarding and committed to the principles of environmental justice and who, to the greatest extent practicable, represent diversity in race, ethnicity, age, and gender, urban and rural areas, and different regions of the state. The members of the council shall elect two members to serve as cochairs for two-year terms. The council must include:

(a) Seven community representatives, including one youth representative, the nominations of which are based upon applied and demonstrated work and focus on environmental justice or a related field, such as racial or economic justice, and accountability to vulnerable populations and overburdened communities;

(i) The youth representative must be between the ages of 18 and 25 at the time of appointment;

(ii) The youth representative serves a two-year term. All other community representatives serve four-year terms, with six representatives initially being appointed to four-year terms and five being initially appointed to two-year terms, after which they will be appointed to four-year terms;

(b) Two members representing tribal communities, one from eastern Washington and one from western Washington, appointed by the governor, plus two tribal members as specified in RCW 70A.65.040. The governor shall solicit and consider nominees from each of the federally recognized tribes in Washington state. The governor shall collaborate with federally recognized tribes on the selection of tribal representatives. The tribal representatives serve four-year terms. One representative must be initially appointed for a four-year term. The other representative must be initially appointed for a two-year term, after which, that representative must be appointed for a four-year term;

(c) Two representatives who are environmental justice practitioners or academics to serve as environmental justice experts, the nominations of which are based upon applied and demonstrated work and focus on environmental justice;

(d)(i) One representative of a business that is regulated by a covered agency and whose ordinary business conditions are significantly affected by the actions of at least one other covered agency; and

(ii) One representative who is a member or officer of a union representing workers in the building and construction trades; and

(e) One representative at large, the nomination of which is based upon applied and demonstrated work and focus on environmental justice.

(3) Covered agencies shall serve as nonvoting, ex officio liaisons to the council. Each covered agency must identify an executive team level staff person to participate on behalf of the agency.

(4) Nongovernmental members of the council must be compensated and reimbursed in accordance with RCW 43.03.050, 43.03.060, and 43.03.220.

(5) The department of health must:

(a) Hire a manager who is responsible for overseeing all staffing and administrative duties in support of the council; and

(b) Provide all administrative and staff support for the council.

(6) In collaboration with the office of equity, the office of financial management, the council, and covered agencies, the department of health must:

(a) Establish standards for the collection, analysis, and reporting of disaggregated data as it pertains to tracking population level outcomes of communities;

(b) Create statewide and agency-specific process and outcome measures to show performance:

(i) Using outcome-based methodology to determine the effectiveness of agency programs and services on reducing environmental disparities; and

(ii) Taking into consideration community feedback from the council on whether the performance measures established accurately measure the effectiveness of covered agency programs and services in the communities served; and

(c) Create an online performance dashboard to publish performance measures and outcomes as referenced in RCW 70A.02.090 for the state and each covered agency.

(7) The department of health must coordinate with ((~~the consolidated technology services agency~~)) Washington technology solutions to address cybersecurity and data protection for all data collected by the department.

(8)(a) With input and assistance from the council, the department of health must establish an interagency work group to assist covered agencies in incorporating environmental justice into agency decision making. The work group must include staff from each covered agency directed to implement environmental justice provisions under this chapter and may include members from the council. The department of health shall provide assistance to the interagency work group by:

(i) Facilitating information sharing among covered agencies on environmental justice issues and between agencies and the council;

(ii) Developing and providing assessment tools for covered agencies to use in the development and evaluation of agency programs, services, policies, and budgets;

(iii) Providing technical assistance and compiling and creating resources for covered agencies to use; and

(iv) Training covered agency staff on effectively using data and tools for environmental justice assessments.

(b) The duties of the interagency work group include:

(i) Providing technical assistance to support agency compliance with the implementation of environmental justice into their strategic plans, environmental justice obligations for budgeting and funding criteria and decisions, environmental justice assessments, and community engagement plans;

(ii) Assisting the council in developing a suggested schedule and timeline for sequencing the types of: (A) Funding and expenditure decisions subject to rules; and (B) criteria incorporating environmental justice principles;

(iii) Identifying other policies, priorities, and projects for the council's review and guidance development;

(iv) Identifying goals and metrics that the council may use to assess agency performance in meeting the requirements of chapter 314, Laws of 2021 for purposes of communicating progress to the public, the governor, and the legislature; and

(v) Developing the guidance under subsection (9)(c) of this section in coordination with the council.

(9) The council has the following powers and duties:

(a) To provide a forum for the public to:

(i) Provide written or oral testimony on their environmental justice concerns;

(ii) Assist the council in understanding environmental justice priorities across the state in order to develop council recommendations to agencies for issues to prioritize; and

(iii) Identify which agencies to contact with their specific environmental justice concerns and questions;

(b)(i) The council shall work in an iterative fashion with the interagency work group to develop guidance for environmental justice implementation into covered agency strategic plans pursuant to RCW 70A.02.040, environmental justice assessments pursuant to RCW 70A.02.060, budgeting and funding criteria for making budgeting and funding decisions pursuant to RCW 70A.02.080, and community engagement plans pursuant to RCW 70A.02.050;

(ii) The council and interagency work group shall regularly update its guidance;

(c) In consultation with the interagency work group, the council:

(i) Shall provide guidance to covered agencies on developing environmental justice assessments pursuant to RCW 70A.02.060 for significant agency actions;

(ii) Shall make recommendations to covered agencies on which agency actions may cause environmental harm or may affect the equitable distribution of environmental benefits to an overburdened community or a vulnerable population and therefore should be considered significant agency actions that require an environmental justice assessment under RCW 70A.02.060;

(iii) Shall make recommendations to covered agencies:

(A) On the identification and prioritization of overburdened communities under this chapter; and

(B) Related to the use by covered agencies of the environmental and health disparities map in agency efforts to identify and prioritize overburdened communities;

(iv) May make recommendations to a covered agency on the timing and sequencing of a covered agencies' efforts to implement RCW 70A.02.040 through 70A.02.080; and

(v) May make recommendations to the governor and the legislature regarding ways to improve agency compliance with the requirements of this chapter;

(d) By December 1, 2023, and biennially thereafter, and with consideration of the information shared on September 1st each year in covered agencies' annual updates to the council required under RCW 70A.02.090, the council must:

(i) Evaluate the progress of each agency in applying council guidance, and update guidance as needed; and

(ii) Communicate each covered agency's progress to the public, the governor, and the legislature. This communication is not required to be a report and may take the form of a presentation or other format that communicates the progress of the state and its agencies in meeting the state's environmental justice goals in compliance with chapter 314, Laws of 2021, and summarizing the work of the council pursuant to (a) through (d) of this subsection, and subsection (11) of this section; and

(e) To fulfill the responsibilities established for the council in RCW 70A.65.040.

(10) By November 30, 2023, and in compliance with RCW 43.01.036, the council must submit a report to the governor and the appropriate committees of the house of representatives and the senate on:

(a) The council's recommendations to covered agencies on the identification of significant agency actions requiring an environmental justice assessment under subsection (9)(c)(ii) of this section;

(b) The summary of covered agency progress reports provided to the council under RCW 70A.02.090(1), including the status of agency plans for performing environmental justice assessments required by RCW 70A.02.060; and

(c) Guidance for environmental justice implementation into covered agency strategic plans, environmental justice assessments, budgeting and funding criteria, and community engagement plans under subsection (9)(c)(i) of this section.

(11) The council may:

(a) Review incorporation of environmental justice implementation plans into covered agency strategic plans pursuant to RCW 70A.02.040, environmental justice assessments pursuant to RCW 70A.02.060, budgeting and funding criteria for making budgeting and funding decisions pursuant to RCW 70A.02.080, and community engagement plans pursuant to RCW 70A.02.050;

(b) Make recommendations for amendments to this chapter or other legislation to promote and achieve the environmental justice goals of the state;

(c) Review existing laws and make recommendations for amendments that will further environmental justice;

(d) Recommend to specific agencies that they create environmental justice-focused, agency-requested legislation;

(e) Provide requested assistance to state agencies other than covered agencies that wish to incorporate environmental justice principles into agency activities; and

(f) Recommend funding strategies and allocations to build capacity in vulnerable populations and overburdened communities to address environmental justice.

(12) The role of the council is purely advisory and council decisions are not binding on an agency, individual, or organization.

(13) The department of health must convene the first meeting of the council by January 1, 2022.

(14) All council meetings are subject to the open public meetings requirements of chapter 42.30 RCW and a public comment period must be provided at every meeting of the council.

Sec. 60. RCW 71.24.898 and 2021 c 302 s 109 are each amended to read as follows:

For the purpose of development and implementation of technology and platforms by the department and the authority under RCW 71.24.890, the department and the authority shall create a sophisticated technical and operational plan. The plan shall not conflict with, nor delay, the department meeting and satisfying existing 988 federal requirements that are already underway and must be met by July 16, 2022, nor is it intended to delay the initial planning phase of the project, or the planning and deliverables tied to any grant award received and allotted by the department or the authority prior to April 1, 2021. To the extent that funds are appropriated for this specific purpose, the department and the authority must contract for a consultant to critically analyze the development and implementation technology and platforms and operational challenges to best position the solutions for success. Prior to initiation of a new information technology development, which does not include the initial planning phase of this project or any contracting needed to complete the initial planning phase, the department and authority shall submit the technical and operational plan to the governor, office of financial management, steering committee of the crisis response improvement strategy committee created under RCW 71.24.892, and appropriate policy and fiscal committees of the legislature, which shall include the committees referenced in this section. The plan must be approved by ((~~the office of the chief information officer~~)) Washington technology solutions, the director of the office of financial management, and the steering committee of the crisis response improvement strategy committee, which shall consider any feedback received from the senate ways and means committee chair, the house of representatives appropriations committee chair, the senate environment, energy and technology committee chair, the senate behavioral health subcommittee chair, and the house of representatives health care and wellness committee chair, before any funds are expended for the solutions, other than those funds needed to complete the initial planning phase. A draft technical and operational plan must be submitted no later than January 1, 2022, and a final plan by August 31, 2022.

The plan submitted must include, but not be limited to:

(1) Data management;

(2) Data security;

(3) Data flow;

(4) Data access and permissions;

(5) Protocols to ensure staff are following proper health information privacy procedures;

(6) Cybersecurity requirements and how to meet these;

(7) Service level agreements by vendor;

(8) Maintenance and operations costs;

(9) Identification of what existing software as a service products might be applicable, to include the:

(a) Vendor name;

(b) Vendor offerings to include product module and functionality detail and whether each represent add-ons that must be paid separately;

(c) Vendor pricing structure by year through implementation; and

(d) Vendor pricing structure by year post implementation;

(10) Integration limitations by system;
(11) Data analytic and performance metrics to be required by system;
(12) Liability;
(13) Which agency will host the electronic health record software as a service;
(14) Regulatory agency;
(15) The timeline by fiscal year from initiation to implementation for each solution in chapter 302, Laws of 2021;
(16) How to plan in a manner that ensures efficient use of state resources and maximizes federal financial participation; and
(17) A complete comprehensive business plan analysis.

NEW SECTION. **Sec. 61.** The following acts or parts of acts are each repealed:
(1) RCW 41.06.101 (Office of the chief information officer—Certain personnel exempted from chapter) and 2011 1st sp.s. c 43 s 723; and
(2) RCW 43.105.205 (Office of the state chief information officer—Created—Powers, duties, and functions) and 2015 3rd sp.s. c 1 s 201, 2013 2nd sp.s. c 33 s 3, & 2011 1st sp.s. c 43 s 702.

NEW SECTION. **Sec. 62.** RCW 43.105.331 is recodified as a section in chapter 38.52 RCW.

Passed by the House February 8, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 55

[House Bill 1961]

ANIMAL CRUELTY IN THE FIRST DEGREE—SERIOUSNESS LEVEL

AN ACT Relating to animal cruelty in the first degree; and reenacting and amending RCW 9.94A.515.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.94A.515 and 2023 c 196 s 3 and 2023 c 7 s 3 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))

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
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)

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Explosive devices prohibited (RCW 70.74.180)
	Hit and Run—Death (RCW 46.52.020(4)(a))
	Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
	Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
	Malicious placement of an explosive 2 (RCW 70.74.270(2))
	Robbery 1 (RCW 9A.56.200)
	Sexual Exploitation (RCW 9.68A.040)
VIII	Arson 1 (RCW 9A.48.020)
	Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
	Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
	Manslaughter 2 (RCW 9A.32.070)
	Promoting Prostitution 1 (RCW 9A.88.070)
	Theft of Ammonia (RCW 69.55.010)
VII	Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b))
	Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b))
	Burglary 1 (RCW 9A.52.020)
	Child Molestation 2 (RCW 9A.44.086)
	Civil Disorder Training (RCW 9A.48.120)
	Custodial Sexual Misconduct 1 (RCW 9A.44.160)
	Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Drive-by Shooting (RCW 9A.36.045)
	False Reporting 1 (RCW 9A.84.040(2)(a))
	Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
	Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
	Introducing Contraband 1 (RCW 9A.76.140)
	Malicious placement of an explosive 3 (RCW 70.74.270(3))
	Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))
	Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
	Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))
	Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
	Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
	Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225)
	Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
VI	Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
	Bribery (RCW 9A.68.010)
	Incest 1 (RCW 9A.64.020(1))

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Intimidating a Judge (RCW 9A.72.160)
	Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
	Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
	Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
	Rape of a Child 3 (RCW 9A.44.079)
	Theft of a Firearm (RCW 9A.56.300)
	Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))
	Unlawful Storage of Ammonia (RCW 69.55.020)
V	Abandonment of Dependent Person 2 (RCW 9A.42.070)
	Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
	Air bag diagnostic systems (RCW 46.37.660(2)(c))
	Air bag replacement requirements (RCW 46.37.660(1)(c))
	Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
	Child Molestation 3 (RCW 9A.44.089)
	Criminal Mistreatment 2 (RCW 9A.42.030)
	Custodial Sexual Misconduct 2 (RCW 9A.44.170)
	Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))
	Domestic Violence Court Order Violation (RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070)
	Extortion 1 (RCW 9A.56.120)

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Extortionate Extension of Credit (RCW 9A.82.020)
	Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
	Incest 2 (RCW 9A.64.020(2))
	Kidnapping 2 (RCW 9A.40.030)
	Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c))
	Perjury 1 (RCW 9A.72.020)
	Persistent prison misbehavior (RCW 9.94.070)
	Possession of a Stolen Firearm (RCW 9A.56.310)
	Rape 3 (RCW 9A.44.060)
	Rendering Criminal Assistance 1 (RCW 9A.76.070)
	Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))
	Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
	Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
	Sexually Violating Human Remains (RCW 9A.44.105)
	Stalking (RCW 9A.46.110)
	Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
IV	Arson 2 (RCW 9A.48.030)
	Assault 2 (RCW 9A.36.021)
	Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))

Assault by Watercraft (RCW 79A.60.060)

Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)

Cheating 1 (RCW 9.46.1961)

Commercial Bribery (RCW 9A.68.060)

Counterfeiting (RCW 9.16.035(4))

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)

Hate Crime (RCW 9A.36.080)

Hit and Run—Injury (RCW 46.52.020(4)(b))

Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))

Identity Theft 1 (RCW 9.35.020(2))

Indecent Exposure to Person Under Age 14 (subsequent sex offense) (RCW 9A.88.010)

Influencing Outcome of Sporting Event (RCW 9A.82.070)

Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))

Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))

Residential Burglary (RCW 9A.52.025)

Robbery 2 (RCW 9A.56.210)

Theft of Livestock 1 (RCW 9A.56.080)

Threats to Bomb (RCW 9.61.160)

Trafficking in Stolen Property 1 (RCW 9A.82.050)

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
	Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
	Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
	Unlawful transaction of insurance business (RCW 48.15.023(3))
	Unlicensed practice as an insurance professional (RCW 48.17.063(2))
	Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
	Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))
	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)
	Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))
III	Animal Cruelty 1 (((~~(Sexual Conduct or Contact)~~))) (RCW 16.52.205(((~~(3)~~))))
	Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
	Assault of a Child 3 (RCW 9A.36.140)
	Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
	Burglary 2 (RCW 9A.52.030)
	Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
	Criminal Gang Intimidation (RCW 9A.46.120)

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Custodial Assault (RCW 9A.36.100)

Cyber Harassment (RCW 9A.90.120(2)(b))

Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

False Reporting 2 (RCW 9A.84.040(2)(b))

Harassment (RCW 9A.46.020)

Hazing (RCW 28B.10.901(2)(b))

Intimidating a Public Servant (RCW 9A.76.180)

Introducing Contraband 2 (RCW 9A.76.150)

Malicious Injury to Railroad Property (RCW 81.60.070)

Manufacture of Untraceable Firearm with Intent to Sell (RCW 9.41.190)

Manufacture or Assembly of an Undetectable Firearm or Untraceable Firearm (RCW 9.41.325)

Mortgage Fraud (RCW 19.144.080)

Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)

Organized Retail Theft 1 (RCW 9A.56.350(2))

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW 9.40.120)

Possession of Machine Gun, Bump-Fire Stock, Undetectable Firearm, or Short-Barreled Shotgun or Rifle (RCW 9.41.190)

Promoting Prostitution 2 (RCW 9A.88.080)

Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))

Securities Act violation (RCW 21.20.400)

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Tampering with a Witness (RCW 9A.72.120)
	Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
	Theft of Livestock 2 (RCW 9A.56.083)
	Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
	Trafficking in Stolen Property 2 (RCW 9A.82.055)
	Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))
	Unlawful Imprisonment (RCW 9A.40.040)
	Unlawful Misbranding of Fish or Shellfish 1 (RCW 77.140.060(3))
	Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
	Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
	Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
	Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))
	Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
II	Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
	Computer Trespass 1 (RCW 9A.90.040)
	Counterfeiting (RCW 9.16.035(3))
	Electronic Data Service Interference (RCW 9A.90.060)
	Electronic Data Tampering 1 (RCW 9A.90.080)
	Electronic Data Theft (RCW 9A.90.100)
	Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Escape from Community Custody (RCW 72.09.310)

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)

Health Care False Claims (RCW 48.80.030)

Identity Theft 2 (RCW 9.35.020(3))

Improperly Obtaining Financial Information (RCW 9.35.010)

Malicious Mischief 1 (RCW 9A.48.070)

Organized Retail Theft 2 (RCW 9A.56.350(3))

Possession of Stolen Property 1 (RCW 9A.56.150)

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)

Theft 1 (RCW 9A.56.030)

Theft of a Motor Vehicle (RCW 9A.56.065)

Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at $5,000 or more) (RCW 9A.56.096(5)(a))

Theft with the Intent to Resell 2 (RCW 9A.56.340(3))

Trafficking in Insurance Claims (RCW 48.30A.015)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))

Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Unlawful Practice of Law (RCW 2.48.180)
	Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))
	Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))
	Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
	Voyeurism 1 (RCW 9A.44.115)
I	Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
	False Verification for Welfare (RCW 74.08.055)
	Forgery (RCW 9A.60.020)
	Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
	Malicious Mischief 2 (RCW 9A.48.080)
	Mineral Trespass (RCW 78.44.330)
	Possession of Stolen Property 2 (RCW 9A.56.160)
	Reckless Burning 1 (RCW 9A.48.040)
	Spotlighting Big Game 1 (RCW 77.15.450(3)(b))
	Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))
	Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
	Theft 2 (RCW 9A.56.040)
	Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))
	Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at $750 or more but less than $5,000) (RCW 9A.56.096(5)(b))
	Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

Unlawful Production of Payment Instruments (RCW 9A.56.320)

Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b))

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

Unlawful Use of Food Stamps (RCW 9.91.144)

Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b))

Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b))

Passed by the House January 29, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 56

[House Bill 1962]

VOTER ADDRESS CHANGES

AN ACT Relating to improving voter registration list accuracy by improving voter address change processes for county election offices and voters; amending RCW 29A.08.410, 29A.08.620, and 29A.08.640; repealing RCW 29A.08.420; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 29A.08.410 and 2019 c 391 s 7 are each 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~~)) the voter's 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~~)) by the eighth day prior to a primary or election;

(2) Appearing in person before ((~~the~~)) a 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~~)) update the voter's registration address by ((~~eight days~~)) the eighth day prior to a primary or election;

(4) Submitting a voter registration application received by an election official by ((~~eight days~~)) the eighth day prior to a primary or election;

(5) Submitting information to the department of licensing and received by an election official by ((~~eight days~~)) the eighth day prior to a primary or election;

(6) Submitting voter registration information through the health benefit exchange and received by an election official by ((~~eight days~~)) the eighth day 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~~)) the eighth day prior to a primary or election once automatic voter registration is implemented at the agency.

Sec. 2. RCW 29A.08.620 and 2011 c 10 s 17 are each amended to read as follows:

(1) Each county auditor must request change of address information from the postal service for all mail ballots.

(2) ((~~The county auditor shall transfer the registration of a voter and send an acknowledgment notice to the new address informing the voter of the transfer if~~)) (a) If change of address information received by the county auditor from the postal service, the department of licensing, or another agency designated to provide voter registration services indicates that the voter has moved within the county, the county auditor shall update the registration address for the voter's registration and send an acknowledgment notice to the new address informing the voter of the update.

((~~(3)~~)) (b) If the change of address information indicates the voter has moved out of the county but within the state:

(i) The county auditor shall ((~~place a voter on inactive status and send to all known addresses a confirmation notice and a voter registration application if change of address information received by the county auditor from the postal service, the department of licensing, or another agency designated to provide voter registration services indicates that the voter has moved from one county to another.~~

~~(4) The~~)) notify the auditor of the voter's new county of residence of the change; and

(ii) The county auditor of the voter's new county of residence shall update the registration information of the voter to the new address within the county and

send an acknowledgment notice to the new address informing the voter of the update.

(c) If the information indicates the voter has moved to a residence outside the state, the county auditor shall place ((~~a voter~~)) the voter's registration on inactive status and send to all known addresses a confirmation notice ((~~if any of the following occur~~)). Such information may include any of the following:

(((~~(a)~~))) (i) Any document mailed by the county auditor to a voter is returned by the postal service as undeliverable without address correction information; or

(((~~(b)~~))) (ii) Change of address information received from the postal service, the department of licensing, or another state agency designated to provide voter registration services indicates that the voter has moved out of the state.

Sec. 3. RCW 29A.08.640 and 2009 c 369 s 33 are each amended to read as follows:

(1) If the response to the confirmation notice from the voter indicates that the voter has ((~~moved within the county, the auditor shall transfer the voter's registration and send the voter an acknowledgment notice.~~

~~(2) If the response from the voter indicates that the voter moved out of the county, but~~)) changed residence address or location within the ((~~state~~)) county, the auditor shall ((~~cancel the voter's registration and~~)) update the voter record to reflect the new residence address within the auditor's county. If the response indicates that the voter has moved outside the county, but within the state, the auditor shall notify the county auditor of the voter's new county of residence of the change.

(2) The county auditor of the voter's new county of residence, upon receiving notice under subsection (1) of this section, shall transfer the voter's registration record to the new address and send the voter an acknowledgment notice.

(3) If the response from the voter indicates that the voter has left the state, the auditor shall cancel the voter's registration on the official state voter registration list.

NEW SECTION. **Sec. 4.** RCW 29A.08.420 (Transfer to another county) and 2018 c 110 s 205, 2009 c 369 s 23, 2004 c 267 s 122, 2003 c 111 s 229, 1999 c 100 s 3, 1994 c 57 s 36, 1991 c 81 s 24, 1977 ex.s. c 361 s 26, 1971 ex.s. c 202 s 26, & 1965 c 9 s 29.10.040 are each repealed.

NEW SECTION. **Sec. 5.** This act takes effect June 1, 2025.

Passed by the House February 9, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 57

[Substitute House Bill 1974]

DISPOSITION OF HUMAN REMAINS—COUNTIES

AN ACT Relating to the disposition of human remains; and reenacting and amending RCW 68.50.230.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 68.50.230 and 2009 c 102 s 20 and 2009 c 56 s 1 are each reenacted and amended to read as follows:

(1) Whenever any human remains shall have been in the lawful possession of any person, firm, corporation, county, or association for a period of ((~~ninety~~)) 45 days or more, and the relatives of, or persons interested in, the deceased person shall fail, neglect, or refuse to direct the disposition, the human remains may be disposed of by the person, firm, corporation, county, or association having such lawful possession thereof, under and in accordance with rules adopted by the funeral and cemetery board, not inconsistent with any statute of the state of Washington or rule adopted by the state board of health.

(2)(a) The department of veterans affairs may certify that the deceased person to whom subsection (1) of this section applies was a veteran or the dependent of a veteran eligible for interment at a federal or state veterans' cemetery.

(b) Upon certification of eligible veteran or dependent of a veteran status under (a) of this subsection, the person, firm, corporation, county, or association in possession of the veteran's or veteran's dependent's remains shall transfer the custody and control of the remains to the department of veterans affairs.

(c) The transfer of human remains under (b) of this subsection does not create:

(i) A private right of action against the state or its officers and employees or instrumentalities, or against any person, firm, corporation, county, or association transferring the remains; or

(ii) Liability on behalf of the state, the state's officers, employees, or instrumentalities; or on behalf of the person, firm, corporation, county, or association transferring the remains.

Passed by the House February 9, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 58

[House Bill 1987]

RURAL PUBLIC FACILITIES SALES AND USE TAX—USE FOR WORKFORCE HOUSING

AN ACT Relating to the use of moneys from the rural public facilities sales and use tax for affordable workforce housing infrastructure and facilities; and amending RCW 82.14.370.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.14.370 and 2023 c 411 s 1 are each amended to read as follows:

(1) The legislative authority of a rural county may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax may not exceed 0.09 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, except that for rural counties with population densities between

60 and 100 persons per square mile, the rate shall not exceed 0.04 percent before January 1, 2000.

(2) The tax imposed under subsection (1) of this section must be deducted from the amount of tax otherwise required to be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue must perform the collection of such taxes on behalf of the county at no cost to the county.

(3)(a) Moneys collected under this section may only be used to ((~~finance~~)):

(i) Finance public facilities serving economic development purposes in rural counties ((~~and finance~~));

(ii) Finance the construction of affordable workforce housing infrastructure or facilities; and

(iii) Finance personnel in economic development offices.

(b) The public facility must be listed as an item in the officially adopted county overall economic development plan, or the economic development section of the county's comprehensive plan, or the comprehensive plan of a city or town located within the county for those counties planning under RCW 36.70A.040, or provide affordable workforce housing infrastructure or facilities. For those counties that do not have an adopted overall economic development plan and do not plan under the growth management act, the public facility must be listed in the county's capital facilities plan or the capital facilities plan of a city or town located within the county, or provide affordable workforce housing infrastructure or facilities.

(((~~(b)~~))) (c) In implementing this section, the county must consult with cities, towns, and port districts located within the county and the associate development organization serving the county to ensure that the expenditure of money collected under this section meets the goals of creating, attracting, expanding, and retaining businesses, providing family-wage jobs, and providing affordable workforce housing infrastructure or facilities and the use of money collected under this section meets the requirements of (a) and (b) of this subsection. Each county collecting money under this section must provide a report to the office of the state auditor within 150 days after the close of each fiscal year identifying in detail each new and continuing public facility project, economic development purpose project, affordable workforce housing infrastructure or facilities project, economic development staff position, and qualifying provider project funded with the tax authorized under this section and the amount of tax proceeds allocated to such project or position in the prior fiscal year. Any projects financed prior to June 10, 2004, from the proceeds of obligations to which the tax imposed under subsection (1) of this section has been pledged may not be deemed to be new projects under this subsection. No new projects funded with money collected under this section may be for justice system facilities.

(((~~(c)~~))) (4) The definitions in this section apply throughout this section.

(((~~(i)~~))) (a) "Public facilities" means bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroads, electrical facilities, natural gas facilities, research, testing, training, and incubation facilities in innovation partnership zones designated under RCW 43.330.270, buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, or port

facilities in the state of Washington((~~, or affordable workforce housing infrastructure or facilities~~)).

(((~~(ii)~~))) (b) "Economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county, including affordable workforce housing infrastructure or facilities.

(((~~(iii)~~))) (c) "Economic development office" means an office of a county, port districts, or an associate development organization as defined in RCW 43.330.010, which promotes economic development purposes within the county.

(((~~(iv)~~))) (d) "Affordable workforce housing infrastructure or facilities" means housing infrastructure ((~~or~~)), facilities, or land that a qualifying provider owns or uses for housing for ((~~a~~)) single persons, ((~~family~~)) families, or unrelated persons living together whose income is no more than 120 percent of the median income, adjusted for housing size, for the county where the housing is located.

(((~~(v)~~))) (e) "Qualifying provider" means a nonprofit entity as defined in RCW 84.36.560, a nonprofit entity or qualified cooperative association as defined in RCW 84.36.049, a housing authority created under RCW 35.82.030 or 35.82.300, a public corporation established under RCW 35.21.660 or 35.21.730, or a county or municipal corporation.

(((~~(4)~~))) (5) No tax may be collected under this section before July 1, 1998.

(a) Except as provided in (b) of this subsection, no tax may be collected under this section by a county more than 25 years after the date that a tax is first imposed under this section.

(b) For counties imposing the tax before August 1, 2009, and meeting the definition of a rural county as of August 1, 2009, the tax expires December 31, 2054.

(((~~(5)~~))) (6) By December 31, 2024, the state auditor must provide a publicly accessible report on its website containing the project information and other expenditure information included in the annual report required under subsection (3)(((~~(b)~~))) (c) of this section for each county. The publicly accessible report must also include the total amount of revenue collected by the county under this section in the prior fiscal year. The state auditor must develop a standardized expenditure report for the project information and other expenditure information included in the annual report submitted by counties. This subsection applies to reports filed beginning in 2024 based on 2023 expenditures and thereafter.

(((~~(6)~~))) (7) For purposes of this section, "rural county" means a county with a population density of less than 100 persons per square mile or a county smaller than 225 square miles as determined by the office of financial management pursuant to RCW 43.62.035.

Passed by the House February 12, 2024.

Passed by the Senate February 27, 2024.

Approved by the Governor March 13, 2024.

Filed in Office of Secretary of State March 14, 2024.

CHAPTER 59

[Engrossed Substitute House Bill 2003]

LEASEHOLD EXCISE TAX—AFFORDABLE HOUSING ON PUBLIC LANDS

AN ACT Relating to an exemption to the leasehold excise tax for leases on public lands; adding a new section to chapter 82.29A RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 82.29A RCW to read as follows:

(1) All leasehold interests in public lands are exempt from tax under this chapter, for the duration of the lease, when used for the placement of affordable housing under the following conditions:

(a) A lessee must commit to renting or selling 100 percent of the units as permanently affordable for low-income and moderate-income households; and

(b) The term of the lease is at least 20 years.

(2) The department of natural resources may adopt rules, pursuant to chapter 34.05 RCW, as are necessary to properly administer this section.

(3) Affordable housing for low-income households must be prioritized by the department of natural resources and the lessee when receiving the exemption under this section.

(4) For purposes of this section:

(a) "Affordable housing" has the same meaning as in RCW 84.14.010.

(b) "Low-income household" has the same meaning as in RCW 84.14.010.

(c) "Moderate-income household" has the same meaning as in RCW 84.14.010.

(d) "Public lands" has the same meaning as in RCW 79.02.010.

NEW SECTION. **Sec. 2.** (1) This section is the tax preference performance statement for the tax preference contained in section 1, chapter . . ., Laws of 2024 (section 1 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.

(2) The legislature categorizes these tax preferences as ones 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 incentivize the placement of affordable housing on public lands.

(4) If a review by the joint legislative audit and review committee finds that the number of affordable housing units placed on public lands increased following the enactment of this tax preference, the legislature intends to extend the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to the number of new leasehold agreements on public lands for the purposes of affordable housing.

NEW SECTION. **Sec. 3.** RCW 82.32.805 does not apply to this act.

Passed by the House February 12, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 13, 2024.

Filed in Office of Secretary of State March 14, 2024.

CHAPTER 60

[Substitute House Bill 2020]

STATE PUBLIC INFRASTRUCTURE ASSISTANCE PROGRAM—DISASTERS

AN ACT Relating to creating a state administered public infrastructure assistance program within the emergency management division; amending RCW 38.52.010 and 38.52.030; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that the state is experiencing disasters with greater frequency and longer duration, causing damage to public infrastructure that is beyond the capacity of local government and tribal government response. Furthermore, these impacts to public infrastructure result in disruption of essential services critical to the safety and well-being of Washingtonians. Therefore, the legislature intends to provide supplementary state assistance to county governments and federally recognized tribal governments, within existing appropriations, for the cost of disaster-related response to address public infrastructure damage when authorized under governor emergency proclamation.

Sec. 2. RCW 38.52.010 and 2022 c 203 s 2 are each amended to read as follows:

As used in this chapter:

(1) "911 emergency communications system" means a public 911 communications system consisting of a network, database, and on-premises equipment that is accessed by dialing or accessing 911 and that enables reporting police, fire, medical, or other emergency situations to a public safety answering point. The system includes the capability to selectively route incoming 911 voice and data to the appropriate public safety answering point that operates in a defined 911 service area and the capability to automatically display the name, location, and telephone number of incoming 911 voice and data at the appropriate public safety answering point.

(2) "Automatic location identification" means information about a caller's location that is part of or associated with an enhanced or next generation 911 emergency communications system as defined in this section and RCW 82.14B.020 and intended for the purpose of display at a public safety answering point with incoming 911 voice or data, or both.

(3) "Automatic number identification" means a method for uniquely associating a communication device that has accessed 911 with the incoming 911 voice or data, or both, and intended for the purpose of display at a public safety answering point.

(4) "Baseline level of 911 service" means access to 911 dialing from all communication devices with service from a telecommunications provider within a county's jurisdiction so that incoming 911 voice and data communication is answered, received, and displayed on 911 equipment at a public safety answering point designated by the county.

(5) "Broadcaster" means a person or entity that holds a license issued by the federal communications commission under 47 C.F.R. Part 73, 74, 76, or 78.

(6)(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.

(7) "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.

(8) "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.

(9) "Continuity of operations planning" means the internal effort of an organization to provide that the capability exists to continue essential functions and services in response to a comprehensive array of potential emergencies or disasters.

(10) "Department" means the state military department.

(11) "Director" means the adjutant general.

(12) "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.

(13)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 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 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.

(14) "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 (13)(b) of this section.

(15) "Emergency services communication system" means a multicounty or countywide communications network, including an enhanced or next generation 911 emergency communications system, which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for police, fire, medical, or other emergency services.

(16) "Emergency services communications system data" includes voice or audio; multimedia, including pictures and video; text messages; telematics or telemetrics; or other information that is received or displayed, or both, at a public safety answering point in association with a 911 access.

(17) "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.

(18) "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.

(19) "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.

(20) "First informer broadcaster" means an individual who:

(a) Is employed by, or acting pursuant to a contract under the direction of, a broadcaster; and

(b)(i) Maintains, including repairing or resupplying, transmitters, generators, or other essential equipment at a broadcast station or facility; or (ii) provides technical support services to broadcasters needed during a period of proclaimed emergency.

(21) "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.

(22) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

(23) "Interconnected voice over internet protocol service provider" means a provider of interconnected voice over internet protocol service as defined by the federal communications commission in 47 C.F.R. Sec. 9.3 on January 1, 2009, or a subsequent date determined by the department.

(24) "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.

(25) "Local director" means the director of a local organization of emergency management or emergency services.

(26) "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.

(27) "Next generation 911" means an internet protocol-based system comprised of managed emergency services internet protocol networks, functional elements (applications), and databases that replicate enhanced 911 features and functions as defined in RCW 82.14B.020(4) that provide additional capabilities designed to provide access to emergency services from all connected communications sources and provide multimedia data capabilities for public safety answering points.

(28) "Next generation 911 demarcation point" means the location and equipment that separates the next generation 911 network from:

(a) A telecommunications provider's network, known as the ingress next generation 911 demarcation point; and

(b) A public safety answering point, known as the egress next generation 911 demarcation point.

(29) "Next generation 911 emergency communications system" means a public communications system consisting of networks, databases, and public safety answering point 911 hardware, software, and technology that is accessed by the public in the state through 911. The system includes the capability to: Route incoming 911 voice and data to the appropriate public safety answering point that operates in a defined 911 service area; answer incoming 911 voice and data; and receive and display incoming 911 voice and data, including automatic location identification and automatic number identification, at a public safety answering point. "Next generation 911 emergency communications system" includes future modernizations to the 911 system.

(30) "Next generation 911 emergency services internet protocol network" means a managed internet protocol network used for 911 emergency services communications that is managed and maintained, including security and credentialing functions, by the state 911 coordination office to provide next generation 911 emergency communications from the ingress next generation 911 demarcation point to the egress next generation 911 demarcation point. It provides the internet protocol transport infrastructure upon which application platforms and core services are necessary for providing next generation 911 services. Next generation 911 emergency services internet protocol networks

may be constructed from a mix of dedicated and shared facilities and may be interconnected at local, regional, state, federal, national, and international levels to form an internet protocol-based inter-network (network of networks).

(31) "Next generation 911 service" means public access to the next generation 911 emergency communications system and its capabilities by accessing 911 from communication devices to report police, fire, medical, or other emergency situations to a public safety answering point.

(32) "Political subdivision" means any county, city or town.

(33) "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.

(34) "Public infrastructure assistance" means supplementary state assistance provided to county governments and federally recognized tribal governments, when authorized under governor emergency proclamation for the cost of disaster-related public property debris removal, emergency protective measures to protect life and property, and permanent repair work to damaged or destroyed public infrastructure.

(35) "Public safety answering point" means the public safety location that receives and answers 911 voice and data originating in a given area as designated by the county. Public safety answering points must be equipped with 911 hardware, software, and technology that is accessed through 911 and is capable of answering incoming 911 calls and receiving and displaying incoming 911 data.

(a) "Primary public safety answering point" means a public safety answering point, as designated by the county, to which 911 calls and data originating in a given area and entering the next generation 911 network are initially routed for answering.

(b) "Secondary public safety answering point" means a public safety answering point, as designated by the county, that only receives 911 voice and data that has been transferred by other public safety answering points.

(((~~(35)~~))) (36) "Radio communications service company" means every corporation, company, association, joint stock, partnership, and person, their lessees, trustees, or receivers appointed by any court, and every city or town making available facilities to provide commercial mobile radio services, as defined by 47 U.S.C. Sec. 332(d)(1), or cellular communications services for hire, sale, and both facilities-based and nonfacilities-based resellers, and does not include radio paging providers.

(((~~(36)~~))) (37) "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.

(((~~(37)~~))) (38) "Telecommunications provider" means a telecommunications company as defined in RCW 80.04.010, a radio communications service company as defined in RCW 38.52.010, a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3, providers of interconnected voice

over internet protocol service as defined in RCW 38.52.010, and providers of data services.

(((~~(38)~~))) (39) "Washington state patrol public safety answering points" means those designated as primary or secondary public safety answering points by the counties in which they provide service.

Sec. 3. RCW 38.52.030 and 2022 c 203 s 3 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 911 coordinator, shall coordinate and facilitate implementation and operation of a statewide 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(13). 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 is authorized to administer a state public infrastructure assistance program for emergency assistance to county governments and federally recognized tribal governments within the state that experience or respond to public infrastructure damage due to a natural, technological, or human-caused disaster. The department may initiate rule making to address the distribution of funds from county governments to recipients within the county, including political subdivisions as defined in RCW 38.52.010, special purpose districts as defined in RCW 36.96.010, and nonprofit organizations.

(11) 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)~~)) (12) 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)~~)) (13) The director shall maintain a copy of the continuity of operations plan for election operations for each county that has a plan available.

((~~(13)~~)) (14) 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.

Passed by the House February 9, 2024.
Passed by the Senate February 29, 2024.
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CHAPTER 61

[House Bill 2034]

COURT REORGANIZATIONS—NOTICE TO ADMINISTRATIVE OFFICE OF THE COURTS

AN ACT Relating to requiring counties and cities to provide the administrative office of the courts with notice of court reorganizations; and amending RCW 3.50.010, 3.50.060, 3.50.805, 3.50.810, 35.20.010, and 39.34.180.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 3.50.010 and 1984 c 258 s 103 are each amended to read as follows:

Any city or town with a population of four hundred thousand or less may by ordinance provide for an inferior court to be known and designated as a municipal court, which shall be entitled "The Municipal Court of . . . . . (insert name of city or town)," hereinafter designated and referred to as "municipal court," which court shall have jurisdiction and shall exercise all powers by this chapter declared to be vested in the municipal court, together with such other powers and jurisdiction as are generally conferred upon such court in this state either by common law or by express statute. However, no municipal court established under this section shall have jurisdiction over any matter until six months after a notice of intent to create a new municipal court is sent to the administrative office of the courts.

Sec. 2. RCW 3.50.060 and 1984 c 258 s 108 are each amended to read as follows:

A city or town electing to establish a municipal court pursuant to this chapter may terminate such court by adoption of an appropriate ordinance. However no municipal court may be terminated unless the municipality has

complied with RCW 3.50.805, 3.50.810, 35.22.425, 35.23.595, ((~~35.24.455~~)) 35.23.555, 35.27.515, 35.30.100, and 35A.11.200.

A city or town newly establishing a municipal court pursuant to this chapter shall do so by adoption of an appropriate ordinance ((~~on or before December 1 of any year, to take effect January 1 of the following year~~)) as provided in RCW 3.50.010.

Sec. 3. RCW 3.50.805 and 2005 c 433 s 35 are each amended to read as follows:

(1) A municipality operating a municipal court under this chapter shall not terminate that court unless a notice of intent to terminate is sent to the administrative office of the courts six months in advance of the termination and the municipality has reached an agreement with the appropriate county or another municipality under chapter 39.34 RCW under which the county or municipality is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district or municipal court as a result of the termination. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county or municipality are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04A RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county or municipality have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04A RCW. A municipality that has entered into agreements with other municipalities that have terminated their municipal courts may not thereafter terminate its court unless each municipality has reached an agreement with the appropriate county in accordance with this section.

(2) A municipality operating a municipal court under this chapter may not repeal in its entirety that portion of its municipal code defining crimes while retaining the court's authority to hear and determine traffic infractions under chapter 46.63 RCW unless the municipality has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04A RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04A RCW.

(3) A municipality operating a municipal court under this chapter may not repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall provide for periodic review and renewal of the

terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04A RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04A RCW.

Sec. 4. RCW 3.50.810 and 2001 c 68 s 1 are each amended to read as follows:

(1) Any city having entered into an agreement for court services with the county must provide written notice of the intent to terminate the agreement to the county legislative authority and to the administrative office of the courts not less than one year prior to February 1st of the year in which all district court judges are subject to election.

(2) Any city that terminates an agreement for court services to be provided by a district court may terminate the agreement only at the end of a four-year district court judicial term.

(3) A county that wishes to terminate an agreement with a city for the provision of court services must provide written notice of the intent to terminate the agreement to the city legislative authority and to the administrative office of the courts not less than one year prior to the expiration of the agreement.

Sec. 5. RCW 35.20.010 and 2005 c 433 s 37 are each amended to read as follows:

(1) There is hereby created and established in each incorporated city of this state having a population of more than four hundred thousand inhabitants, as shown by the federal or state census, whichever is the later, a municipal court, which shall be styled "The Municipal Court of . . . . . (name of city)," hereinafter designated and referred to as the municipal court, which court shall have jurisdiction and shall exercise all the powers by this chapter declared to be vested in such municipal court, together with such powers and jurisdiction as is generally conferred in this state either by common law or statute. However, no municipal court established under this section shall have jurisdiction over any matter until six months after a notice of intent to create a new municipal court is sent to the administrative office of the courts.

(2) A municipality operating a municipal court under this section may terminate that court if the municipality has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the termination. However, no municipal court may be terminated under this section unless a notice of intent to terminate is sent to the administrative office of the courts six months in advance of the termination. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04A RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county

have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04A RCW.

(3) A city that has entered into an agreement for court services with the county must provide written notice of the intent to terminate the agreement to the county legislative authority and to the administrative office of the courts not less than one year prior to February 1st of the year in which all district court judges are subject to election. A city that terminates an agreement for court services to be provided by a district court may terminate the agreement only at the end of a four-year district court judicial term.

(4) A county that wishes to terminate an agreement with a city for the provision of court services must provide written notice of the intent to terminate the agreement to the city legislative authority and to the administrative office of the courts not less than one year prior to the expiration of the agreement.

Sec. 6. RCW 39.34.180 and 2021 c 41 s 2 are each amended to read as follows:

(1) Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, whether filed under state law or city ordinance, and must carry out these responsibilities through the use of their own courts, staff, and facilities, or by entering into contracts or interlocal agreements under this chapter to provide these services. Nothing in this section is intended to alter the statutory responsibilities of each county for the prosecution, adjudication, sentencing, and incarceration for not more than one year of felony offenders, nor shall this section apply to any offense initially filed by the prosecuting attorney as a felony offense or an attempt to commit a felony offense. The court of any county, city, or town that wishes to offer probation supervision services may enter into interlocal agreements under subsection (6) of this section to provide those services.

(2) The following principles must be followed in negotiating interlocal agreements or contracts: Cities and counties must consider (a) anticipated costs of services; and (b) anticipated and potential revenues to fund the services, including fines and fees, criminal justice funding, and state-authorized sales tax funding levied for criminal justice purposes.

(3) If an agreement as to the levels of compensation within an interlocal agreement or contract for gross misdemeanor and misdemeanor services cannot be reached between a city and county, then either party may invoke binding arbitration on the compensation issued by notice to the other party. In the case of establishing initial compensation, the notice shall request arbitration within thirty days. In the case of nonrenewal of an existing contract or interlocal agreement, the notice must be given one hundred twenty days prior to the expiration of the existing contract or agreement and the existing contract or agreement remains in effect until a new agreement is reached or until an arbitration award on the matter of fees is made. The city and county each select one arbitrator, and the initial two arbitrators pick a third arbitrator. This subsection does not apply to the extent that the interlocal agreement is for probation supervision services.

(4) A city or county that wishes to terminate an agreement for the provision of court services must provide written notice of the intent to terminate the

agreement in accordance with RCW 3.50.810 and 35.20.010. This subsection does not apply to the extent that the interlocal agreement is for probation supervision services. The city or county shall provide a copy of the written notice to terminate an agreement for the provision of court services to the administrative office of the courts not less than one year prior to the expiration of the agreement.

(5) For cities or towns that have not adopted, in whole or in part, criminal code or ordinance provisions related to misdemeanor and gross misdemeanor crimes as defined by state law, this section shall have no application until July 1, 1998.

(6) Municipal courts or district courts may enter into interlocal agreements for pretrial and/or postjudgment probation supervision services pursuant to ARLJ 11. Such agreements shall not affect the jurisdiction of the court that imposes probation supervision, need not require the referral of all supervised cases by a jurisdiction, and may limit the referral for probation supervision services to a single case. An agreement for probation supervision services is not valid unless approved by the presiding judge of each participating court. The interlocal agreement may not require approval of the local executive and legislative bodies unless the interlocal agreement requires the expenditure of additional funds by the jurisdiction. If the jurisdiction providing probation supervision services is found liable for inadequate supervision, as provided in RCW 4.24.760(1), or is impacted by increased costs pursuant to the interlocal agreement, the presiding judge of the jurisdiction imposing probation supervision shall consult with the executive authority of the jurisdiction imposing probation supervision and determine whether to terminate the interlocal agreement for probation supervision services. All proceedings to grant, modify, or revoke probation must be held in the court that imposes probation supervision. Jail costs and the cost of other sanctions remain with the jurisdiction that imposes probation supervision.

The administrative office of the courts, in cooperation with the district and municipal court judges association and the Washington association of prosecuting attorneys, shall develop a model interlocal agreement.

Passed by the House February 9, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 62

[Engrossed Substitute House Bill 2041]

PHYSICIAN ASSISTANT COLLABORATIVE PRACTICE

AN ACT Relating to physician assistant collaborative practice; amending RCW 18.71A.020, 18.71A.025, 18.71A.030, 18.71A.050, 18.71A.090, 18.71A.120, 18.71A.150, 51.28.100, 10.77.175, 18.71.030, 7.68.030, 51.04.030, 71.05.215, 71.05.217, 71.05.585, 71.32.110, 71.32.140, 71.32.250, 71.34.020, 71.34.020, 71.34.755, and 74.09.497; reenacting and amending RCW 18.71A.010, 69.50.101, 71.05.020, 71.05.020, 71.34.750, 71.34.750, and 9.41.010; adding a new section to chapter 18.71A RCW; adding a new section to chapter 48.43 RCW; creating a new section; providing effective dates; providing contingent effective dates; providing an expiration date; and providing contingent expiration dates.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** From March 2020 through October 2022, physician assistants were permitted under the governor's proclamation 20-32 to work without a delegation agreement signed by a supervising physician. During the public health emergency, physician assistants provided safe and efficient care, expanding access to necessary services and procedures statewide. There continues to be a great need for additional providers in primary care and specialty areas, especially in medically underserved and rural communities. Therefore, the legislature intends to authorize physician assistants to enter into collaborative practice with physicians to provide team-based care and enhance access to health care for the people of the state.

Sec. 2. RCW 18.71A.010 and 2020 c 80 s 2 are each reenacted and amended to read as follows:

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

(1) "Collaboration" means how physician assistants shall interact with, consult with, or refer to a physician or other appropriate member or members of the health care team as indicated by the patient's condition, the education, experience, and competencies of the physician assistant, and the standard of care. The degree of collaboration must be determined by the practice, which may include decisions made by the physician assistant's employer, group, hospital service, and credentialing and privileging systems of licensed facilities.

(2) "Collaboration agreement" means a written agreement that describes the manner in which the physician assistant is supervised by or collaborates with at least one physician and that is signed by the physician assistant and one or more physicians or the physician assistant's employer.

(3) "Commission" means the Washington medical commission.

(((~~(2)~~))) (4) "Department" means the department of health.

(((~~(3)~~))) (5) "Employer" means the scope appropriate clinician, such as a medical director, who is authorized to enter into the collaboration agreement with a physician assistant on behalf of the facility, group, clinic, or other organization that employs the physician assistant.

(6) "Participating physician" means a physician that supervises or collaborates with a physician assistant pursuant to a collaboration agreement.

(7) "Physician" means a physician licensed under chapter 18.57 or 18.71 RCW.

(((~~(4)~~))) (8) "Physician assistant" means a person who is licensed by the commission to practice medicine according to a ((~~practice~~)) collaboration agreement with one or more participating physicians((~~, with at least one of the physicians working in a supervisory capacity,~~)) and who is academically and clinically prepared to provide health care services and perform diagnostic, therapeutic, preventative, and health maintenance services.

(((~~(5) "Practice agreement" means an agreement entered under RCW 18.71A.120.~~

~~(6)~~))) (9) "Practice medicine" has the meaning defined in RCW 18.71.011 and also includes the practice of osteopathic medicine and surgery as defined in RCW 18.57.001.

(((~~(7)~~))) (10) "Secretary" means the secretary of health or the secretary's designee.

Sec. 3. RCW 18.71A.020 and 2020 c 80 s 3 are each amended to read as follows:

(1) The commission shall adopt rules fixing the qualifications and the educational and training requirements for licensure as a physician assistant or for those enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the commission and within one year successfully take and pass an examination approved by the commission, if the examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program. An interim permit may be granted by the department of health for one year provided the applicant meets all other requirements. Physician assistants licensed by the board of medical examiners, or the commission as of July 1, 1999, shall continue to be licensed.

(2)(a) The commission shall adopt rules governing the extent to which:

(i) Physician assistant students may practice medicine during training; and

(ii) Physician assistants may practice after successful completion of a physician assistant training course.

(b) Such rules shall provide:

(i) That the practice of a physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each physician assistant shall practice medicine only under the terms of one or more ((~~practice~~)) collaboration agreements, each signed by ((~~one or more supervising physicians licensed in this state~~)) the physician assistant and one or more physicians licensed in this state or the physician assistant's employer. A ((~~practice~~)) collaboration agreement may be signed electronically using a method for electronic signatures approved by the commission. ((~~Supervision shall not be construed to necessarily require the personal presence of the supervising physician or physicians at the place where services are rendered.~~))

(3) Applicants for licensure shall file an application with the commission on a form prepared by the secretary with the approval of the commission, detailing the education, training, and experience of the physician assistant and such other information as the commission may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. A surcharge of fifty dollars per year shall be charged on each license renewal or issuance of a new license to be collected by the department and deposited into the impaired physician account for physician assistant participation in the ((~~impaired~~)) physician health program. Each applicant shall furnish proof satisfactory to the commission of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the commission and is eligible to take the examination approved by the commission;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing medicine as a physician assistant with reasonable skill and safety. The commission may require an applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical or mental capability, or both, to safely practice as a physician assistant.

(4)(a) The commission may approve, deny, or take other disciplinary action upon the application for license as provided in the Uniform Disciplinary Act, chapter 18.130 RCW.

(b) The license shall be renewed as determined under RCW 43.70.250 and 43.70.280. The commission shall request licensees to submit information about their current professional practice at the time of license renewal and licensees must provide the information requested. This information may include practice setting, medical specialty, or other relevant data determined by the commission.

(5) All funds in the impaired physician account shall be paid to the contract entity within sixty days of deposit.

Sec. 4. RCW 18.71A.025 and 2020 c 80 s 4 are each amended to read as follows:

(1) The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses and the discipline of licensees under this chapter.

(2) The commission shall consult with the board of osteopathic medicine and surgery when investigating allegations of unprofessional conduct against a licensee who ((~~has a supervising~~)) is supervised by or is collaborating with a physician licensed under chapter 18.57 RCW.

Sec. 5. RCW 18.71A.030 and 2020 c 80 s 5 are each amended to read as follows:

(1) A physician assistant may practice medicine in this state to the extent permitted by the ((~~practice~~)) collaboration agreement. A physician assistant shall be subject to discipline under chapter 18.130 RCW.

(2)(a) A physician assistant who has completed fewer than 4,000 hours of postgraduate clinical practice must work under the supervision of a participating physician, as described in the collaboration agreement and determined at the practice site. A physician assistant with 4,000 or more hours of postgraduate clinical practice may work in collaboration with a participating physician, if the physician assistant has completed 2,000 or more supervised hours in the physician assistant's chosen specialty.

(b) If a physician assistant chooses to change specialties after the completion of 4,000 hours of postgraduate clinical practice, the first 2,000 hours of postgraduate clinical practice in the new specialty must be completed under the supervision of a participating physician, as described in the collaboration agreement and determined at the practice site.

(c) Supervision shall not be construed to necessarily require the personal presence of the participating physician or physicians at the place where services are rendered.

(3)(a) Physician assistants may provide services that they are competent to perform based on their education, training, and experience and that are consistent with their ((~~practice~~)) collaboration agreement. The ((~~supervising physician~~)) participating physician or physicians, or the physician assistant's employer, and the physician assistant shall determine which procedures may be performed and the ((~~supervision~~)) degree of autonomy under which the procedure is performed.

(b) Physician assistants may practice in any area of medicine or surgery as long as the practice is not beyond the ((~~supervising physician's own scope of expertise and clinical practice and the practice agreement.~~

~~(3) A physician assistant delivering~~)) scope of expertise and clinical practice of the participating physician or physicians or the group of physicians within the department or specialty areas in which the physician assistant practices.

(c) A physician assistant who has at least 10 years or 20,000 hours of postgraduate clinical experience in a specialty may continue to provide those specialty services if the physician assistant is employed in a practice setting where those services are outside the specialty of the physician assistant's participating physician or physicians, as outlined in the collaboration agreement, if the practice is located in a rural area as identified by the department under RCW 70.180.011 or in an underserved area as designated by the health resources and services administration as a medically underserved area or having a medically underserved population. The physician assistant must complete continuing education related to that specialty while performing services outside the specialty of the physician assistant's participating physician or physicians.

(4) A physician assistant working with an anesthesiologist who is acting as a participating physician as defined in RCW 18.71A.010 to deliver general anesthesia or intrathecal anesthesia pursuant to a ((~~practice~~)) collaboration agreement ((~~with a physician~~)) shall show evidence of adequate education and training in the delivery of the type of anesthesia being delivered on ((~~his or her practice agreement~~)) the physician assistant's collaboration agreement as stipulated by the commission.

Sec. 6. RCW 18.71A.050 and 2020 c 80 s 7 are each amended to read as follows:

No physician or employer who enters into a ((~~practice~~)) collaboration agreement with a licensed physician assistant in accordance with and within the terms of any permission granted by the commission is considered as aiding and abetting an unlicensed person to practice medicine. The ((~~supervising physician and~~)) physician assistant shall ((~~each~~)) retain ((~~professional and personal~~)) responsibility for any act which constitutes the practice of medicine as defined in RCW 18.71.011 or the practice of osteopathic medicine and surgery as defined in RCW 18.57.001 when performed by the physician assistant.

Sec. 7. RCW 18.71A.090 and 2020 c 80 s 8 are each amended to read as follows:

(1) A physician assistant may sign and attest to any certificates, cards, forms, or other required documentation that the physician assistant's ((~~supervising~~)) participating physician or physician group may sign, provided that it is within the physician assistant's scope of practice and is consistent with the terms of the physician assistant's ((~~practice~~)) collaboration agreement as required by this chapter.

(2) Notwithstanding any federal law, rule, or medical staff bylaw provision to the contrary, a physician is not required to countersign orders written in a patient's clinical record or an official form by a physician assistant with whom the physician has a ((~~practice~~)) collaboration agreement.

Sec. 8. RCW 18.71A.120 and 2020 c 80 s 6 are each amended to read as follows:

(1)(a) Prior to commencing practice, a physician assistant licensed in Washington state must enter into a ((~~practice~~)) collaboration agreement ((~~with a~~

~~physician or group of physicians, at least one of whom must be working in a supervisory capacity.~~

~~(a)~~)) that identifies at least one participating physician and that is signed by one or more participating physicians or the physician assistant's employer.

(b) A collaboration agreement must be signed by a physician if the physician assistant's employer is not a physician.

(c) If a participating physician is not a signatory to the collaboration agreement, the participating physician must be provided notice of the agreement and an opportunity to decline participation. Entering into a ((~~practice~~)) collaboration agreement is voluntary for the physician assistant and the ((~~supervising~~)) participating physician or employer. A physician may not be compelled to participate in a ((~~practice~~)) collaboration agreement as a condition of employment.

(((~~(b)~~))) (d) Prior to entering into the ((~~practice~~)) collaboration agreement, the participating physician((~~,~~)) or physicians, employer, or their designee must verify the physician assistant's credentials.

(((~~(c)~~))) (e) The protections of RCW 43.70.075 apply to any participating physician or employer who reports to the commission acts of retaliation or reprisal for declining to sign a ((~~practice~~)) collaboration agreement.

(((~~(d)~~))) (f) The ((~~practice~~)) collaboration agreement must be ((~~maintained by the physician assistant's employer or at his or her place of work and must be~~)) available either electronically or on paper at the physician assistant's primary location of practice and made available to the commission upon request.

(((~~(e)~~))) (g) The commission shall develop a model ((~~practice~~)) collaboration agreement.

(((~~(f)~~))) (h) The commission shall establish administrative procedures, administrative requirements, and fees as provided in RCW 43.70.250 and 43.70.280.

(2) A ((~~practice~~)) collaboration agreement must include all of the following:

(a) The duties and responsibilities of the physician assistant((~~, the supervising physician, and alternate~~)) and the participating physician or physicians. The ((~~practice~~)) collaboration agreement must describe the supervision or collaboration requirements for specified procedures or areas of practice, depending on the number of postgraduate clinical practice hours completed. The ((~~practice~~)) collaboration agreement may only include acts, tasks, or functions that the physician assistant ((~~and supervising physician or alternate physicians are~~)) is qualified to perform by education, training, or experience ((~~and that are~~)). The acts, tasks, or functions included in the collaboration agreement must also be within the scope of expertise and clinical practice of ((~~both the physician assistant and the supervising physician or alternate physicians~~)) either the participating physician or physicians or the group of physicians within the department or specialty areas in which the physician assistant is practicing, unless otherwise authorized by law, rule, or the commission;

(b) A process between the physician assistant and ((~~supervising~~)) participating physician or ((~~alternate~~)) physicians for communication, availability, and decision making when providing medical treatment to a patient or in the event of an acute health care crisis not previously covered by the ((~~practice~~)) collaboration agreement, such as a flu pandemic or other unforeseen

emergency. Communications may occur in person, electronically, by telephone, or by an alternate method;

(c) If there is only one participating physician ((~~party to~~)) identified in the ((~~practice~~)) collaboration agreement, a protocol for designating ((~~an alternate~~)) another participating physician for consultation in situations in which the physician is not available;

(d) The signature of the physician assistant and the signature or signatures of the ((~~supervising physician. A practice agreement may be signed electronically using a method for electronic signatures approved by the commission; and~~

~~(e)~~)) participating physician or physicians, or employer;

(e) If the physician assistant is working under the supervision of a participating physician, in accordance with RCW 18.71A.030, a plan for how the physician assistant will be supervised;

(f) An attestation by the physician assistant of the number of postgraduate clinical practice hours completed, including the number of hours completed in a chosen specialty, at the time the physician assistant signs the collaboration agreement; and

(g) A termination provision. A physician assistant or physician may terminate the ((~~practice~~)) collaboration agreement as it applies to a single ((~~supervising~~)) participating physician without terminating the agreement with respect to the remaining participating physicians. If the termination results in no ((~~supervising~~)) participating physician being designated on the agreement, a new ((~~supervising~~)) participating physician must be designated for the agreement to be valid.

(i) Except as provided in ((~~(e)~~)) (g)(ii) of this subsection, the physician assistant or ((~~supervising~~)) participating physician must provide written notice at least thirty days prior to the termination.

(ii) The physician assistant or ((~~supervising~~)) participating physician may terminate the ((~~practice~~)) collaboration agreement immediately due to good faith concerns regarding unprofessional conduct or failure to practice medicine while exercising reasonable skill and safety.

(3) ((~~A practice agreement may be amended for any reason, such as to add or remove supervising physicians or alternate physicians or to amend the duties and responsibilities of the physician assistant.~~

~~(4)~~)) The physician assistant is responsible for tracking the number of postgraduate clinical hours completed, including the number of hours completed in a chosen specialty.

(4) A collaboration agreement may be amended for any reason.

(5) Whenever a physician assistant is practicing in a manner inconsistent with the ((~~practice~~)) collaboration agreement, the commission may take disciplinary action under chapter 18.130 RCW.

(((~~(5)~~))) (6) Whenever a physician is subject to disciplinary action under chapter 18.130 RCW related to the practice of a physician assistant, the case must be referred to the appropriate disciplining authority.

(((~~(6)~~))) (7) A physician assistant ((~~or~~)), physician, or employer may participate in more than one ((~~practice~~)) collaboration agreement if ((~~he or she~~)) the physician or employer is reasonably able to fulfill the duties and responsibilities in each agreement.

(((~~(7) A physician may supervise no more than ten physician assistants. A physician may petition the commission for a waiver of this limit. The commission shall automatically grant a waiver to any physician who possesses, on July 1, 2021, a valid waiver to supervise more than ten physician assistants. A physician granted a waiver under this subsection may not supervise more physician assistants than the physician is able to adequately supervise.~~

~~(8) A physician assistant must file with the commission in a form acceptable to the commission:~~

~~(a) Each practice agreement into which the physician assistant enters under this section;~~

~~(b) Any amendments to the practice agreement; and~~

~~(c) Notice if the practice agreement is terminated~~)) (8) Nothing in this section shall be construed as prohibiting physician assistants from owning their own practice or clinic.

Sec. 9. RCW 18.71A.150 and 2020 c 80 s 11 are each amended to read as follows:

The commission and the board of osteopathic medicine and surgery shall adopt any rules necessary to implement ((~~chapter 80, Laws of 2020~~)) requirements related to collaboration agreements entered into under this chapter.

NEW SECTION. **Sec. 10.** A new section is added to chapter 18.71A RCW to read as follows:

A physician assistant practicing under a practice agreement that was entered into before July 1, 2025, may continue to practice under the practice agreement until the physician assistant enters into a collaboration agreement, as defined in RCW 18.71A.010. A physician assistant described in this section shall enter into a collaboration agreement not later than the date on which the physician assistant's license is due for renewal or July 1, 2025, whichever is later.

NEW SECTION. **Sec. 11.** A new section is added to chapter 48.43 RCW to read as follows:

This chapter authorizes carriers to reimburse employers of physician assistants for covered services rendered by licensed physician assistants. Payment for services within the physician assistant's scope of practice must be made when ordered or performed by a physician assistant if the same services would have been covered if ordered or performed by a physician. Physician assistants or their employers, who are billing on behalf of the physician assistant, are authorized to bill for and receive direct payment for the services delivered by physician assistants. A carrier may not impose a practice, education, or collaboration requirement that is inconsistent with or more restrictive than state laws or regulations governing physician assistants.

Sec. 12. RCW 51.28.100 and 2020 c 80 s 39 are each amended to read as follows:

The department shall accept the signature of a physician assistant on any certificate, card, form, or other documentation required by the department that the physician assistant's ((~~supervising~~)) participating physician or physicians, as defined in RCW 18.71A.010, may sign, provided that it is within the physician assistant's scope of practice, and is consistent with the terms of the physician assistant's ((~~practice~~)) collaboration agreement as required by chapter 18.71A RCW. Consistent with the terms of this section, the authority of a physician

assistant to sign such certificates, cards, forms, or other documentation includes, but is not limited to, the execution of the certificate required in RCW 51.28.020. A physician assistant may not rate a worker's permanent partial disability under RCW 51.32.055.

Sec. 13. RCW 10.77.175 and 2022 c 210 s 22 are each amended to read as follows:

(1) Conditional release planning should start at admission and proceed in coordination between the department and the person's managed care organization, or behavioral health administrative services organization if the person is not eligible for medical assistance under chapter 74.09 RCW. If needed, the department shall assist the person to enroll in medical assistance in suspense status under RCW 74.09.670. The state hospital liaison for the managed care organization or behavioral health administrative services organization shall facilitate conditional release planning in collaboration with the department.

(2) Less restrictive alternative treatment pursuant to a conditional release order, at a minimum, includes the following services:

(a) Assignment of a care coordinator;

(b) An intake evaluation with the provider of the conditional treatment;

(c) A psychiatric evaluation or a substance use disorder evaluation, or both;

(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;

(g) Consultation about the formation of a mental health advance directive under chapter 71.32 RCW;

(h) Appointment of a transition team under RCW 10.77.150; and

(i) Notification to the care coordinator assigned in (a) of this subsection and to the transition team as provided in RCW 10.77.150 if reasonable efforts to engage the client fail to produce substantial compliance with court-ordered treatment conditions.

(3) Less restrictive alternative treatment pursuant to a conditional release order may additionally include requirements to participate in the following services:

(a) Medication management;

(b) Psychotherapy;

(c) Nursing;

(d) Substance use disorder counseling;

(e) Residential treatment;

(f) Partial hospitalization;

(g) Intensive outpatient treatment;

(h) Support for housing, benefits, education, and employment; and

(i) Periodic court review.

(4) Nothing in this section prohibits items in subsection (2) of this section from beginning before the conditional release of the individual.

(5) If the person was provided with involuntary medication under RCW 10.77.094 or pursuant to a judicial order during the involuntary commitment period, the less restrictive alternative treatment pursuant to the conditional

release 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 who is acting as a participating physician as defined in RCW 18.71A.010, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with an independent mental health professional with prescribing authority.

(6) Less restrictive alternative treatment pursuant to a conditional release order 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.

(7) The care coordinator assigned to a person ordered to less restrictive alternative treatment pursuant to a conditional release order 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.

(8) A care coordinator may disclose information and records related to mental health treatment under RCW 70.02.230(2)(k) for purposes of implementing less restrictive alternative treatment pursuant to a conditional release order.

(9) For the purpose of this section, "care coordinator" means a representative from the department of social and health services who coordinates the activities of less restrictive alternative treatment pursuant to a conditional release order. The care coordinator coordinates activities with the person's transition team that are necessary for enforcement and continuation of the conditional release order 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. 14. RCW 18.71.030 and 2021 c 247 s 1 are each amended to read as follows:

Nothing in this chapter shall be construed to apply to or interfere in any way with the practice of religion or any kind of treatment by prayer; nor shall anything in this chapter be construed to prohibit:

(1) The furnishing of medical assistance in cases of emergency requiring immediate attention;

(2) The domestic administration of family remedies;

(3) The administration of oral medication of any nature to students by public school district employees or private elementary or secondary school employees as provided for in chapter 28A.210 RCW;

(4) The practice of dentistry, osteopathic medicine and surgery, nursing, chiropractic, podiatric medicine and surgery, optometry, naturopathy, or any other healing art licensed under the methods or means permitted by such license;

(5) The practice of medicine in this state by any commissioned medical officer serving in the armed forces of the United States or public health service or any medical officer on duty with the United States veterans administration

while such medical officer is engaged in the performance of the duties prescribed for him or her by the laws and regulations of the United States;

(6) The consultation through telemedicine or other means by a practitioner, licensed by another state or territory in which he or she resides, with a practitioner licensed in this state who has responsibility for the diagnosis and treatment of the patient within this state;

(7) The in-person practice of medicine by any practitioner licensed by another state or territory in which he or she resides, provided that such practitioner shall not open an office or appoint a place of meeting patients or receiving calls within this state;

(8) The practice of medicine by a person who is a regular student in a school of medicine approved and accredited by the commission if:

(a) The performance of such services is only pursuant to a regular course of instruction or assignments from his or her instructor; or

(b) Such services are performed only under the supervision and control of a person licensed pursuant to this chapter; or

(c)(i) Such services are performed without compensation or expectation of compensation as part of a volunteer activity;

(ii) The student is under the direct supervision and control of a pharmacist licensed under chapter 18.64 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, or a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW;

(iii) The services the student performs are within the scope of practice of: (A) A physician licensed under this chapter; and (B) the person supervising the student;

(iv) The school in which the student is enrolled verifies the student has demonstrated competency through his or her education and training to perform the services; and

(v) The student provides proof of current malpractice insurance to the volunteer activity organizer prior to performing any services;

(9) The practice of medicine by a person serving a period of postgraduate medical training in a program of clinical medical training sponsored by a college or university in this state or by a hospital accredited in this state, however, the performance of such services shall be only pursuant to his or her duties as a trainee;

(10) The practice of medicine by a person who is regularly enrolled in a physician assistant program approved by the commission, however, the performance of such services shall be only pursuant to a regular course of instruction in said program and such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(11) The practice of medicine by a licensed physician assistant which practice is performed under the supervision ((~~and control~~)) of or in collaboration with a physician licensed pursuant to this chapter;

(12) The practice of medicine, in any part of this state which shares a common border with Canada and which is surrounded on three sides by water, by a physician licensed to practice medicine and surgery in Canada or any province or territory thereof;

(13) The administration of nondental anesthesia by a dentist who has completed a residency in anesthesiology at a school of medicine approved by the

commission, however, a dentist allowed to administer nondental anesthesia shall do so only under authorization of the patient's attending surgeon, obstetrician, or psychiatrist, and the commission has jurisdiction to discipline a dentist practicing under this exemption and enjoin or suspend such dentist from the practice of nondental anesthesia according to this chapter and chapter 18.130 RCW;

(14) Emergency lifesaving service rendered by a physician's trained advanced emergency medical technician and paramedic, as defined in RCW 18.71.200, if the emergency lifesaving service is rendered under the responsible supervision and control of a licensed physician;

(15) The provision of clean, intermittent bladder catheterization for students by public school district employees or private school employees as provided for in RCW 18.79.290 and 28A.210.280.

Sec. 15. RCW 7.68.030 and 2020 c 80 s 12 are each amended to read as follows:

(1) It shall be the duty of the director to establish and administer a program of benefits to innocent victims of criminal acts within the terms and limitations of this chapter. The director may apply for and, subject to appropriation, expend federal funds under Public Law 98-473 and any other federal program providing financial assistance to state crime victim compensation programs. The federal funds shall be deposited in the state general fund and may be expended only for purposes authorized by applicable federal law.

(2) The director shall:

(a) Establish and adopt rules governing the administration of this chapter in accordance with chapter 34.05 RCW;

(b) Regulate the proof of accident and extent thereof, the proof of death, and the proof of relationship and the extent of dependency;

(c) Supervise the medical, surgical, and hospital treatment to the intent that it may be in all cases efficient and up to the recognized standard of modern surgery;

(d) Issue proper receipts for moneys received and certificates for benefits accrued or accruing;

(e) Designate a medical director who is licensed under chapter 18.57 or 18.71 RCW;

(f) Supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of chapter 18.71A RCW, ((~~acting under a supervising physician,~~)) including chiropractic care, and including care provided by licensed advanced registered nurse practitioners, to victims at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, electronic communications, rules, regulations, and practices for the furnishing of such care and treatment. The medical coverage decisions of the department do not constitute a "rule" as used in RCW 34.05.010(16), nor are such decisions subject to the rule-making provisions of chapter 34.05 RCW except that criteria for establishing medical coverage decisions shall be adopted by rule. The department may recommend to a victim particular health care services and providers where specialized

treatment is indicated or where cost-effective payment levels or rates are obtained by the department, and the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured victims;

(g) In consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed advanced registered nurse practitioner, ((~~and~~)) physician assistants as defined in chapter 18.71A RCW, acting under ((~~a supervising physician~~)) the supervision of or in coordination with a participating physician, as defined in RCW 18.71A.010, or other agency or person rendering services to victims. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to victims, whether aliens or other victims, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule constitute a "rule" as used in RCW 34.05.010(16). Payments for providers' services under the fee schedule established pursuant to this subsection (2) may not be less than payments provided for comparable services under the workers' compensation program under Title 51 RCW, provided:

(i) If the department, using caseload estimates, projects a deficit in funding for the program by July 15th for the following fiscal year, the director shall notify the governor and the appropriate committees of the legislature and request funding sufficient to continue payments to not less than payments provided for comparable services under the workers' compensation program. If sufficient funding is not provided to continue payments to not less than payments provided for comparable services under the workers' compensation program, the director shall reduce the payments under the fee schedule for the following fiscal year based on caseload estimates and available funding, except payments may not be reduced to less than seventy percent of payments for comparable services under the workers' compensation program;

(ii) If an unforeseeable catastrophic event results in insufficient funding to continue payments to not less than payments provided for comparable services under the workers' compensation program, the director shall reduce the payments under the fee schedule to not less than seventy percent of payments provided for comparable services under the workers' compensation program, provided that the reduction may not be more than necessary to fund benefits under the program; and

(iii) Once sufficient funding is provided or otherwise available, the director shall increase the payments under the fee schedule to not less than payments provided for comparable services under the workers' compensation program;

(h) Make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured victims, shall approve and pay those which conform to the adopted rules,

regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it.

(3) The director and his or her authorized assistants:

(a) Have power to issue subpoenas to enforce the attendance and testimony of witnesses and the production and examination of books, papers, photographs, tapes, and records before the department in connection with any claim made to the department or any billing submitted to the department. The superior court has the power to enforce any such subpoena by proper proceedings;

(b)(i) May apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must (A) state that an order is sought pursuant to this subsection; (B) adequately specify the records, documents, or testimony; and (C) declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(ii) Where the application under this subsection (3)(b) is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(iii) The director and his or her authorized assistants may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(4) In all hearings, actions, or proceedings before the department, any physician or licensed advanced registered nurse practitioner having theretofore examined or treated the claimant may be required to testify fully regarding such examination or treatment, and shall not be exempt from so testifying by reason of the relation of the physician or licensed advanced registered nurse practitioner to the patient.

Sec. 16. RCW 51.04.030 and 2020 c 80 s 38 are each amended to read as follows:

(1) The director shall supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of chapter 18.71A RCW, ((~~acting under a supervising physician,~~)) including chiropractic care, and including care provided by licensed advanced registered nurse practitioners, to workers injured during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment: PROVIDED, That the medical coverage decisions of the department do not constitute a "rule" as used in RCW 34.05.010(16), nor are such decisions subject to the rule-making provisions of

chapter 34.05 RCW except that criteria for establishing medical coverage decisions shall be adopted by rule after consultation with the workers' compensation advisory committee established in RCW 51.04.110: PROVIDED FURTHER, That the department may recommend to an injured worker particular health care services and providers where specialized treatment is indicated or where cost-effective payment levels or rates are obtained by the department: AND PROVIDED FURTHER, That the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured workers.

(2) The director shall, in consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed advanced registered nurse practitioner, physician((~~s'~~)) assistants as defined in chapter 18.71A RCW, acting under ((~~a supervising physician~~)) the supervision of or in coordination with a participating physician, as defined in RCW 18.71A.010, or other agency or person rendering services to injured workers. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to injured workers, whether aliens or other injured workers, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule and its associated billing or payment instructions and policies constitute a "rule" as used in RCW 34.05.010(16).

(3) The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured workers, shall approve and pay those which conform to the adopted rules, regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it.

Sec. 17. RCW 69.50.101 and 2023 c 365 s 2 and 2023 c 220 s 6 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) [(1)]~~))) (1) "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)]~~))) (a) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

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

((~~(b) [(2)]~~)) (2) "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) [(3)]~~)) (3) "Board" means the Washington state liquor and cannabis board.

((~~(d) [(4)]~~)) (4) "Cannabis" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis during the growing cycle through harvest and usable cannabis. "Cannabis" does not include hemp or industrial hemp as defined in RCW 15.140.020, or seeds used for licensed hemp production under chapter 15.140 RCW.

((~~(e) [(5)]~~)) (5) "Cannabis concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

((~~(f) [(6)]~~)) (6) "Cannabis processor" means a person licensed by the board to process cannabis into cannabis concentrates, useable cannabis, and cannabis-infused products, package and label cannabis concentrates, useable cannabis, and cannabis-infused products for sale in retail outlets, and sell cannabis concentrates, useable cannabis, and cannabis-infused products at wholesale to cannabis retailers.

((~~(g) [(7)]~~)) (7) "Cannabis producer" means a person licensed by the board to produce and sell cannabis at wholesale to cannabis processors and other cannabis producers.

((~~(h)(1) [(8)(a)]~~)) (8)(a) "Cannabis products" means useable cannabis, cannabis concentrates, and cannabis-infused products as defined in this section, including any product intended to be consumed or absorbed inside the body by any means including inhalation, ingestion, or insertion, with any detectable amount of THC.

((~~(2) [(b)]~~)) (b) "Cannabis products" also means any product containing only THC content.

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

((~~(i) [(9)]~~)) (9) "Cannabis researcher" means a person licensed by the board to produce, process, and possess cannabis for the purposes of conducting research on cannabis and cannabis-derived drug products.

((~~(j) [(10)]~~)) (10) "Cannabis retailer" means a person licensed by the board to sell cannabis concentrates, useable cannabis, and cannabis-infused products in a retail outlet.

((~~(k) [(11)]~~)) (11) "Cannabis-infused products" means products that contain cannabis or cannabis extracts, are intended for human use, are derived from cannabis as defined in subsection ((~~(d) [(4)]~~)) (4) of this section, and have a THC concentration no greater than ten percent. The term "cannabis-infused products" does not include either useable cannabis or cannabis concentrates.

((~~(l) [(12)]~~)) (12) "CBD concentration" has the meaning provided in RCW 69.51A.010.

((~~(m) [(13)]~~)) (13) "CBD product" means any product containing or consisting of cannabidiol.

(((~~(n) [(14)]~~))) (14) "Commission" means the pharmacy quality assurance commission.

(((~~(o) [(15)]~~))) (15) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in RCW 15.140.020.

(((~~(p)(1) [(16)(a)]~~))) (16)(a) "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) [(b)]~~))) (b) The term does not include:

(i) a controlled substance;

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

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

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

(((~~(q) [(17)]~~))) (17) "Deliver" or "delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(((~~(r) [(18)]~~))) (18) "Department" means the department of health.

(((~~(s) [(19)]~~))) (19) "Designated provider" has the meaning provided in RCW 69.51A.010.

(((~~(t) [(20)]~~))) (20) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(((~~(u) [(21)]~~))) (21) "Dispenser" means a practitioner who dispenses.

(((~~(v) [(22)]~~))) (22) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(((~~(w) [(23)]~~))) (23) "Distributor" means a person who distributes.

(((~~(x) [(24)]~~))) (24) "Drug" means (((~~(1) [(a)]~~))) (a) 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) [(b)]~~))) (b) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (((~~(3) [(c)]~~))) (c) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (((~~(4) [(d)]~~))) (d) controlled substances intended for use as a

component of any article specified in (((~~(1), (2), or (3) [(a), (b), or (c)]~~))) (a), (b), or (c) of this subsection. The term does not include devices or their components, parts, or accessories.

(((~~(y) [(25)]~~))) (25) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(((~~(z) [(26)]~~))) (26) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(((~~(aa) [(27)]~~))) (27) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(((~~(bb) [(28)]~~))) (28) "Immediate precursor" means a substance:

(((~~(1) [(a)]~~))) (a) 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) [(b)]~~))) (b) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

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

(((~~(cc) [(29)]~~))) (29) "Isomer" means an optical isomer, but in subsection (((~~(gg)(5) [(33)(e)]~~))) (33)(e) of this section, RCW 69.50.204(((~~(a) (12) and (34) [(1) (l) and (hh)]~~))) (1) (l) and (hh), and 69.50.206(((~~(b)(4) [(2)(d)]~~))) (2)(d), the term includes any geometrical isomer; in RCW 69.50.204(((~~(a) (8) and (42) [(1) (h) and (pp)]~~))) (1) (h) and (pp), and 69.50.210(((~~(c) [(3)]~~))) (3) the term includes any positional isomer; and in RCW 69.50.204(((~~(a)(35) [(1)(ii)]~~))) (1)(ii), 69.50.204(((~~(c) [(3)]~~))) (3), and 69.50.208(((~~(a) [(1)]~~))) (1) the term includes any positional or geometric isomer.

(((~~(dd) [(30)]~~))) (30) "Lot" means a definite quantity of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(((~~(ee) [(31)]~~))) (31) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product.

(((~~(ff) [(32)]~~))) (32) "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) [(a)]~~))) (a) 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) [(b)]~~)) (b) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

((~~(gg) [(33)]~~)) (33) "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) [(a)]~~)) (a) 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) [(b)]~~)) (b) 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) [(c)]~~)) (c) Poppy straw and concentrate of poppy straw.

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

((~~(5) [(e)]~~)) (e) Cocaine, or any salt, isomer, or salt of isomer thereof.

((~~(6) [(f)]~~)) (f) Cocaine base.

((~~(7) [(g)]~~)) (g) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

((~~(8) [(h)]~~)) (h) Any compound, mixture, or preparation containing any quantity of any substance referred to in ((~~(1) [(a)]~~)) (a) through ((~~(7) [(g)]~~)) (g) of this subsection.

((~~(hh) [(34)]~~)) (34) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

((~~(ii) [(35)]~~)) (35) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

((~~(jj) [(36)]~~)) (36) "Package" means a container that has a single unit or group of units.

((~~(kk) [(37)]~~)) (37) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

((~~(ll) [(38)]~~)) (38) "Plant" has the meaning provided in RCW 69.51A.010.

((~~(mm) [(39)]~~)) (39) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

((~~(nn) [(40)]~~)) (40) "Practitioner" means:

((~~(1) [(a)]~~))(a) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an optometrist licensed under chapter 18.53 RCW who is certified

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

((~~(2) [(b)]~~)) (b) 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) [(c)]~~)) (c) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical commission or equivalent and his or her ((~~supervising~~)) participating physician as defined in RCW 18.71A.010, 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.

((~~(oo) [(41)]~~)) (41) "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.

((~~(pp) [(42)]~~)) (42) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

((~~(qq) [(43)]~~)) (43) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

((~~(rr) [(44)]~~)) (44) "Recognition card" has the meaning provided in RCW 69.51A.010.

((~~(ss) [(45)]~~)) (45) "Retail outlet" means a location licensed by the board for the retail sale of cannabis concentrates, useable cannabis, and cannabis-infused products.

((~~(tt) [(46)]~~)) (46) "Secretary" means the secretary of health or the secretary's designee.

((~~(uu) [(47)]~~)) (47) "Social equity plan" means a plan that addresses at least some of the elements outlined in this subsection ((~~(uu) [(47)]~~)) (47), along with any additional plan components or requirements approved by the board following consultation with the task force created in RCW 69.50.336. The plan may include:

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

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

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

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

(((~~(vv) [(48)]~~))) (48) "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.

(((~~(ww) [(49)]~~))) (49) "THC concentration" means percent of tetrahydrocannabinol content of any part of the plant *Cannabis*, or per volume or weight of cannabis product, or the combined percent of tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(((~~(xx) [(50)]~~))) (50) "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.

(((~~(yy) [(51)]~~))) (51) "Unit" means an individual consumable item within a package of one or more consumable items in solid, liquid, gas, or any form intended for human consumption.

(((~~(zz) [(52)]~~))) (52) "Useable cannabis" means dried cannabis flowers. The term "useable cannabis" does not include either cannabis-infused products or cannabis concentrates.

(((~~(aaa) [(53)]~~))) (53) "Youth access" means the level of interest persons under the age of twenty-one may have in a vapor product, as well as the degree to which the product is available or appealing to such persons, and the likelihood of initiation, use, or addiction by adolescents and young adults.

Sec. 18. RCW 71.05.020 and 2023 c 433 s 3 and 2023 c 425 s 20 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) "23-hour crisis relief center" has the same meaning as under RCW 71.24.025;

(2) "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;

(3) "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;

(4) "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;

(5) "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;

(6) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(7) "Authority" means the Washington state health care authority;

(8) "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;

(9) "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 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 community behavioral health programs as defined in RCW 71.24.025; licensed or certified behavioral health agencies under RCW 71.24.037; facilities conducting competency evaluations and restoration under chapter 10.77 RCW; approved substance use disorder treatment programs as defined in this section; secure withdrawal management and stabilization facilities as defined in this section; and correctional facilities operated by state and local governments;

(10) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(11) "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;

(12) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025;

(13) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(14) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, 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, or to determine the need for involuntary commitment of an individual;

(15) "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;

(16) "Department" means the department of health;

(17) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

(18) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(19) "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 who is acting as a participating physician as defined in RCW 18.71A.010, 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;

(20) "Developmental disability" means that condition defined in RCW 71A.10.020(6);

(21) "Director" means the director of the authority;

(22) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(23) "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;

(24) "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;

(25) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (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;

(26) "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;

(27) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(28) "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 behavioral health facility, or in confinement as a result of a criminal conviction;

(29) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(30) "In need of assisted outpatient treatment" refers to a person who meets the criteria for assisted outpatient treatment established under RCW 71.05.148;

(31) "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;

(32) "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;

(33) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(34) "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;

(35) "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. This term includes: Treatment pursuant to a less restrictive alternative treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant to a conditional release under RCW 71.05.340; and treatment pursuant to an assisted outpatient treatment order under RCW 71.05.148;

(36) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(37) "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;

(38) "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;

(39) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(40) "Mental health professional" means an individual practicing within the mental health professional's statutory scope of practice who is:

(a) A psychiatrist, psychologist, physician assistant working with a ((~~supervising~~)) psychiatrist who is acting as a participating physician as defined in RCW 18.71A.010, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, as defined in this chapter and chapter 71.34 RCW;

(b) A mental health counselor, mental health counselor associate, marriage and family therapist, or marriage and family therapist associate, as defined in chapter 18.225 RCW; or

(c) A certified or licensed agency affiliated counselor, as defined in chapter 18.19 RCW;

(41) "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;

(42) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW;

(43) "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 behavioral health disorders;

(44) "Professional person" means a mental health professional, substance use disorder 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;

(45) "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;

(46) "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;

(47) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(48) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization 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 behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(49) "Release" means legal termination of the commitment under the provisions of this chapter;

(50) "Resource management services" has the meaning given in chapter 71.24 RCW;

(51) "Secretary" means the secretary of the department of health, or his or her designee;

(52) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(53) "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) "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) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(56) "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;

(57) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, 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;

(58) "Video," unless the context clearly indicates otherwise, 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;

(59) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

Sec. 19. RCW 71.05.020 and 2023 c 433 s 4 and 2023 c 425 s 21 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) "23-hour crisis relief center" has the same meaning as under RCW 71.24.025;

(2) "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;

(3) "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;

(4) "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;

(5) "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;

(6) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(7) "Authority" means the Washington state health care authority;

(8) "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;

(9) "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 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 community behavioral health programs as defined in RCW 71.24.025; licensed or certified behavioral health agencies under RCW 71.24.037; facilities conducting competency evaluations and restoration under chapter 10.77 RCW; approved substance use disorder treatment programs as defined in this section; secure withdrawal management and stabilization facilities as defined in this section; and correctional facilities operated by state and local governments;

(10) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(11) "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;

(12) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025;

(13) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(14) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, 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, or to determine the need for involuntary commitment of an individual;

(15) "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;

(16) "Department" means the department of health;

(17) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

(18) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(19) "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 <u>who is acting as a participating physician as defined in RCW 18.71A.010</u>, 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;

(20) "Developmental disability" means that condition defined in RCW 71A.10.020(6);

(21) "Director" means the director of the authority;

(22) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(23) "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;

(24) "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;

(25) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (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 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;

(26) "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;

(27) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(28) "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 behavioral health facility, or in confinement as a result of a criminal conviction;

(29) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(30) "In need of assisted outpatient treatment" refers to a person who meets the criteria for assisted outpatient treatment established under RCW 71.05.148;

(31) "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;

(32) "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;

(33) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(34) "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;

(35) "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. This term includes: Treatment pursuant to a less restrictive alternative treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant to a conditional release under RCW 71.05.340; and treatment pursuant to an assisted outpatient treatment order under RCW 71.05.148;

(36) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(37) "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 harm, substantial pain, or which places another person or persons in reasonable fear of 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;

(38) "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;

(39) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(40) "Mental health professional" means an individual practicing within the mental health professional's statutory scope of practice who is:

(a) A psychiatrist, psychologist, physician assistant working with a ((~~supervising~~)) psychiatrist who is acting as a participating physician as defined in RCW 18.71A.010, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, as defined in this chapter and chapter 71.34 RCW;

(b) A mental health counselor, mental health counselor associate, marriage and family therapist, or marriage and family therapist associate, as defined in chapter 18.225 RCW; or

(c) A certified or licensed agency affiliated counselor, as defined in chapter 18.19 RCW;

(41) "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;

(42) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW;

(43) "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 behavioral health disorders;

(44) "Professional person" means a mental health professional, substance use disorder 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;

(45) "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;

(46) "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;

(47) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(48) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization 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 behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(49) "Release" means legal termination of the commitment under the provisions of this chapter;

(50) "Resource management services" has the meaning given in chapter 71.24 RCW;

(51) "Secretary" means the secretary of the department of health, or his or her designee;

(52) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(53) "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;

(54) "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;

(55) "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;

(56) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(57) "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;

(58) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, 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;

(59) "Video," unless the context clearly indicates otherwise, 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;

(60) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

Sec. 20. RCW 71.05.215 and 2020 c 302 s 30 are each amended to read as follows:

(1) A person found to be gravely disabled or to present a likelihood of serious harm as a result of a 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 <u>who is acting as a participating physician as defined in RCW 18.71A.010</u>, 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. 21. RCW 71.05.217 and 2020 c 302 s 32 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:

(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;

(b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

(c) To have access to individual storage space for his or her private use;

(d) To have visitors at reasonable times;

(e) To have reasonable access to a telephone, both to make and receive confidential calls;

(f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(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:

(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.

(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.

(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 who is acting as a participating physician as defined in RCW 18.71A.010, 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 who is acting as a participating physician as defined in RCW 18.71A.010, 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.

(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.

(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;

(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;

(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 one hundred twenty hours of the initial detention, a judicial hearing must be held in a superior court within one hundred twenty 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. 22. RCW 71.05.585 and 2022 c 210 s 20 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, a substance use disorder evaluation, or both;

(d) A schedule of regular contacts with the provider of the 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;

(g) Consultation about the formation of a mental health advance directive under chapter 71.32 RCW; and

(h) 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 use disorder counseling;

(e) Residential treatment;

(f) Partial hospitalization;

(g) Intensive outpatient treatment;

(h) Support for housing, benefits, education, and employment; and

(i) Periodic court review.

(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 who is acting as a participating physician as defined in RCW 18.71A.010, 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 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.

(6) A care coordinator may disclose information and records related to mental health services pursuant to RCW 70.02.230(2)(k) for purposes of implementing less restrictive alternative treatment.

(7) 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. 23. RCW 71.32.110 and 2021 c 287 s 11 are each amended to read as follows:

(1) For the purposes of this chapter, a principal, agent, professional person, or health care provider may seek a determination whether the principal is incapacitated or has regained capacity.

(2)(a) For the purposes of this chapter, no adult may be declared an incapacitated person except by:

(i) A court, if the request is made by the principal or the principal's agent;

(ii) One mental health professional or substance use disorder professional and one health care provider; or

(iii) Two health care providers.

(b) One of the persons making the determination under (a)(ii) or (iii) of this subsection must be a psychiatrist, physician assistant working with a ((~~supervising~~)) psychiatrist who is acting as a participating physician as defined in RCW 18.71A.010, psychologist, or a psychiatric advanced registered nurse practitioner.

(3) When a professional person or health care provider requests a capacity determination, he or she shall promptly inform the principal that:

(a) A request for capacity determination has been made; and

(b) The principal may request that the determination be made by a court.

(4) At least one mental health professional, substance use disorder professional, or health care provider must personally examine the principal prior to making a capacity determination.

(5)(a) When a court makes a determination whether a principal has capacity, the court shall, at a minimum, be informed by the testimony of one mental health

professional or substance use disorder professional familiar with the principal and shall, except for good cause, give the principal an opportunity to appear in court prior to the court making its determination.

(b) To the extent that local court rules permit, any party or witness may testify telephonically.

(6) When a court has made a determination regarding a principal's capacity and there is a subsequent change in the principal's condition, subsequent determinations whether the principal is incapacitated may be made in accordance with any of the provisions of subsection (2) of this section.

Sec. 24. RCW 71.32.140 and 2021 c 287 s 13 are each amended to read as follows:

(1) A principal who:

(a) Chose not to be able to revoke his or her directive during any period of incapacity;

(b) Consented to voluntary admission to inpatient behavioral health treatment, or authorized an agent to consent on the principal's behalf; and

(c) At the time of admission to inpatient treatment, refuses to be admitted, may only be admitted into inpatient behavioral health treatment under subsection (2) of this section.

(2) A principal may only be admitted to inpatient behavioral health treatment under his or her directive if, prior to admission, a member of the treating facility's professional staff who is a physician, physician assistant, or psychiatric advanced registered nurse practitioner:

(a) Evaluates the principal's mental condition, including a review of reasonably available psychiatric and psychological history, diagnosis, and treatment needs, and determines, in conjunction with another health care provider, mental health professional, or substance use disorder professional, that the principal is incapacitated;

(b) Obtains the informed consent of the agent, if any, designated in the directive;

(c) Makes a written determination that the principal needs an inpatient evaluation or is in need of inpatient treatment and that the evaluation or treatment cannot be accomplished in a less restrictive setting; and

(d) Documents in the principal's medical record a summary of the physician's, physician assistant's, or psychiatric advanced registered nurse practitioner's findings and recommendations for treatment or evaluation.

(3) In the event the admitting physician is not a psychiatrist, the admitting physician assistant is not ((~~supervised by~~)) working with a psychiatrist who is acting as a participating physician as defined in RCW 18.71A.010, or the advanced registered nurse practitioner is not a psychiatric advanced registered nurse practitioner, the principal shall receive a complete behavioral health assessment by a mental health professional or substance use disorder professional within 24 hours of admission to determine the continued need for inpatient evaluation or treatment.

(4)(a) If it is determined that the principal has capacity, then the principal may only be admitted to, or remain in, inpatient treatment if he or she consents at the time, is admitted for family-initiated treatment under chapter 71.34 RCW, or is detained under the involuntary treatment provisions of chapter 71.05 or 71.34 RCW.

(b) If a principal who is determined by two health care providers or one mental health professional or substance use disorder professional and one health care provider to be incapacitated continues to refuse inpatient treatment, the principal may immediately seek injunctive relief for release from the facility.

(5) If, at the end of the period of time that the principal or the principal's agent, if any, has consented to voluntary inpatient treatment, but no more than 14 days after admission, the principal has not regained capacity or has regained capacity but refuses to consent to remain for additional treatment, the principal must be released during reasonable daylight hours, unless detained under chapter 71.05 or 71.34 RCW.

(6)(a) Except as provided in (b) of this subsection, any principal who is voluntarily admitted to inpatient behavioral health treatment under this chapter shall have all the rights provided to individuals who are voluntarily admitted to inpatient treatment under chapter 71.05, 71.34, or 72.23 RCW.

(b) Notwithstanding RCW 71.05.050 regarding consent to inpatient treatment for a specified length of time, the choices an incapacitated principal expressed in his or her directive shall control, provided, however, that a principal who takes action demonstrating a desire to be discharged, in addition to making statements requesting to be discharged, shall be discharged, and no principal shall be restrained in any way in order to prevent his or her discharge. Nothing in this subsection shall be construed to prevent detention and evaluation for civil commitment under chapter 71.05 RCW.

(7) Consent to inpatient admission in a directive is effective only while the professional person, health care provider, and health care facility are in substantial compliance with the material provisions of the directive related to inpatient treatment.

Sec. 25. RCW 71.32.250 and 2021 c 287 s 18 are each amended to read as follows:

(1) If a principal who is a resident of a long-term care facility is admitted to inpatient behavioral health treatment pursuant to his or her directive, the principal shall be allowed to be readmitted to the same long-term care facility as if his or her inpatient admission had been for a physical condition on the same basis that the principal would be readmitted under state or federal statute or rule when:

(a) The treating facility's professional staff determine that inpatient behavioral health treatment is no longer medically necessary for the resident. The determination shall be made in writing by a psychiatrist, physician assistant working with a ((~~supervising~~)) psychiatrist <u>who is acting as a participating physician as defined in RCW 18.71A.010</u>, or a psychiatric advanced registered nurse practitioner, or (i) one physician and a mental health professional or substance use disorder professional; (ii) one physician assistant and a mental health professional or substance use disorder professional; or (iii) one psychiatric advanced registered nurse practitioner and a mental health professional or substance use disorder professional; or

(b) The person's consent to admission in his or her directive has expired.

(2)(a) If the long-term care facility does not have a bed available at the time of discharge, the treating facility may discharge the resident, in consultation with the resident and agent if any, and in accordance with a medically appropriate discharge plan, to another long-term care facility.

(b) This section shall apply to inpatient behavioral health treatment admission of long-term care facility residents, regardless of whether the admission is directly from a facility, hospital emergency room, or other location.

(c) This section does not restrict the right of the resident to an earlier release from the inpatient treatment facility. This section does not restrict the right of a long-term care facility to initiate transfer or discharge of a resident who is readmitted pursuant to this section, provided that the facility has complied with the laws governing the transfer or discharge of a resident.

(3) The joint legislative audit and review committee shall conduct an evaluation of the operation and impact of this section. The committee shall report its findings to the appropriate committees of the legislature by December 1, 2004.

Sec. 26. RCW 71.34.020 and 2023 c 433 s 12 are each amended to read as follows:

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

(1) "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.

(2) "Adolescent" means a minor thirteen years of age or older.

(3) "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.

(4) "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.

(5) "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.

(6) "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.

(7) "Authority" means the Washington state health care authority.

(8) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(9) "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.

(10) "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.

(11) "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.

(12) "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.

(13) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms.

(14) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105.

(15) "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, or to determine the need for involuntary commitment of an individual.

(16) "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.

(17) "Department" means the department of social and health services.

(18) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(19) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter.

(20) "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 <u>who is acting as a participating physician as defined in RCW 18.71A.010</u>, 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.

(21) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

(22) "Director" means the director of the authority.

(23) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(24) "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.

(25) "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.

(26) "Gravely disabled minor" means a minor who, as a result of a behavioral health disorder, (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.

(27) "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.

(28) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.34.910.

(29) "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 substance use disorder treatment facility, or in confinement as a result of a criminal conviction.

(30) "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.

(31)(a) "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 withdrawal management and stabilization facility for minors, or approved substance use disorder treatment program for minors.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "inpatient treatment" has the meaning included in (a) of this

subsection and any other residential treatment facility licensed under chapter 71.12 RCW.

(32) "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.

(33) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter.

(34) "Kinship caregiver" has the same meaning as in RCW 74.13.031(((~~(19)(a)~~))) (22)(a).

(35) "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.

(36) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor as a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.34.755, including residential treatment.

(37) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(38) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a minor 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 minor upon another individual, 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 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.

(39) "Managed care organization" has the same meaning as provided in RCW 71.24.025.

(40) "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.

(41) "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 disability, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(42) "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.

(43) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a

((~~supervising~~)) psychiatrist who is acting as a participating physician as defined in RCW 18.71A.010, psychologist, psychiatric nurse, social worker, and such other mental health professionals as defined by rules adopted by the secretary of the department of health under this chapter.

(44) "Minor" means any person under the age of eighteen years.

(45) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified behavioral health agencies as identified by RCW 71.24.025.

(46)(a) "Parent" has the same meaning as defined in RCW 26.26A.010, including either parent if custody is shared under a joint custody agreement, or a person or agency judicially appointed as legal guardian or custodian of the child.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "parent" also includes a person to whom a parent defined in (a) of this subsection has given a signed authorization to make health care decisions for the adolescent, a stepparent who is involved in caring for the adolescent, a kinship caregiver who is involved in caring for the adolescent, or another relative who is responsible for the health care of the adolescent, who may be required to provide a declaration under penalty of perjury stating that he or she is a relative responsible for the health care of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises between individuals authorized to act as a parent for the purpose of RCW 71.34.600 through 71.34.670, the disagreement must be resolved according to the priority established under RCW 7.70.065(2)(a).

(47) "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.

(48) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW.

(49) "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.

(50) "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 withdrawal management and stabilization facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(51) "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.

(52) "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.

(53) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(54) "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.

(55) "Release" means legal termination of the commitment under the provisions of this chapter.

(56) "Resource management services" has the meaning given in chapter 71.24 RCW.

(57) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(58) "Secretary" means the secretary of the department or secretary's designee.

(59) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health.

(60) "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.

(61) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure withdrawal management and stabilization 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.

(62) "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.

(63) "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.

(64) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW.

(65) "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.

(66) "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.

(67) "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.

(68) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

Sec. 27. RCW 71.34.020 and 2023 c 433 s 13 are each amended to read as follows:

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

(1) "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.

(2) "Adolescent" means a minor thirteen years of age or older.

(3) "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.

(4) "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.

(5) "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.

(6) "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.

(7) "Authority" means the Washington state health care authority.

(8) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(9) "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.

(10) "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.

(11) "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.

(12) "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.

(13) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms.

(14) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105.

(15) "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, or to determine the need for involuntary commitment of an individual.

(16) "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.

(17) "Department" means the department of social and health services.

(18) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(19) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter.

(20) "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 who is acting as a participating physician as defined in RCW 18.71A.010, 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.

(21) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

(22) "Director" means the director of the authority.

(23) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(24) "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.

(25) "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.

(26) "Gravely disabled minor" means a minor who, as a result of a behavioral health disorder, (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 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.

(27) "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.

(28) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.34.910.

(29) "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 substance use disorder treatment facility, or in confinement as a result of a criminal conviction.

(30) "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.

(31)(a) "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 withdrawal management and stabilization facility for minors, or approved substance use disorder treatment program for minors.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "inpatient treatment" has the meaning included in (a) of this subsection and any other residential treatment facility licensed under chapter 71.12 RCW.

(32) "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.

(33) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter.

(34) "Kinship caregiver" has the same meaning as in RCW 74.13.031(((~~(19)(a)~~))) (22)(a).

(35) "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.

(36) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor as a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.34.755, including residential treatment.

(37) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(38) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a minor 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 minor upon another individual, as evidenced by behavior which has caused harm, substantial pain, or which places another person or persons in reasonable fear of harm to themselves or others; or (iii) physical harm will be inflicted by 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.

(39) "Managed care organization" has the same meaning as provided in RCW 71.24.025.

(40) "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.

(41) "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 disability, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(42) "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.

(43) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a ((~~supervising~~)) psychiatrist who is acting as a participating physician as defined in RCW 18.71A.010, psychologist, psychiatric nurse, social worker, and such other mental health professionals as defined by rules adopted by the secretary of the department of health under this chapter.

(44) "Minor" means any person under the age of eighteen years.

(45) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified behavioral health agencies as identified by RCW 71.24.025.

(46)(a) "Parent" has the same meaning as defined in RCW 26.26A.010, including either parent if custody is shared under a joint custody agreement, or a person or agency judicially appointed as legal guardian or custodian of the child.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "parent" also includes a person to whom a parent defined in (a) of this subsection has given a signed authorization to make health care decisions for the adolescent, a stepparent who is involved in caring for the adolescent, a kinship caregiver who is involved in caring for the adolescent, or another relative who is responsible for the health care of the adolescent, who may be required to provide a declaration under penalty of perjury stating that he or she is a relative responsible for the health care of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises between individuals authorized to act as a parent for the purpose of RCW 71.34.600 through 71.34.670, the disagreement must be resolved according to the priority established under RCW 7.70.065(2)(a).

(47) "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.

(48) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW.

(49) "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.

(50) "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 withdrawal management and stabilization facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(51) "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.

(52) "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.

(53) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(54) "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.

(55) "Release" means legal termination of the commitment under the provisions of this chapter.

(56) "Resource management services" has the meaning given in chapter 71.24 RCW.

(57) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(58) "Secretary" means the secretary of the department or secretary's designee.

(59) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health.

(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) "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.

(62) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure withdrawal management and stabilization 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.

(63) "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.

(64) "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.

(65) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW.

(66) "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.

(67) "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.

(68) "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.

(69) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

Sec. 28. RCW 71.34.750 and 2020 c 302 s 94 and 2020 c 185 s 6 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 withdrawal management and stabilization 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. If the petition is for substance use disorder treatment, the petition may be signed by a substance use disorder professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by or collaborating with 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 or collaborating with 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. 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 RCW 71.34.735, 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 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.

(b) If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

(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 three days prior to the expiration of the previous one hundred eighty-day commitment order.

Sec. 29. RCW 71.34.750 and 2020 c 302 s 95 and 2020 c 185 s 7 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 withdrawal management and stabilization 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. If the petition is for substance use disorder treatment, the petition may be signed by a substance use disorder professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by or collaborating with 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 or collaborating with 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. 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 RCW 71.34.735, 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 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.

(b) If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

(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 three days prior to the expiration of the previous one hundred eighty-day commitment order.

Sec. 30. RCW 71.34.755 and 2022 c 210 s 21 are each amended 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, a substance use disorder evaluation, or both;

(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;

(g) Consultation about the formation of a mental health advance directive under chapter 71.32 RCW; and

(h) 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 use disorder counseling;

(e) Residential treatment;

(f) Partial hospitalization;

(g) Intensive outpatient treatment;

(h) Support for housing, benefits, education, and employment; and

(i) Periodic court review.

(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 who is acting as a participating physician as defined in RCW 18.71A.010, 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) A care coordinator may disclose information and records related to mental health services pursuant to RCW 70.02.230(2)(k) for purposes of implementing less restrictive alternative treatment.

(7) 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. 31. RCW 74.09.497 and 2017 c 226 s 2 are each amended to read as follows:

(1) By August 1, 2017, the authority must complete a review of payment codes available to health plans and providers related to primary care and behavioral health. The review must include adjustments to payment rules if needed to facilitate bidirectional integration. The review must involve stakeholders and include consideration of the following principles to the extent allowed by federal law:

(a) Payment rules must allow professionals to operate within the full scope of their practice;

(b) Payment rules should allow medically necessary behavioral health services for covered patients to be provided in any setting;

(c) Payment rules should allow medically necessary primary care services for covered patients to be provided in any setting;

(d) Payment rules and provider communications related to payment should facilitate integration of physical and behavioral health services through multifaceted models, including primary care behavioral health, whole-person care in behavioral health, collaborative care, and other models;

(e) Payment rules should be designed liberally to encourage innovation and ease future transitions to more integrated models of payment and more integrated models of care;

(f) Payment rules should allow health and behavior codes to be reimbursed for all patients in primary care settings as provided by any licensed behavioral health professional operating within their scope of practice, including but not limited to psychiatrists, psychologists, psychiatric advanced registered nurse professionals, physician assistants working with a ((~~supervising~~)) psychiatrist who is acting as a participating physician as defined in RCW 18.71A.010, psychiatric nurses, mental health counselors, social workers, chemical dependency professionals, chemical dependency professional trainees, marriage and family therapists, and mental health counselor associates under the supervision of a licensed clinician;

(g) Payment rules should allow health and behavior codes to be reimbursed for all patients in behavioral health settings as provided by any licensed health care provider within the provider's scope of practice;

(h) Payment rules which limit same-day billing for providers using the same provider number, require prior authorization for low-level or routine behavioral health care, or prohibit payment when the patient is not present should be implemented only when consistent with national coding conventions and consonant with accepted best practices in the field.

(2) Concurrent with the review described in subsection (1) of this section, the authority must create matrices listing the following codes available for provider payment through medical assistance programs: All behavioral health-related codes; and all physical health-related codes available for payment when provided in licensed behavioral health agencies. The authority must clearly explain applicable payment rules in order to increase awareness among providers, standardize billing practices, and reduce common and avoidable billing errors. The authority must disseminate this information in a manner calculated to maximally reach all relevant plans and providers. The authority must update the provider billing guide to maintain consistency of information.

(3) The authority must inform the governor and relevant committees of the legislature by letter of the steps taken pursuant to this section and results achieved once the work has been completed.

Sec. 32. RCW 9.41.010 and 2023 c 295 s 2, 2023 c 262 s 1, and 2023 c 162 s 2 are each reenacted and amended to read as follows:

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

(1) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(2)(a) "Assault weapon" means:

(i) Any of the following specific firearms regardless of which company produced and manufactured the firearm:

AK-47 in all forms
AK-74 in all forms
Algimec AGM-1 type semiautomatic
American Arms Spectre da semiautomatic carbine
AR15, M16, or M4 in all forms
AR 180 type semiautomatic
Argentine L.S.R. semiautomatic
Australian Automatic
Auto-Ordnance Thompson M1 and 1927 semiautomatics
Barrett .50 cal light semiautomatic
Barrett .50 cal M87
Barrett .50 cal M107A1
Barrett REC7
Beretta AR70/S70 type semiautomatic
Bushmaster Carbon 15
Bushmaster ACR
Bushmaster XM-15
Bushmaster MOE
Calico models M100 and M900
CETME Sporter
CIS SR 88 type semiautomatic
Colt CAR 15
Daewoo K-1
Daewoo K-2
Dragunov semiautomatic
Fabrique Nationale FAL in all forms
Fabrique Nationale F2000
Fabrique Nationale L1A1 Sporter
Fabrique Nationale M249S
Fabrique Nationale PS90
Fabrique Nationale SCAR
FAMAS .223 semiautomatic
Galil
Heckler & Koch G3 in all forms

Heckler & Koch HK-41/91
Heckler & Koch HK-43/93
Heckler & Koch HK94A2/3
Heckler & Koch MP-5 in all forms
Heckler & Koch PSG-1
Heckler & Koch SL8
Heckler & Koch UMP
Manchester Arms Commando MK-45
Manchester Arms MK-9
SAR-4800
SIG AMT SG510 in all forms
SIG SG550 in all forms
SKS
Spectre M4
Springfield Armory BM-59
Springfield Armory G3
Springfield Armory SAR-8
Springfield Armory SAR-48
Springfield Armory SAR-3
Springfield Armory M-21 sniper
Springfield Armory M1A
Smith & Wesson M&P 15
Sterling Mk 1
Sterling Mk 6/7
Steyr AUG
TNW M230
FAMAS F11
Uzi 9mm carbine/rifle

(ii) A semiautomatic rifle that has an overall length of less than 30 inches;

(iii) A conversion kit, part, or combination of parts, from which an assault weapon can be assembled or from which a firearm can be converted into an assault weapon if those parts are in the possession or under the control of the same person; or

(iv) A semiautomatic, center fire rifle that has the capacity to accept a detachable magazine and has one or more of the following:

(A) A grip that is independent or detached from the stock that protrudes conspicuously beneath the action of the weapon. The addition of a fin attaching the grip to the stock does not exempt the grip if it otherwise resembles the grip found on a pistol;

(B) Thumbhole stock;

(C) Folding or telescoping stock;

(D) Forward pistol, vertical, angled, or other grip designed for use by the nonfiring hand to improve control;

(E) Flash suppressor, flash guard, flash eliminator, flash hider, sound suppressor, silencer, or any item designed to reduce the visual or audio signature of the firearm;

(F) Muzzle brake, recoil compensator, or any item designed to be affixed to the barrel to reduce recoil or muzzle rise;

(G) Threaded barrel designed to attach a flash suppressor, sound suppressor, muzzle break, or similar item;

(H) Grenade launcher or flare launcher; or

(I) A shroud that encircles either all or part of the barrel designed to shield the bearer's hand from heat, except a solid forearm of a stock that covers only the bottom of the barrel;

(v) A semiautomatic, center fire rifle that has a fixed magazine with the capacity to accept more than 10 rounds;

(vi) A semiautomatic pistol that has the capacity to accept a detachable magazine and has one or more of the following:

(A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer;

(B) A second hand grip;

(C) A shroud that encircles either all or part of the barrel designed to shield the bearer's hand from heat, except a solid forearm of a stock that covers only the bottom of the barrel; or

(D) The capacity to accept a detachable magazine at some location outside of the pistol grip;

(vii) A semiautomatic shotgun that has any of the following:

(A) A folding or telescoping stock;

(B) A grip that is independent or detached from the stock that protrudes conspicuously beneath the action of the weapon. The addition of a fin attaching the grip to the stock does not exempt the grip if it otherwise resembles the grip found on a pistol;

(C) A thumbhole stock;

(D) A forward pistol, vertical, angled, or other grip designed for use by the nonfiring hand to improve control;

(E) A fixed magazine in excess of seven rounds; or

(F) A revolving cylinder shotgun.

(b) For the purposes of this subsection, "fixed magazine" means an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.

(c) "Assault weapon" does not include antique firearms, any firearm that has been made permanently inoperable, or any firearm that is manually operated by bolt, pump, lever, or slide action.

(3) "Assemble" means to fit together component parts.

(4) "Barrel length" means the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(5) "Bump-fire stock" means a butt stock designed to be attached to a semiautomatic firearm with the effect of increasing the rate of fire achievable with the semiautomatic firearm to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate reciprocating action that facilitates repeated activation of the trigger.

(6) "Conviction" or "convicted" means, whether in an adult court or adjudicated in a juvenile court, that a plea of guilty has been accepted or a verdict of guilty has been filed, or a finding of guilt has been entered, notwithstanding the pendency of any future proceedings including, but not limited to, sentencing or disposition, posttrial 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.

(7) "Crime of violence" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, residential burglary, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1996, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under (a) or (b) of this subsection.

(8) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

(9) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(10) "Detachable magazine" means an ammunition feeding device that can be loaded or unloaded while detached from a firearm and readily inserted into a firearm.

(11) "Distribute" means to give out, provide, make available, or deliver a firearm or large capacity magazine to any person in this state, with or without consideration, whether the distributor is in-state or out-of-state. "Distribute" includes, but is not limited to, filling orders placed in this state, online or otherwise. "Distribute" also includes causing a firearm or large capacity magazine to be delivered in this state.

(12) "Domestic violence" has the same meaning as provided in RCW 10.99.020.

(13) "Family or household member" has the same meaning as in RCW 7.105.010.

(14) "Federal firearms dealer" means a licensed dealer as defined in 18 U.S.C. Sec. 921(a)(11).

(15) "Federal firearms importer" means a licensed importer as defined in 18 U.S.C. Sec. 921(a)(9).

(16) "Federal firearms manufacturer" means a licensed manufacturer as defined in 18 U.S.C. Sec. 921(a)(10).

(17) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

(18) "Felony firearm offender" means a person who has previously been convicted or found not guilty by reason of insanity in this state of any felony firearm offense. A person is not a felony firearm offender under this chapter if any and all qualifying offenses have been the subject of an expungement, pardon, annulment, certificate, or rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(19) "Felony firearm offense" means:

(a) Any felony offense that is a violation of this chapter;

(b) A violation of RCW 9A.36.045;

(c) A violation of RCW 9A.56.300;

(d) A violation of RCW 9A.56.310;

(e) Any felony offense if the offender was armed with a firearm in the commission of the offense.

(20) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. For the purposes of RCW 9.41.040, "firearm" also includes frames and receivers. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

(21)(a) "Frame or receiver" means a part of a firearm that, when the complete firearm is assembled, is visible from the exterior and provides housing or a structure designed to hold or integrate one or more fire control components, even if pins or other attachments are required to connect the fire control components. Any such part identified with a serial number shall be presumed, absent an official determination by the bureau of alcohol, tobacco, firearms, and explosives or other reliable evidence to the contrary, to be a frame or receiver.

(b) For purposes of this subsection, "fire control component" means a component necessary for the firearm to initiate, complete, or continue the firing sequence, including any of the following: Hammer, bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing pin, striker, or slide rails.

(22) "Gun" has the same meaning as firearm.

(23) "Import" means to move, transport, or receive an item from a place outside the territorial limits of the state of Washington to a place inside the territorial limits of the state of Washington. "Import" does not mean situations where an individual possesses a large capacity magazine or assault weapon when departing from, and returning to, Washington state, so long as the individual is returning to Washington in possession of the same large capacity magazine or assault weapon the individual transported out of state.

(24) "Intimate partner" has the same meaning as provided in RCW 7.105.010.

(25) "Large capacity magazine" means an ammunition feeding device with the capacity to accept more than 10 rounds of ammunition, or any conversion kit, part, or combination of parts, from which such a device can be assembled if those parts are in possession of or under the control of the same person, but shall not be construed to include any of the following:

(a) An ammunition feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of ammunition;

(b) A 22 caliber tube ammunition feeding device; or

(c) A tubular magazine that is contained in a lever-action firearm.

(26) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

(27) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

(28) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

(29) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

(30) "Loaded" means:

(a) There is a cartridge in the chamber of the firearm;

(b) Cartridges are in a clip that is locked in place in the firearm;

(c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver;

(d) There is a cartridge in the tube or magazine that is inserted in the action; or

(e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.

(31) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

(32) "Manufacture" means, with respect to a firearm or large capacity magazine, the fabrication, making, formation, production, or construction of a firearm or large capacity magazine, by manual labor or by machinery.

(33) "Mental health professional" means a psychiatrist, psychologist, or physician assistant working with a ((~~supervising~~)) psychiatrist <u>who is acting as a participating physician as defined in RCW 18.71A.010</u>, psychiatric advanced registered nurse practitioner, psychiatric nurse, social worker, mental health counselor, marriage and family therapist, or such other mental health professionals as may be defined in statute or by rules adopted by the department of health pursuant to the provisions of chapter 71.05 RCW.

(34) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

(35) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

(36) "Pistol" means any firearm with a barrel less than 16 inches in length, or is designed to be held and fired by the use of a single hand.

(37) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(38) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

(39) "Secure gun storage" means:

(a) A locked box, gun safe, or other secure locked storage space that is designed to prevent unauthorized use or discharge of a firearm; and

(b) The act of keeping an unloaded firearm stored by such means.

(40) "Semiautomatic" means any firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(41)(a) "Semiautomatic assault rifle" means any rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(b) "Semiautomatic assault rifle" does not include antique firearms, any firearm that has been made permanently inoperable, or any firearm that is manually operated by bolt, pump, lever, or slide action.

(42) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least 10 years;

(c) Child molestation in the second degree;

(d) Incest when committed against a child under age 14;

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

(k) 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;

(l) 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;

(m) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(o) Any felony offense in effect at any time prior to June 6, 1996, that is comparable to a serious offense, 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 serious offense;

(p) Any felony conviction under RCW 9.41.115; or

(q) Any felony charged under RCW 46.61.502(6) or 46.61.504(6).

(43) "Sex offense" has the same meaning as provided in RCW 9.94A.030.

(44) "Short-barreled rifle" means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than 26 inches.

(45) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than 26 inches.

(46) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(47) "Substance use disorder professional" means a person certified under chapter 18.205 RCW.

(48) "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans. "Transfer" does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of such a firearm by, any of that entity's employees or agents, defined to include volunteers participating in an honor guard, for lawful purposes in the ordinary course of business.

(49) "Undetectable firearm" means any firearm that is not as detectable as 3.7 ounces of 17-4 PH stainless steel by walk-through metal detectors or magnetometers commonly used at airports or any firearm where the barrel, the slide or cylinder, or the frame or receiver of the firearm would not generate an image that accurately depicts the shape of the part when examined by the types of X-ray machines commonly used at airports.

(50)(a) "Unfinished frame or receiver" means a frame or receiver that is partially complete, disassembled, or inoperable, that: (i) Has reached a stage in manufacture where it may readily be completed, assembled, converted, or restored to a functional state; or (ii) is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once finished or completed, including without limitation products marketed or sold to the public as an 80 percent frame or receiver or unfinished frame or receiver.

(b) For purposes of this subsection:

(i) "Readily" means a process that is fairly or reasonably efficient, quick, and easy, but not necessarily the most efficient, speedy, or easy process. Factors relevant in making this determination, with no single one controlling, include the following: (A) Time, i.e., how long it takes to finish the process; (B) ease, i.e., how difficult it is to do so; (C) expertise, i.e., what knowledge and skills are required; (D) equipment, i.e., what tools are required; (E) availability, i.e., whether additional parts are required, and how easily they can be obtained; (F) expense, i.e., how much it costs; (G) scope, i.e., the extent to which the subject of the process must be changed to finish it; and (H) feasibility, i.e., whether the process would damage or destroy the subject of the process, or cause it to malfunction.

(ii) "Partially complete," as it modifies frame or receiver, means a forging, casting, printing, extrusion, machined body, or similar article that has reached a stage in manufacture where it is clearly identifiable as an unfinished component part of a firearm.

(51) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

(52) "Untraceable firearm" means any firearm manufactured after July 1, 2019, that is not an antique firearm and that cannot be traced by law enforcement by means of a serial number affixed to the firearm by a federal firearms manufacturer, federal firearms importer, or federal firearms dealer in compliance with all federal laws and regulations.

NEW SECTION. **Sec. 33.** Sections 1 through 8, 10 through 18, 20 through 26, 28, and 30 through 32 of this act take effect January 1, 2025.

NEW SECTION. **Sec. 34.** Section 18 of this act expires when section 2, chapter 210, Laws of 2022 takes effect.

NEW SECTION. **Sec. 35.** Section 19 of this act takes effect when section 18 of this act expires.

NEW SECTION. **Sec. 36.** Section 26 of this act expires when section 13, chapter 433, Laws of 2023 takes effect.

NEW SECTION. **Sec. 37.** Section 27 of this act takes effect when section 26 of this act expires.

NEW SECTION. **Sec. 38.** Section 28 of this act expires July 1, 2026.

NEW SECTION. **Sec. 39.** Section 29 of this act takes effect July 1, 2026.

Passed by the House February 9, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 63

[Substitute House Bill 2048]

DOMESTIC VIOLENCE—SUPERVISION—CRIMINAL SENTENCING

AN ACT Relating to supervision of domestic violence in criminal sentencing; amending RCW 9.94A.501; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes the ongoing and increasing epidemic of domestic violence. Even when a perpetrator is held accountable by our criminal justice system, including by total confinement in a state correctional facility, many victims of domestic violence face the ongoing challenge of realizing physical and psychological safety in their daily lives. One mechanism by which the state supports survivors is through community supervision of defendants convicted of certain domestic violence offenses upon their release back into our communities.

The legislature acknowledges that the department of corrections serves a critical function by operating as the state agency entrusted with supervision of certain defendants. It is imperative that in every instance when a Washington court orders supervision for a defendant convicted of a qualifying domestic violence offense, the department of corrections undertakes its supervisory role. Accordingly, the legislature recognizes that certain changes must be made to the Washington sentencing reform act to ensure that the department of corrections' supervisory obligations are clear.

NEW SECTION. **Sec. 2.** (1) The department of corrections shall conduct an internal audit and report on its supervisory obligations under RCW 9.94A.501 (1)(b) and (4)(e). The audit and report shall, for the period identified in subsection (2) of this section: (a) Identify the number of individuals for whom a Washington court ordered supervision by the department under RCW 9.94A.501(1)(b) and (4)(e); (b) identify the number of individuals within the number identified in (a) of this subsection for whom supervision by the department was ordered but supervision did not occur or has not occurred; and (c) provide the reason or reasons why the department did not undertake supervision of an individual if the numbers identified in (a) and (b) of this subsection are not the same.

(2) The audit and report required by this section must cover the period between July 1, 2022, and June 30, 2024.

(3) The department shall report the findings of its audit to the appropriate committees of the legislature by December 1, 2024.

(4) This section expires December 31, 2024.

Sec. 3. RCW 9.94A.501 and 2021 c 242 s 2 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, 9.94A.670, 9.94A.711, or 9.94A.695;

(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 (9), or 9.94A.702, except in cases where the court has imposed an exceptional term of community custody under RCW 9.94A.535.

(9) The period of time the department is authorized to supervise an offender under this section may be reduced by the earned award of supervision compliance credit pursuant to RCW 9.94A.717.

Passed by the House February 6, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 64

[Substitute House Bill 2086]

OFFICE OF INDEPENDENT INVESTIGATIONS—VARIOUS PROVISIONS

AN ACT Relating to updating processes of the office of independent investigations by changing authority to obtain and share investigative information and aligning with current operations and practices; amending RCW 43.102.010, 43.102.050, 43.102.080, 43.102.100, 43.102.120, and 43.102.800; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.102.010 and 2021 c 318 s 201 are each amended to read as follows:

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

(1) "Advisory board" means the office of independent investigations advisory board.

(2) "Deadly force" has the meaning provided in RCW 9A.16.010.

(3) "Director" means the director of the office of independent investigations.

(4) "Great bodily harm" has the meaning provided in RCW 9A.04.110.

(5) "In-custody" refers to a person who is under the physical control of a general authority Washington law enforcement agency or a limited authority Washington law enforcement agency as defined in RCW 10.93.020 or a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(6) "Independent investigation team" means a team of qualified and certified peace officer investigators, civilian crime scene specialists, and other representatives who operate independently of any involved agency to conduct investigations of police deadly force incidents. An independent investigation team may be comprised of multiple law enforcement agencies who jointly investigate police use of force incidents in their geographical regions or may be a single law enforcement agency, provided it is not the involved agency.

(7) "Involved agency" means a general authority Washington law enforcement agency or limited authority Washington law enforcement agency, as defined in RCW 10.93.020, that employs or supervises the officer or officers who are an involved officer as defined in this section, or an agency responsible for a city, county, or regional adult or juvenile institution, correctional, jail,

holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(8) "Involved officer" means one of the following persons who is involved in an incident as an actor or custodial officer in which the act or omission by the individual is within the scope of the jurisdiction of the office as defined in this chapter:

(a) A general authority Washington peace officer, specially commissioned Washington peace officer, or limited authority Washington peace officer, as defined in RCW 10.93.020, whether on or off duty if he or she is exercising his or her authority as a peace officer; or

(b) An individual while employed in a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(9) "Office" means the office of independent investigations.

(10) "Substantial bodily harm" has the same meaning as in RCW 9A.04.110.

(11) "911 communications center" for purposes of this chapter means a public safety answering point or any other entity that captures and maintains data that is utilized in a 911 emergency communications system, as defined in RCW 38.52.010.

Sec. 2. RCW 43.102.050 and 2021 c 318 s 304 are each amended to read as follows:

(1) The director shall:

(a) Oversee the duties and functions of the office and investigations conducted by the office pursuant to this chapter;

(b) Hire or contract with investigators and other personnel as the director considers necessary to perform investigations conducted by the office, and other duties as required, under this chapter;

(c) Plan and provide trainings for office personnel, including contracted investigators, that promote recognition of and respect for, the diverse races, ethnicities, and cultures of the state;

(d) Plan and provide training for advisory board members including training to utilize an antiracist lens in their duties as advisory board members;

(e) Publish reports of investigations conducted under this chapter;

(f) Enter into contracts and memoranda of understanding as necessary to implement the responsibilities of the office under this chapter;

(g) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(h) Develop the nondisclosure agreement required in RCW 43.102.130; and

(i) Perform the duties and exercise the powers that are set out in this chapter, as well as any additional duties and powers that may be prescribed.

(2) No later than February 1, 2022, in consultation with the advisory board, the director shall develop a plan to implement:

(a) Regional investigation teams and a system for promptly responding to incidents of deadly force under the jurisdiction of the office. The regional investigation teams should:

(i) Allow for prompt response to the incident requiring investigation; and

(ii) Include positions for team members who are not required to be designated as limited authority Washington peace officers;

(b) A system and requirements for involved agencies to notify the office of any incident under the jurisdiction of the office, which must include direction to agencies as to what incidents of force and injuries and other circumstances must be reported to the office, including the timing of such reports, provided that any incident involving substantial bodily harm, great bodily harm, or death is reported to the office immediately in accordance with RCW 43.102.120;

(c) The process to conduct investigations of cases under the jurisdiction of the office including, but not limited to:

(i) The office intake process following notification of an incident by an involved agency;

(ii) The assessment and response to the notification of the incident by the office, including direction to and coordination with the independent investigation team;

(iii) Determination and deployment of necessary resources for the regional investigation teams to conduct the investigations;

(iv) Determination of any conflicts with office investigators or others involved in the investigation to ensure no investigator has an existing conflict with an assigned case;

(v) Protocol and direction to the involved agency;

(vi) Protocol and direction to the independent investigation team;

(vii) Protocol and guidelines for contacts and engagement with the involved agency; and

(viii) Protocol for finalizing the completed investigation and referral to the entity responsible for the prosecutorial decision, including communication with the family and public regarding the completion of the investigation;

(d) A plan for the office's interaction, communications, and responsibilities to: The involved officer; the individual who is the subject of the action by the involved officer that is the basis of the case under investigation, and their families; the public; and other interested parties or stakeholders. The plan must consider the following:

(i) A process for consultation, notifications, and communications with the person, family, or representative of any person who is the subject of the action by the involved officer that is the basis of the case under investigation;

(ii) Translation services which may be utilized through employees or contracted services;

(iii) Support to access assistance or services to the extent possible; and

(iv) A process for situations in which a tribal member is involved in the case that ensures consultation with the federally recognized tribe, and notification of the governor's office of Indian affairs within 24 hours in cases of deadly use of force;

(e) Training for employees and contractors of the office to begin prior to July 1, 2022; and

(f) Prioritization of cases for investigation.

(3) No later than December 1, ((~~2023~~)) 2025, in consultation with the advisory board, the director shall develop a proposal for training individuals who are nonlaw enforcement officers to conduct competent, thorough investigations of cases under the jurisdiction of the office. The proposal must establish a training plan with an objective that within five years of the date the office begins investigating deadly force cases the cases will be investigated by nonlaw

enforcement officers. The director shall report such proposal to the governor and legislature by December 1, ((~~2023~~)) 2025. Any proposal offered by the director must ensure investigations are high quality, thorough, and competent.

(4) The director, in consultation with the advisory board, shall implement a plan to review prior investigations of deadly force by an involved officer if new evidence is brought forth that was not included in the initial investigation and investigate if determined appropriate based on the review. The director must prioritize the review or investigation of ((~~cases occurring prior to July 1, 2022,~~)) prior investigations based on resources and other cases under investigation with the office. Incidents occurring after the date the office begins investigating cases will receive the highest priority for investigation.

Sec. 3. RCW 43.102.080 and 2021 c 318 s 308 are each amended to read as follows:

(1) The office has jurisdiction over, and is authorized to conduct investigations of, all cases and incidents as established within this section.

(2)(a) The director may cause an investigation to be conducted into any incident:

(i) Of a use of deadly force by an involved officer occurring after July 1, 2022, including any incident involving use of deadly force by an involved officer against or upon a person who is in-custody or out-of-custody; or

(ii) Involving prior investigations of deadly force by an involved officer if new evidence is brought forth that was not included in the initial investigation.

(b) This section applies only if, at the time of the incident:

(i) The involved officer was on duty; or

(ii) The involved officer was off duty but:

(A) Engaged in the investigation, pursuit, detention, or arrest of a person or otherwise exercising the powers of a general authority or limited authority Washington peace officer; or

(B) The incident involved equipment or other property issued to the official in relation to his or her duties.

(3) The director shall determine prioritization of investigations based on resources and other criteria which may be established in consultation with the advisory board. The director shall ensure that incidents occurring after the date the office begins investigating cases receive the highest priority for investigation.

(4) The investigation should include a review of the entire incident, including but not limited to events immediately preceding the incident that may have contributed to or influenced the outcome of the incident that are directly related to the incident under investigation.

(5) Upon receiving notification required in RCW 43.102.120 of an incident under the jurisdiction of the office, the director:

(a) May cause the incident to be investigated in accordance with this chapter;

(b) May determine investigation is not appropriate for reasons including, but not limited to, the case not being in the category of prioritized cases; or

(c) If the director determines that the incident is not within the office's jurisdiction to investigate, the director shall decline to investigate, and shall give notice of the fact to the involved agency.

(6) If the director determines the case is to be investigated the director will communicate the decision to investigate to the involved agency and will thereafter be the lead investigative body in the case and have priority over any other state or local agency investigating the incident or a case that is under the jurisdiction of the office. The director will implement the process developed pursuant to RCW 43.102.050 and conduct the appropriate investigation in accordance with the process.

(7) In conducting the investigation the office shall have access to, and copies of, reports and information necessary or related to the investigation in the custody and control of the involved agency, 911 emergency communication centers, and any law enforcement agency responding to the scene of the incident ((~~including~~)) as soon as possible. This includes, but is not limited to, voice or video recordings, body camera recordings, and officer notes, as well as disciplinary and administrative records except those that might be statements conducted as part of an administrative investigation related to the incident.

(8) The investigation shall be concluded within 120 days of acceptance of the case for investigation. If the office is not able to complete the investigation within 120 days, the director shall report to the advisory board the reasons for the delay.

Sec. 4. RCW 43.102.100 and 2021 c 318 s 310 are each amended to read as follows:

The office will conduct analysis of use of force and other data to the extent such data is available to the office. The director is authorized to enter into contracts or memoranda of understanding to access data as needed. If data is available, the office should, at a minimum, analyze and report annually: Analysis and research regarding any identified trends, patterns, or other situations identified by the data; and recommendations for improvements. After July 1, ((~~2024~~)) 2025, the office should also annually report recommendations, if any, for expanding the scope of investigations or jurisdiction of the office based on trends, data, or reports received by the agency.

Sec. 5. RCW 43.102.120 and 2021 c 318 s 402 are each amended to read as follows:

(1) ((~~Following notification by the director that the office will accept investigations of cases under its jurisdiction after July 1, 2022, an~~)) An involved agency shall notify the office of any incident by an involved officer in accordance with the requirements under RCW 43.102.050 and pursuant to this section.

(a) If the incident involves use of deadly force by an involved officer that results in death, substantial bodily harm, or great bodily harm the involved agency must immediately contact the office pursuant to the procedure established by the director once the involved agency personnel and other first responders have rendered the scene safe and provided or facilitated lifesaving first aid to persons at the scene who have life-threatening injuries. This requirement does not affect the duty of law enforcement under RCW 36.28A.445.

(b) In all other cases, the involved agency must notify the office of the incident pursuant to the procedure established by the director.

(2)(a) In any case that requires notice to the director under this section, the involved agency shall ensure that any officers or employees over which the involved agency has authority who are at the scene of the incident take all lawful measures necessary for the purposes of protecting, obtaining, or preserving evidence relating to the incident until an office investigator, or independent investigation team at the request of the office, takes charge of the scene.

(b) The primary focus of the involved agency must be the protection and preservation of evidence in order to maintain the integrity of the scene until the office investigator or independent investigation team arrives or otherwise provides direction regarding activities at the scene. The involved agency should ensure that evidence, including but not limited to the following is protected and preserved:

(i) Physical evidence that is at risk of being destroyed or disappearing and cannot be easily reconstructed, including evidence which may be degraded or tainted by human or environmental factors if left unprotected or unpreserved;

(ii) Identification and contact information for witnesses to the incident; and

(iii) Photographs and other methods of documenting the location of physical evidence and location and perspective of witnesses.

(3)(a) When the office investigator, or independent investigation team acting at the request of the office, arrives at the scene of an incident under the jurisdiction of the office, the involved agency will relinquish control of the scene to the office investigator or independent investigation team upon the request of the office investigator. The involved agency has a duty to comply with the requests of the office related to the investigation conducted pursuant to this chapter.

(b) Once the scene is relinquished, no member of the involved agency may participate in any way in the investigation, with the exception of the use of specialized equipment that is necessary for the investigation and where no alternative exists. If there is any equipment of the involved agency used in the investigation, steps must be taken to appropriately limit the role of any involved agency personnel in facilitating the use of that equipment or their engagement with the investigation.

(4) If an independent investigation team takes control of the scene at the request of the office, the independent investigation team shall relinquish control of the scene and investigation at the request of the office when the office is on the scene or otherwise provides notice that the office is taking control of the scene. The independent investigation team may continue to engage in the investigation conducted at the scene if requested to do so by the lead office investigator, director, or the director's designee. The involvement of the independent investigation team is limited to activities requested by the office and must terminate following the securing of the scene and any evidence preservation or other actions as determined necessary by the office at the scene. The independent investigation team may not continue to participate in the ongoing investigation.

(5)(a) No information about the ongoing independent investigation under the jurisdiction of the office may be shared with any member of the involved agency, except ((~~limited briefings given to the chief or sheriff of the involved agency about the progress of the investigation.~~)) as follows:

(i) Limited briefings given to the chief or sheriff of the involved agency about the progress of the investigation; or

(ii) Information essential to protect the safety of the community or the integrity of any ongoing, urgent criminal investigation; and

(iii) Sharing of the information will not impede the ongoing investigation being conducted by the office.

(b) No information provided under (a) of this subsection may be divulged to any involved officers or witness officers. If any information is disclosed pursuant to (a)(ii) of this subsection, the following must also occur:

(i) The office must document the exact information provided, to whom it was provided, and the reason it was provided;

(ii) The involved agency must agree in writing that no involved officer or witness officer will have access to the information other than what is released to the general public. Any press release containing information provided by the office pursuant to this section must be preapproved by the office; and

(iii) The person, family, or representative of any person who is the subject of the action by the involved officer that is under investigation by the office must be notified by the office that the information was provided and, as soon as possible without jeopardizing the integrity of any investigation, be provided with the information contained in (b)(i) and (ii) of this subsection.

(6) If the office declines to investigate a case, the authority and duty to investigate remains with the independent investigation team or local law enforcement authority with jurisdiction over the incident.

Sec. 6. RCW 43.102.800 and 2021 c 318 s 502 are each amended to read as follows:

(1) In consultation with the director, the advisory board shall assess whether the jurisdiction of the office should be expanded to conduct investigations of other types of incidents committed by involved officers, including but not limited to other types of in-custody deaths not involving use of force but otherwise involving criminal acts committed by involved officers as well as sexual assaults committed by involved officers, subject to the same standard under RCW 43.102.080(2)(b). The advisory board must consider available data and information on other types of in custody deaths not involving use of force but otherwise involving criminal acts committed by involved officers as well as other types of incidents, the capacity and resources of the office, and any modifications or additions to procedures and processes necessary for the office to conduct investigations of those incidents. The advisory board must consider the recommendations and counsel of the director when conducting the assessment under this section.

(2) At the request of the advisory board, the office shall conduct analysis of available data, including identified trends and patterns, and other information relevant to in-custody deaths involving criminal acts committed by involved officers, sexual assaults committed by involved officers, and other types of incidents as requested by the advisory board.

(3) The advisory board shall submit a report with related recommendations to the legislature and governor by November 1, 2023.

(4) For the purposes of this section, "in-custody death" means a death of an individual while under physical control of a general authority Washington law enforcement agency or a limited authority Washington law enforcement agency

as defined in RCW 10.93.020 or a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(5) This section expires July 1, ((~~2024~~)) 2025.

Passed by the House February 7, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 65

[Substitute House Bill 2091]
FALLEN FIREFIGHTER MEMORIAL

AN ACT Relating to establishing a fallen firefighter memorial; adding new sections to chapter 43.34 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature intends to establish a fallen firefighter memorial on the capitol campus grounds to recognize the sacrifice of firefighters who have died in the line of duty giving unselfish service to their communities and the state.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.34 RCW to read as follows:

(1) A memorial is established on the capitol campus to honor firefighters who have died in the line of duty. The design and construction of such a memorial must follow the major works requirements administered by the department of enterprise services.

(2) The state capitol committee, or any subcommittee thereof, must work with the department of natural resources and statewide organizations representing firefighters in its role reviewing the building of the fallen firefighter memorial.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.34 RCW to read as follows:

(1)(a) The fallen firefighter memorial account is created in the custody of the state treasurer. All receipts directed to the account from federal funds, gifts, or grants from private or public sectors, foundations, or other sources must be deposited into the account. Expenditures from the account may be used only for the design, siting, permitting, construction, maintenance, dedication, continuation, or creation of educational materials related to the placement of this memorial on the capitol campus. Only the department of natural resources, with the recommendation from the Washington state firefighter memorial foundation, 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.

(b) The purpose of the account is to support the establishment and maintenance of the fallen firefighter memorial. The commissioner of public lands and department of natural resources may solicit and accept moneys from gifts, grants, or endowments for this purpose.

(2) The department of natural resources is authorized to partner with the department of enterprise services, under RCW 43.19.125, for the design, establishment, and maintenance of this new memorial consistent with the major works requirements for projects on capitol campus. The partnership must work with nonprofit groups or foundations, or another state agency, if needed, to ensure the memorial is utilized by the public and the firefighter community to recognize, remember, and honor the sacrifice of firefighters who have died in the line of duty.

(a) The department of enterprise services must provide and fund routine maintenance of the fallen firefighter memorial once the memorial is completed. Routine maintenance includes basic cleaning of the memorial, ensuring the lights are functional, detailing the landscape surrounding the memorial, picking up trash around the memorial, and removing graffiti that does not require specialized techniques.

(b) The department of natural resources, and any foundation or nonprofit it contracts with, must provide any nonroutine maintenance of the memorial, including engraving of new names on the memorial, and must follow any guidance and process for any nonroutine maintenance as established by the department of enterprise services.

(3) The department of natural resources may adopt rules governing the receipt and use of funds in the account.

Passed by the House February 8, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 66

[House Bill 2110]

HIGH SCHOOL GRADUATION—STATUTORY REORGANIZATION

AN ACT Relating to reorganizing statutory requirements governing high school graduation by reordering requirements, making nonsubstantive revisions, and removing expired provisions; amending RCW 28A.230.090, 28A.655.260, 28A.230.212, 28A.230.300, 28A.230.320, 28A.150.220, 28A.300.900, 28A.300.750, and 28A.305.130; reenacting and amending RCW 28A.655.250; adding new sections to chapter 28A.230 RCW; and recodifying RCW 28A.320.208, 28A.655.250, and 28A.655.260.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.230 RCW to read as follows:

(1) The purpose of a high school diploma is to declare that a student is ready for success in postsecondary education, gainful employment, and citizenship, and is equipped with the skills to be a lifelong learner.

(2) Except as provided in RCW 28A.230.320, graduation from a public high school and the earning of a high school diploma must include the following:

(a) Satisfying the graduation requirements established by the state board of education under RCW 28A.230.090 and any graduation requirements established by the applicable public high school or school district;

(b) Satisfying credit and subject area requirements for graduation;

(c) Demonstrating career and college readiness through completion of the high school and beyond plan required by RCW 28A.230.212; and

(d) Meeting the requirements of at least one graduation pathway option required by RCW 28A.655.250 (as recodified by this act).

(3) Successful completion of the requirements in subsection (2) of this section signals a student's readiness to graduate with a meaningful high school diploma that fulfills the purpose of a diploma as established by this section.

Sec. 2. RCW 28A.230.090 and 2023 c 271 s 2 are each amended to read as follows:

(1) ((~~The~~)) In accordance with statutory authority of the state board of education provided in RCW 28A.305.130(4), the state board of education shall establish high school graduation requirements or equivalencies for students, except as provided in RCW 28A.230.122 and 28A.655.250 (as recodified by this act) and except those equivalencies established by local high schools or school districts under RCW 28A.230.097. ((~~The purpose of a high school diploma is to declare that a student is ready for success in postsecondary education, gainful employment, and citizenship, and is equipped with the skills to be a lifelong learner.~~

~~(a) Any course in Washington state history and government used to fulfill high school graduation requirements shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.~~

~~(b) Except as provided otherwise in this subsection, the certificate of academic achievement requirements under RCW 28A.655.061 or the certificate of individual achievement requirements under RCW 28A.155.045 are required for graduation from a public high school but are not the only requirements for graduation. The requirement to earn a certificate of academic achievement to qualify for graduation from a public high school concludes with the graduating class of 2019. The obligation of qualifying students to earn a certificate of individual achievement as a prerequisite for graduation from a public high school concludes with the graduating class of 2021.~~

~~(c) Each student must have a high school and beyond plan to guide the student's high school experience and inform course taking that is aligned with the student's goals for education or training and career after high school as provided for under RCW 28A.230.212 and 28A.230.215. Any decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level. Effective with the graduating class of 2015, the state board of education may not establish a requirement for students to complete a culminating project for graduation. A district may establish additional, local requirements for a high school and beyond plan to serve the needs and interests of its students and the purposes of this section.~~

~~(d)(i)~~)) (2)(a) The state board of education shall adopt rules to implement the career and college ready graduation requirement proposal adopted under board resolution on November 10, 2010, and revised on January 9, 2014, to take effect beginning with the graduating class of 2019 or as otherwise provided in this subsection (((~~(1)(d)~~))) (2). The rules must include authorization for a school district to waive up to two credits for individual students based on a student's circumstances, provided that none of the waived credits are identified as

mandatory core credits by the state board of education. School districts must adhere to written policies authorizing the waivers that must be adopted by each board of directors of a school district that grants diplomas. The rules must also provide that the content of the third credit of mathematics and the content of the third credit of science may be chosen by the student based on the student's interests and high school and beyond plan with agreement of the student's parent or guardian or agreement of the school counselor or principal, or as provided in RCW 28A.230.300(4).

(((~~(ii)~~))) (b) School districts may apply to the state board of education for a waiver to implement the career and college ready graduation requirement proposal beginning with the graduating class of 2020 or 2021 instead of the graduating class of 2019. In the application, a school district must describe why the waiver is being requested, the specific impediments preventing timely implementation, and efforts that will be taken to achieve implementation with the graduating class proposed under the waiver. The state board of education shall grant a waiver under this subsection (((~~(1)(d)~~))) (2)(b) to an applying school district at the next subsequent meeting of the board after receiving an application.

(((~~(2)(a) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.~~

~~(b) The state board shall reevaluate the graduation requirements for students enrolled in vocationally intensive and rigorous career and technical education programs, particularly those programs that lead to a certificate or credential that is state or nationally recognized. The purpose of the evaluation is to ensure that students enrolled in these programs have sufficient opportunity to complete the program and earn the program's certificate or credential, and complete other state and local graduation requirements.~~

~~(c) The state board shall forward any proposed changes to the high school graduation requirements to the education committees of the legislature for review. The legislature shall have the opportunity to act during a regular legislative session before the changes are adopted through administrative rule by the state board. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized and funded by the legislature through the omnibus appropriations act or other enacted legislation.~~

~~(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.~~

~~(4) Unless requested otherwise by the student and the student's family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:~~

~~(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or~~

~~(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.~~

~~(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit.~~

~~(6) At the college or university level, five quarter or three semester hours equals one high school credit.~~))

Graduation requirements established by the state board of education may not obligate students to complete a culminating project as a graduation prerequisite.

(3) In accordance with the duties required by subsection (1) of this section, the state board of education shall also:

(a) Periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board of education;

(b) Reevaluate the graduation requirements for students enrolled in vocationally intensive and rigorous career and technical education programs, particularly those programs that lead to a certificate or credential that is state or nationally recognized. The purpose of the evaluation is to ensure that students enrolled in these programs have sufficient opportunity to complete the program and earn the program's certificate or credential, and complete other state and local graduation requirements; and

(c) Forward any proposed changes to graduation requirements to the education committees of the legislature for review. The legislature shall have the opportunity to act during a regular legislative session before proposed changes may be adopted by rule of the state board of education. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, may take effect only if authorized and funded through the omnibus appropriations act or other enacted legislation.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.230 RCW to read as follows:

(1) Any course in Washington state history and government used to fulfill high school graduation requirements established by the state board of education shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(2) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.230 RCW to read as follows:

(1) Unless requested otherwise by the student and the student's family, a student who has completed high school courses before attending high school must be given high school credit that is applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(2) Students who have taken and successfully completed high school courses under the circumstances in subsection (1) of this section may not be required to take an additional competency examination or perform any other additional assignment to receive credit.

(3) At the college or university level, five quarter or three semester hours equals one high school credit.

Sec. 5. RCW 28A.655.250 and 2023 c 349 s 2 and 2023 c 271 s 10 are each reenacted and amended to read as follows:

(1)(((~~(a) Beginning with the class of 2020, except as provided in RCW 28A.230.320, graduation from a public high school and the earning of a high school diploma must include the following:~~

~~(i) Satisfying the graduation requirements established by the state board of education under RCW 28A.230.090 and any graduation requirements established by the applicable public high school or school district;~~

~~(ii) Satisfying credit requirements for graduation;~~

~~(iii) Demonstrating career and college readiness through completion of the high school and beyond plan as required by RCW 28A.230.090 and in accordance with RCW 28A.230.212 and 28A.230.215; and~~

~~(iv) Meeting the requirements of at least one graduation pathway option established in this section.~~

~~(b) Successful completion of the components in (a) of this subsection together signals a student's readiness to graduate with a meaningful high school diploma that fulfills the diploma purpose established in RCW 28A.230.090.~~

~~(2)~~))) Each student graduating from a public high school and earning a high school diploma must meet the requirements of at least one graduation pathway option established in this section. The graduation pathway options ((~~established in this section~~)) are intended to provide a student with multiple ways, including test-based, course-based, and performance-based options, to demonstrate readiness in furtherance of the student's individual goals for high school and beyond. For the purposes of this section, "demonstrate readiness" means the student meets or exceeds state learning standards addressed in the graduation pathway option. A student may choose to pursue one or more of the graduation pathway options under subsection (((~~(3)~~))) (2) of this section, but any graduation pathway option used by a student to demonstrate career and college readiness must be in alignment with the student's high school and beyond plan.

((~~(3)~~)) (2) The following graduation pathway options may be used to demonstrate career and college readiness ((~~in accordance with subsection (1)(a)(iv) of this section~~)):

(a) Meet or exceed the graduation standard established by the state board of education under RCW 28A.305.130 on the statewide high school assessments in English language arts and mathematics as provided for under RCW 28A.655.070;

(b) Complete and qualify for college credit in dual credit courses in English language arts and mathematics. For the purposes of this subsection, "dual credit course" means a course in which a student qualifies for college and high school credit in English language arts or mathematics upon successfully completing the course;

(c) Earn high school credit in a high school transition course in English language arts and mathematics, an example of which includes a bridge to college course. For the purposes of this subsection ((~~(3)~~)) (2)(c), "high school transition course" means an English language arts or mathematics course offered in high school where successful completion by a high school student ensures the student college-level placement at participating institutions of higher education as defined in RCW 28B.10.016. High school transition courses must satisfy core or elective credit graduation requirements established by the state board of education. A student's successful completion of a high school transition course does not entitle the student to be admitted to an institution of higher education as defined in RCW 28B.10.016;

(d) Earn high school credit, with a C+ grade or higher in AP, international baccalaureate, or Cambridge international courses in English language arts and mathematics; or earn at least the minimum scores outlined in RCW 28B.10.054(1) on the corresponding exams. The state board of education shall establish by rule the list of AP, international baccalaureate, and Cambridge international courses of which successful completion meets the standard in this subsection for English language arts and for mathematics;

(e) Meet or exceed the scores established by the state board of education for the mathematics portion and the reading, English, or writing portion of the SAT or ACT;

(f)(i) Complete a performance-based learning experience through which the student demonstrates knowledge and skills in a real-world context, providing evidence that the student meets or exceeds state learning standards in English language arts and mathematics. The performance-based learning experience may take a variety of forms, such as a project, practicum, work-related experience, community service, or cultural activity, and may result in a variety of products that can be evaluated, such as a performance, presentation, portfolio, report, film, or exhibit.

(ii) The performance-based learning experience must conform to state requirements established in rule by the state board of education addressing the safety and quality of the performance-based learning experience and the authentic performance-based assessment criteria for determining the student has demonstrated the applicable learning standards. The rules adopted by the state board of education to implement the graduation pathway option established in this subsection (2)(f) may allow external parties, including community leaders and professionals, to participate in the evaluation of the student's performance

and must include at least one certificated teacher with an endorsement in each relevant subject area or with other applicable qualifications as permitted by the professional educator standards board.

(iii) To support implementation of the performance-based learning experience graduation pathway option, the state board of education, in collaboration with the office of the superintendent of public instruction, shall establish graduation proficiency targets and associated rubrics aligned with state learning standards in English language arts and mathematics.

(iv) Prior to offering the performance-based learning experience graduation pathway option in this subsection ((~~(3)~~)) (2)(f) to students, the school district board of directors shall adopt a written policy in conformity with applicable state requirements;

(g) Meet any combination of at least one English language arts option and at least one mathematics option established in (a) through (f) of this subsection;

(h) Meet standard in the armed services vocational aptitude battery; and

(i) Complete a sequence of career and technical education courses that are relevant to a student's postsecondary pathway, including those leading to workforce entry, state or nationally approved apprenticeships, or postsecondary education, and that meet either: The curriculum requirements of core plus programs for aerospace, maritime, health care, information technology, or construction and manufacturing; or the minimum criteria identified in RCW 28A.700.030. Nothing in this subsection ((~~(3)~~)) (2)(i) requires a student to enroll in a preparatory course that is approved under RCW 28A.700.030 for the purposes of demonstrating career and college readiness under this section.

((~~(4)~~)) (3) While the legislature encourages school districts to make all graduation pathway options established in this section available to their high school students, and to expand their graduation pathway options until that goal is met, school districts have discretion in determining which ((~~pathway~~)) options under this section they will offer to students.

(4) School districts((~~, however,~~)) must annually provide students in grades eight through 12 and their parents or legal guardians with comprehensive information about the graduation pathway options offered by the school district and are strongly encouraged to begin providing this information ((~~beginning in sixth grade~~)) to students in grade six. School districts must provide this information in a manner that conforms with the school district's language access policy and procedures as required under RCW 28A.183.040.

(5) The state board of education shall adopt rules to implement the graduation pathway options established in this section.

Sec. 6. RCW 28A.655.260 and 2023 c 349 s 3 are each amended to read as follows:

(1) The superintendent of public instruction shall collect the following information from school districts: Which ((~~of the~~)) graduation ((~~pathways under RCW 28A.655.250~~)) pathway options established in RCW 28A.655.250 are available to students at each ((~~of the~~)) school district((~~s~~)); and the number of students using each graduation pathway option for graduation purposes. This information shall be reported annually to the education committees of the legislature beginning January 10, 2021. To the extent feasible, data on student participation in each ((~~of the~~)) graduation pathway((~~s~~)) option shall be

disaggregated by race, ethnicity, gender, and receipt of free or reduced-price lunch.

(2) The state board of education shall review and monitor the implementation of the graduation pathway options to ensure school district compliance with requirements established under RCW 28A.655.250 (as recodified by this act) and subsection (3) of this section. The reviews and monitoring required by this subsection may be conducted concurrently with other oversight and monitoring conducted by the state board of education. The information shall be collected annually and reported to the education committees of the legislature by January 10, 2025, and biennially thereafter.

(3)(a) At least annually, school districts shall examine data on student groups participating in and completing each graduation pathway option offered by the school district. At a minimum, the data on graduation pathway participation and completion must be disaggregated by the student groups described in RCW 28A.300.042 (1) and (3), and by:

(i) Gender;

(ii) Students who are the subject of a dependency proceeding pursuant to chapter 13.34 RCW;

(iii) Students who are experiencing homelessness as defined in RCW 28A.300.542((~~(4)~~)); and

(iv) Multilingual/English learners.

(b) If the results of the analysis required under (a) of this subsection show disproportionate participation and completion rates by student groups, ((~~then~~)) the school district shall identify reasons for the observed disproportionality and implement strategies as appropriate to ensure the graduation pathway options are equitably available to all students in the school district.

Sec. 7. RCW 28A.230.212 and 2023 c 271 s 3 are each amended to read as follows:

(1) ((~~This section establishes the school district, content, and other substantive requirements for the high school and beyond plan required by RCW 28A.230.090~~)) Each student must have a high school and beyond plan to guide the student's high school experience and inform course taking that is aligned with the student's goals for education or training and career after high school.

(2)(a) ((~~Beginning by the seventh~~)) By grade seven, each student must be administered a career interest and skills inventory which is intended to be used to inform ((~~eighth~~)) grade eight course taking and development of an initial high school and beyond plan. No later than ((~~eighth~~)) grade eight, each student must have begun development of a high school and beyond plan that includes a proposed plan for first-year high school courses aligned with graduation requirements and secondary and postsecondary goals.

(b) For each student who has not earned a score of level 3 or 4 on the middle school mathematics assessment identified in RCW 28A.655.070 by ((~~ninth~~)) grade nine, the high school and beyond plan must be updated to ensure that the student takes a mathematics course in both ((~~ninth and 10th~~)) grades nine and 10. These courses may include career and technical education equivalencies in mathematics adopted pursuant to RCW 28A.230.097.

(3) With staff support, students must update their high school and beyond plan annually, at a minimum, to review academic progress and inform future course taking.

(a) The high school and beyond plan must be updated in ((~~10th~~)) grade 10 to reflect high school assessment results in RCW 28A.655.061, ensure student access to advanced course options per the district's academic acceleration policy in RCW 28A.320.195, assess progress toward identified goals, and revised as necessary for changing interests, goals, and needs.

(b) Each school district shall provide students who have not met the standard on state assessments or who are behind in completion of credits or graduation pathway options with the opportunity to access interventions and academic supports, courses, or both, designed to enable students to meet all high school graduation requirements. The parents or legal guardians shall be notified about these opportunities as included in the student's high school and beyond plan, preferably through a student-led conference, including the parents or legal guardians, and at least annually until the student is on track to graduate.

(c) For students with an individualized education program, the high school and beyond plan must be developed and updated in alignment with their school to postschool transition plan. The high school and beyond plan must be developed and updated in a similar manner and with similar school personnel as for all other students.

(4) School districts shall involve parents and legal guardians to the greatest extent feasible in the process of developing and updating the high school and beyond plan.

(a) ((~~The plan~~)) High school and beyond plans must be provided to ((~~the~~)) students and ((~~the students'~~)) their parents or legal guardians in a language the students and parents or legal guardians understand and in accordance with the school district's language access policy and procedures as required under chapter 28A.183 RCW, which may require language assistance for students and parents or legal guardians with limited English proficiency.

(b) School districts must annually provide students in grades eight through 12, and their parents or legal guardians, with comprehensive information about the graduation pathway options offered by the district and are strongly encouraged to begin providing this information ((~~beginning in sixth~~)) to students in grade six. School districts must provide this information in a manner that conforms with the school district's language access policy and procedures as required under chapter 28A.183 RCW.

(5) School districts are strongly encouraged to partner with student serving, community-based organizations that support career and college exploration and preparation for postsecondary and career pathways. Partnerships may include high school and beyond plan coordination and planning, data-sharing agreements, and safe and secure access to individual student's high school and beyond plans.

(6) All high school and beyond plans must, at a minimum, include the following elements:

(a) Identification of career goals and interests, aided by a skills and interest assessment;

(b) Identification of secondary and postsecondary education and training goals;

(c) An academic plan for course taking that:

(i) Informs students about course options for satisfying state and local graduation requirements;

(ii) Satisfies state and local graduation requirements;

(iii) Aligns with the student's secondary and postsecondary goals, which can include education, training, and career preparation;

(iv) Identifies available advanced course sequences per the school district's academic acceleration policy, as described in RCW 28A.320.195, that include dual credit courses or other programs and are aligned with the student's postsecondary goals;

(v) Informs students about the potential impacts of their course selections on postsecondary opportunities;

(vi) Identifies available career and technical education equivalency courses that can satisfy core subject area graduation requirements under RCW 28A.230.097;

(vii) If applicable, identifies career and technical education and work-based learning opportunities that can lead to technical college certifications and apprenticeships; and

(viii) If applicable, identifies opportunities for credit recovery and acceleration, including partial and mastery-based credit accrual to eliminate barriers for on-time grade level progression and graduation per RCW 28A.320.192;

(d) Evidence that the student has received the following information on federal and state financial aid programs that help pay for the costs of a postsecondary program:

(i) The college bound scholarship program established in chapter 28B.118 RCW, the Washington college grant created in RCW 28B.92.200, and other scholarship opportunities;

(ii) The documentation necessary for completing state and federal financial aid applications; application timeliness and submission deadlines; and the importance of submitting applications early;

(iii) Information specific to students who are or have been the subject of a dependency proceeding pursuant to chapter 13.34 RCW, who are or are at risk of being homeless, and whose family member or legal guardian will be required to provide financial and tax information necessary to complete applications;

(iv) Opportunities to participate in advising days and seminars that assist students and, when necessary, their parents or legal guardians, with filling out financial aid applications in accordance with RCW 28A.300.815; and

(v) A sample financial aid letter and a link to the financial aid calculator created in RCW 28B.77.280; and

(e) By the end of ((~~the 12th~~)) grade 12, a current resume or activity log that provides a written compilation of the student's education, any work experience, extracurricular activities, and any community service including how the school district has recognized the community service pursuant to RCW 28A.320.193.

(7) ((~~In accordance with RCW 28A.230.090(1)(c) any~~)) Any decision on whether a student has met the state ((~~board's high school graduation~~)) board of education's requirements for a high school and beyond plan shall remain at the local level, and a school district may establish additional, local requirements for a high school and beyond plan to serve the needs and interests of its students and the purposes of this section.

(8) The state board of education shall adopt rules to implement this section.

Sec. 8. RCW 28A.230.300 and 2021 c 307 s 1 are each amended 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)~~)) section 4 of this act.

(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.

(4)(a) For purposes of meeting graduation requirements under RCW 28A.230.090, a student may substitute a computer science course aligned to state computer science learning standards as an alternative to a third year mathematics or third year science course if:

(i) Prior to the substitution, the school counselor provides the student and the student's parent or guardian with written notification of the consequences of the substitution on postsecondary opportunities;

(ii) The student, the student's parent or guardian, and the student's school counselor or principal agree to the substitution; and

(iii) The substitution is aligned with the student's high school and beyond plan.

(b) A substitution permitted under this subsection (4) may only be used once per student.

Sec. 9. RCW 28A.230.320 and 2023 c 271 s 8 are each amended to read as follows:

(1) Beginning with the class of 2020, the state board of education may authorize school districts to grant individual student emergency waivers from credit and subject area graduation requirements established in accordance with

RCW 28A.230.090, the graduation pathway requirement established in RCW 28A.655.250 (as recodified by this act), or both if:

(a) The student's ability to complete the requirement was impeded due to a significant disruption resulting from a local, state, or national emergency;

(b) The school district demonstrates a good faith effort to support the individual student in meeting the requirement before considering an emergency waiver;

(c) The student was reasonably expected to graduate in the school year when the emergency waiver is granted; and

(d) The student has demonstrated skills and knowledge indicating preparation for the next steps identified in their high school and beyond plan ((~~under RCW 28A.230.212 and 28A.230.215~~)) required by RCW 28A.230.212 and for success in postsecondary education, gainful employment, and civic engagement.

(2) A school district that is granted emergency waiver authority under this section shall:

(a) Maintain a record of courses and requirements waived as part of the individual student record;

(b) Include a notation of waived credits on the student's high school transcript;

(c) Maintain records as necessary and as required by rule of the state board of education to document compliance with subsection (1)(b) of this section;

(d) Report student level emergency waiver data to the office of the superintendent of public instruction in a manner determined by the superintendent of public instruction in consultation with the state board of education;

(e) Determine if there is disproportionality among student subgroups receiving emergency waivers and, if so, take appropriate corrective actions to ensure equitable administration. At a minimum, the subgroups to be examined must include those referenced in RCW 28A.300.042(3). If further disaggregation of subgroups is available, the school district shall also examine those subgroups; and

(f) Adopt by resolution a written plan that describes the school district's process for students to request or decline an emergency waiver, and a process for students to appeal within the school district a decision to not grant an emergency waiver.

(3)(((~~(a)~~))) By November 1, 2021, and annually thereafter, the office of the superintendent of public instruction shall provide the data reported under subsection (2) of this section to the state board of education.

(((~~(b) The state board of education, by December 15, 2021, and within existing resources, shall provide the education committees of the legislature with a summary of the emergency waiver data provided by the office of the superintendent of public instruction under this subsection (3) for students in the graduating classes of 2020 and 2021. The summary must include the following information:~~

~~(i) The total number of emergency waivers requested and issued, by school district, including an indication of what requirement or requirements were waived. Information provided in accordance with this subsection (3)(b)(i) must~~

~~also indicate the number of students in the school district grade cohort of each student receiving a waiver; and~~

~~(ii) An analysis of any concerns regarding school district implementation, including any concerns related to school district demonstrations of good faith efforts as required by subsection (1)(b) of this section, identified by the state board of education during its review of the data.~~))

(4) The state board of education shall adopt and may periodically revise rules for eligibility and administration of emergency waivers under this section. The rules may include:

(a) An application and approval process that allows school districts to apply to the state board of education to receive authority to grant emergency waivers in response to an emergency;

(b) Eligibility criteria for meeting the requirements established in subsection (1) of this section;

(c) Limitations on the number and type of credits that can be waived; and

(d) Expectations of the school district regarding communication with students and their parents or guardians.

(5) For purposes of this section:

(a) "Emergency" has the same meaning as "emergency or disaster" in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official.

(b) "School district" means any school district, charter school established under chapter 28A.710 RCW, ((~~tribal compact school operated according to the terms of state-tribal education compacts authorized under~~)) state-tribal education compact school subject to chapter 28A.715 RCW, private school, state school established under chapter 72.40 RCW, and community and technical college granting high school diplomas.

Sec. 10. RCW 28A.150.220 and 2017 3rd sp.s. c 13 s 506 are each amended to read as follows:

(1) In order for students to have the opportunity to develop the basic education knowledge and skills under RCW 28A.150.210, school districts must provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements that are intended to prepare them for postsecondary education, gainful employment, and citizenship. The program established under this section shall be the minimum instructional program of basic education offered by school districts.

(2) Each school district shall make available to students the following minimum instructional offering each school year:

(a) For students enrolled in grades one through ((~~twelve~~)) 12, at least a district-wide annual average of ((~~one thousand~~)) 1,000 hours, which shall be increased beginning in the 2015-16 school year to at least ((~~one thousand eighty~~)) 1,080 instructional hours for students enrolled in grades nine through ((~~twelve~~)) 12 and at least ((~~one thousand~~)) 1,000 instructional hours for students in grades one through eight, all of which may be calculated by a school district using a district-wide annual average of instructional hours over grades one through ((~~twelve~~)) 12; and

(b) For students enrolled in kindergarten, at least ((~~four hundred fifty~~)) 450 instructional hours, which shall be increased to at least ((~~one thousand~~)) 1,000

instructional hours according to the implementation schedule under RCW 28A.150.315.

(3) The instructional program of basic education provided by each school district shall include:

(a) Instruction in the ((~~essential academic learning requirements~~)) state learning standards under RCW 28A.655.070;

(b) Instruction that provides students the opportunity to complete ((~~twenty-four~~)) 24 credits for high school graduation((~~, beginning with the graduating class of 2019 or as otherwise provided in RCW 28A.230.090~~)). Course distribution requirements may be established by the state board of education under RCW 28A.230.090;

(c) If the ((~~essential academic learning requirements~~)) state learning standards include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more American Indian languages;

(d) Supplemental instruction and services for students who are not meeting academic standards through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

(e) Supplemental instruction and services for eligible and enrolled students and exited students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;

(f) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020; and

(g) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030.

(4) Nothing contained in this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5)(a) Each school district's kindergarten through ((~~twelfth~~)) 12th grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than ((~~twenty-one~~)) 21 years of age and shall consist of a minimum of ((~~one hundred eighty~~)) 180 school days per school year in such grades as are conducted by a school district, and ((~~one hundred eighty~~)) 180 half-days of instruction, or equivalent, in kindergarten, to be increased to a minimum of ((~~one hundred eighty~~)) 180 school days per school year according to the implementation schedule under RCW 28A.150.315.

(b) Schools administering the Washington kindergarten inventory of developing skills may use up to three school days at the beginning of the school year to meet with parents and families as required in the parent involvement component of the inventory.

(c) In the case of students who are graduating from high school, a school district may schedule the last five school days of the ((~~one hundred eighty~~)) 180-day school year for noninstructional purposes including, but not limited to, the observance of graduation and early release from school upon the request of a student. All such students may be claimed as a full-time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260. Any hours scheduled by a school district for

noninstructional purposes during the last five school days for such students shall count toward the instructional hours requirement in subsection (2)(a) of this section.

(6) Subject to RCW 28A.150.276, nothing in this section precludes a school district from enriching the instructional program of basic education, such as offering additional instruction or providing additional services, programs, or activities that the school district determines to be appropriate for the education of the school district's students.

(7) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish.

Sec. 11. RCW 28A.300.900 and 2023 c 271 s 9 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, in consultation with the state board for community and technical colleges and the Washington state apprenticeship and training council, shall examine opportunities for promoting recognized preapprenticeship and registered youth apprenticeship opportunities for high school students.

(2) In accordance with this section, by November 1, 2018, the office of the superintendent of public instruction shall solicit input from persons and organizations with an interest or relevant expertise in registered preapprenticeship programs, registered youth apprenticeship programs, or both, and employer-based preapprenticeship and youth apprenticeship programs, and provide a report to the governor and the education committees of the house of representatives and the senate that includes recommendations for:

(a) Improving alignment between college-level vocational courses at institutions of higher education and high school curriculum and graduation requirements, including high school and beyond plans required by ((~~RCW 28A.230.090 and in accordance with~~)) RCW 28A.230.212 ((~~and 28A.230.215~~)). Recommendations provided under this subsection may include recommendations for the development or revision of career and technical education course equivalencies established in accordance with RCW 28A.700.080(1)(b) for college-level vocational courses successfully completed by a student while in high school and taken for dual credit;

(b) Identifying and removing barriers that prevent the wider exploration and use of registered preapprenticeship and registered youth apprenticeship opportunities by high school students and opportunities for registered apprenticeships by graduating secondary students; and

(c) Increasing awareness among teachers, counselors, students, parents, principals, school administrators, and the public about the opportunities offered by registered preapprenticeship and registered youth apprenticeship programs.

(3) As used in this section, "institution of higher education" has the same meaning as defined in RCW 28A.600.300.

Sec. 12. RCW 28A.300.750 and 2018 c 177 s 502 are each amended to read as follows:

(1)(a) In accordance with the criteria adopted by the state board of education under subsection (2) of this section, the superintendent of public instruction may grant waivers to school districts from the provisions of RCW 28A.150.200 through 28A.150.220, except as provided in (b) of this subsection, on the basis that such waiver or waivers are necessary to implement successfully a local plan to provide for all students in the district an effective education system that is designed to enhance the educational program for each student. The local plan may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program.

(b) The state board of education shall have authority to grant waivers from the provisions of RCW 28A.150.220(3)(b) and to grant the waivers set forth in RCW 28A.230.090((~~(1)(e)(ii)~~)) (2) and 28A.655.180.

(2) The state board of education shall adopt rules establishing the criteria to evaluate the need for a waiver or waivers under this section.

Sec. 13. RCW 28A.305.130 and 2021 c 111 s 10 are each amended to read as follows:

The purpose of the state board of education is to provide advocacy and strategic oversight of public education; implement a standards-based accountability framework that creates a unified system of increasing levels of support for schools in order to improve student academic achievement; provide leadership in the creation of a system that personalizes education for each student and respects diverse cultures, abilities, and learning styles; and promote achievement of the goals of RCW 28A.150.210. In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Hold regularly scheduled meetings at such time and place within the state as the board shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business;

(2) Form committees as necessary to effectively and efficiently conduct the work of the board;

(3) Seek advice from the public and interested parties regarding the work of the board;

(4) Establish and enforce minimum high school graduation requirements;

(5) For purposes of statewide accountability:

(a) Adopt and revise performance improvement goals in reading, writing, science, and mathematics, by subject and grade level, once assessments in these subjects are required statewide; academic and technical skills, as appropriate, in secondary career and technical education programs; and student attendance, as the board deems appropriate to improve student learning. The goals shall be consistent with student privacy protection provisions of RCW 28A.655.090(7) and shall not conflict with requirements contained in Title I of the federal elementary and secondary education act of 1965, or the requirements of the Carl D. Perkins vocational education act of 1998, each as amended. The goals may be established for all students, economically disadvantaged students, limited English proficient students, students with disabilities, and students who are not meeting academic standards as defined in RCW 28A.165.015, disaggregated as described in RCW 28A.300.042(1) for student-level data. The board may establish school and school district goals addressing high school graduation rates

and dropout reduction goals for students in grades seven through ((~~twelve~~)) 12. The board shall adopt the goals by rule. However, before each goal is implemented, the board shall present the goal to the education committees of the house of representatives and the senate for the committees' review and comment in a time frame that will permit the legislature to take statutory action on the goal if such action is deemed warranted by the legislature;

(b)(i)(A) Identify the scores students must achieve in order to meet the standard on the statewide student assessment, and the SAT or the ACT if used to demonstrate career and college readiness under RCW 28A.655.250 (as recodified by this act). The board shall also determine student scores that identify levels of student performance below and beyond the standard. The board shall set such performance standards and levels in consultation with the superintendent of public instruction and after consideration of any recommendations that may be developed by any advisory committees that may be established for this purpose;

(B) To permit the legislature to take any statutory action it deems warranted before modified or newly established scores are implemented, the board shall notify the education committees of the house of representatives and the senate of any scores that are modified or established under (b)(i)(A) of this subsection on or after July 28, 2019. The notifications required by this subsection ((~~(4)~~)) (5)(b)(i)(B) must be provided by November 30th of the year proceeding the beginning of the school year in which the modified or established scores will take effect;

(ii) The legislature intends to continue the implementation of chapter 22, Laws of 2013 2nd sp. sess. when the legislature expressed the intent for the state board of education to identify the student performance standard that demonstrates a student's career and college readiness for the ((~~eleventh~~)) 11th grade consortium-developed assessments. Therefore, by December 1, 2018, the state board of education, in consultation with the superintendent of public instruction, must identify and report to the governor and the education policy and fiscal committees of the legislature on the equivalent student performance standard that a ((~~tenth~~)) 10th grade student would need to achieve on the state assessments to be on track to be career and college ready at the end of the student's high school experience;

(iii) The legislature shall be advised of the initial performance standards and any changes made to the elementary, middle, and high school level performance standards. The board must provide an explanation of and rationale for all initial performance standards and any changes, for all grade levels of the statewide student assessment. If the board changes the performance standards for any grade level or subject, the superintendent of public instruction must recalculate the results from the previous ((~~ten~~)) 10 years of administering that assessment regarding students below, meeting, and beyond the state standard, to the extent that this data is available, and post a comparison of the original and recalculated results on the superintendent's website;

(c) Annually review the assessment reporting system to ensure fairness, accuracy, timeliness, and equity of opportunity, especially with regard to schools with special circumstances and unique populations of students, and a recommendation to the superintendent of public instruction of any improvements needed to the system; and

(d) Include in the biennial report required under RCW 28A.305.035, information on the progress that has been made in achieving goals adopted by the board;

((~~(5)~~)) (6) Accredit, subject to such accreditation standards and procedures as may be established by the state board of education, all private schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through ((~~twelve~~)) 12. However, no private school may be approved that operates a kindergarten program only and no private school shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials;

((~~(6)~~)) (7) Articulate with the institutions of higher education, workforce representatives, and early learning policymakers and providers to coordinate and unify the work of the public school system;

((~~(7)~~)) (8) Hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes. Any other personnel of the board shall be appointed as provided by RCW 28A.300.020. The board may delegate to the executive director by resolution such duties as deemed necessary to efficiently carry on the business of the board including, but not limited to, the authority to employ necessary personnel and the authority to enter into, amend, and terminate contracts on behalf of the board. The executive director, administrative assistant, and all but one of the other personnel of the board are exempt from civil service, together with other staff as now or hereafter designated as exempt in accordance with chapter 41.06 RCW; and

((~~(8)~~)) (9) Adopt a seal that shall be kept in the office of the superintendent of public instruction.

NEW SECTION. **Sec. 14.** RCW 28A.320.208, 28A.655.250, and 28A.655.260 are each recodified as sections in chapter 28A.230 RCW.

Passed by the House February 8, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 67

[House Bill 2111]

WORKING CONNECTIONS CHILD CARE—ELIGIBILITY

AN ACT Relating to clarifying requirements for subsidized child care; amending RCW 43.216.1368, 43.216.1364, and 43.216.145; reenacting and amending RCW 43.216.136; adding new sections to chapter 43.216 RCW; recodifying RCW 43.216.136, 43.216.1364, 43.216.1368, 43.216.139, 43.216.141, 43.216.143, 43.216.145, 43.216.730, and 43.216.749; and repealing RCW 43.216.725 and 43.216.137.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.216.136 and 2023 c 294 s 1 and 2023 c 222 s 3 are each reenacted and amended to read as follows:

GENERAL POLICIES.

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. These policies shall focus on supporting school readiness for young learners. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures established by the department and the standards established in this section intended to promote stability, quality, and continuity of early care and education programming.

(2) As recommended by P.L. 113-186, authorizations for the working connections child care subsidy are effective for 12 months ((~~beginning July 1, 2016~~)).

(a) A household's 12-month authorization begins on the date that child care is expected to begin.

(b) If a newly eligible household does not begin care within 12 months of being determined eligible by the department, the household must reapply in order to qualify for subsidy.

(3)(((~~(a) The department shall establish and implement policies in the working connections child care program to allow eligibility for families with children who:~~

~~(i) In the last six months have:~~

~~(A) Received child protective services as defined and used by chapters 26.44 and 74.13 RCW;~~

~~(B) Received child welfare services as defined and used by chapter 74.13 RCW;~~

~~(C) Received services through a family assessment response as defined and used by chapter 26.44 RCW; or~~

~~(D) A parent or guardian participating in a specialty court or therapeutic court or who is a listed victim in a case in a specialty court or therapeutic court;~~

~~(ii) Have been referred for child care as part of the family's case management as defined by RCW 74.13.020 or as part of the specialty court or therapeutic court's proceedings; and~~

~~(iii) Are residing with a biological parent or guardian.~~

~~(b) Families who are eligible for working connections child care pursuant to this subsection do not have to keep receiving services or keep participating in a specialty court or therapeutic court identified in this subsection to maintain 12-month authorization.~~

~~(4)(a) Beginning July 1, 2021, and subject to the availability of amounts appropriated for this specific purpose, the department may not require an applicant or consumer to meet work requirements as a condition of receiving working connections child care benefits when the applicant or consumer is in a state registered apprenticeship program or is a full-time student of a community, technical, or tribal college and is enrolled in:~~

~~(i) A vocational education program that leads to a degree or certificate in a specific occupation; or~~

~~(ii) An associate degree program.~~

~~(b) An applicant or consumer is a full-time student for the purposes of this subsection if the applicant or consumer meets the college's definition of a full-time student.~~

~~(c) Nothing in this subsection is intended to change how applicants or consumers are prioritized when applicants or consumers are placed on a waitlist for working connections child care benefits.~~

~~(d) Subject to the availability of amounts appropriated for this specific purpose, the department may extend the provisions of this subsection (4) to full-time students who are enrolled in a bachelor's degree program or applied baccalaureate degree program.~~

~~(5) The department may not consider the immigration status of an applicant or consumer's child when determining eligibility for working connections child care benefits.~~

~~(6)(a) An applicant or consumer is eligible to receive working connections child care benefits for the care of one or more eligible children for the first 12 months of the applicant's or consumer's enrollment in a state registered apprenticeship program under chapter 49.04 RCW when:~~

~~(i) The applicant or consumer's household annual income adjusted for family size does not exceed 75 percent of the state median income at the time of application, or, beginning July 1, 2027, does not exceed 85 percent of the state median income if funds are appropriated for the purpose of RCW 43.216.1368(4);~~

~~(ii) The child receiving care is: (A) Less than 13 years of age; or (B) less than 19 years of age and either has a verified special need according to department rule or is under court supervision; and~~

~~(iii) The household meets all other program eligibility requirements.~~

~~(b) The department must adopt a copayment model for benefits granted under this subsection, which must align with any copayment identified or adopted for households with the same income level under RCW 43.216.1368.~~

~~(7)~~))(a) The department must extend the homeless grace period, as adopted in department rule as of January 1, 2020, from a four-month grace period to a 12-month grace period.

(b) For the purposes of this ((~~section~~)) subsection, "homeless" means being without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (42 U.S.C. Sec. 11434a) as it existed on January 1, 2020.

(((~~(8)~~))) (4) For purposes of this section, "authorization" means a transaction created by the department that allows a child care provider to claim payment for care. The department may adjust an authorization based on a household's eligibility status.

Sec. 2. RCW 43.216.1368 and 2023 c 222 s 4 are each amended to read as follows:

GENERAL ELIGIBILITY REQUIREMENTS.

(1) It is the intent of the legislature to increase working families' access to affordable, high quality child care and to support the expansion of the workforce to support businesses and the statewide economy.

(2) ((~~Beginning October 1, 2021, a~~)) A family is eligible for working connections child care when the household's annual income is at or below 60 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements established in this chapter or in rule by the department as authorized by RCW 43.216.055 or 43.216.065 or any other authority granted by this chapter.

(3) Beginning July 1, 2025, a family is eligible for working connections child care when the household's annual income is above 60 percent and at or below 75 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements established in this chapter or in rule by the department as authorized by RCW 43.216.055 or 43.216.065 or any other authority granted by this chapter.

(4) Beginning July 1, 2027, and subject to the availability of amounts appropriated for this specific purpose, a family is eligible for working connections child care when the household's annual income is above 75 percent of the state median income and is at or below 85 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements established in this chapter or in rule by the department as authorized by RCW 43.216.055 or 43.216.065 or any other authority granted by this chapter.

(5)(((~~(a) Beginning October 1, 2021, through June 30, 2023, the department must calculate a monthly copayment according to the following schedule:~~

~~If the household's income is:~~	~~Then the household's maximum monthly copayment is:~~
~~At or below 20 percent of the state median income~~	~~Waived to the extent allowable under federal law; otherwise, a maximum of $15~~
~~Above 20 percent and at or below 36 percent of the state median income~~	~~$65~~
~~Above 36 percent and at or below 50 percent of the state median income~~	~~$115 until December 31, 2021, and $90 beginning January 1, 2022~~
~~Above 50 percent and at or below 60 percent of the state median income~~	~~$115~~

~~(b) Beginning July 1, 2023, the department must calculate a monthly copayment according to the following schedule:~~

~~If the household's income is:~~	~~Then the household's maximum monthly copayment is:~~
~~At or below 20 percent of the state median income~~	~~Waived to the extent allowable under federal law; otherwise, a maximum of $15~~

~~If the household's income is:~~	~~Then the household's maximum monthly copayment is:~~
~~Above 20 percent and at or below 36 percent of the state median income~~	~~$65~~
~~Above 36 percent and at or below 50 percent of the state median income~~	~~$90~~
~~Above 50 percent and at or below 60 percent of the state median income~~	~~$165~~

~~(c) Beginning July 1, 2025, the department must calculate a maximum monthly copayment of $215 for households with incomes above 60 percent and at or below 75 percent of the state median income.~~

~~(d) Subject to the availability of amounts appropriated for this specific purpose, the department shall adopt a copayment model for households with annual incomes above 75 percent of the state median income and at or below 85 percent of the state median income. The model must calculate a copayment for each household that is no greater than seven percent of the household's countable income within this income range.~~

~~(e) The department may adjust the copayment schedule to comply with federal law.~~

~~(6)~~)) The department must adopt rules to implement this section, including an income phase-out eligibility period.

(((~~(7) This section does not apply to households eligible for the working connections child care program under RCW 43.216.145 and 43.216.1364~~)) (6) The department may not consider the citizenship status of an applicant or consumer's child when determining eligibility for working connections child care benefits.

(7) The income eligibility requirements in subsections (2) through (4) of this section do not apply to households eligible for the working connections child care program under sections 5 and 6 of this act, RCW 43.216.145 (as recodified by this act), and 43.216.1364 (as recodified by this act).

NEW SECTION. **Sec. 3.** COPAYMENTS. (1) Effective until July 1, 2025, the department must calculate a monthly copayment according to the following schedule:

If the household's income is:	Then the household's maximum monthly copayment is:
At or below 20 percent of the state median income	Waived to the extent allowable under federal law; otherwise, a maximum of $15
Above 20 percent and at or below 36 percent of the state median income	$65
Above 36 percent and at or below 50 percent of the state median income	$90
Above 50 percent and at or below 60 percent of the state median income	$165

(2) Beginning July 1, 2025, the department must calculate a monthly copayment according to the following schedule:

If the household's income is:	Then the household's maximum monthly copayment is:
At or below 20 percent of the state median income	Waived to the extent allowable under federal law; otherwise, a maximum of $15
Above 20 percent and at or below 36 percent of the state median income	$65
Above 36 percent and at or below 50 percent of the state median income	$90
Above 50 percent and at or below 60 percent of the state median income	$165
Above 60 percent and at or below 75 percent of the state median income	$215

(3) Subject to the availability of amounts appropriated for this specific purpose, the department shall adopt a copayment model for households with annual incomes above 75 percent of the state median income and at or below 85 percent of the state median income. The model must calculate a copayment for each household that is no greater than seven percent of the household's countable income within this income range.

(4) The department may adjust the copayment schedule to comply with federal law.

(5) The department must adopt rules to implement this section.

(6) This section does not apply to households eligible for the working connections child care program under section 5 of this act, RCW 43.216.145 (as recodified by this act), and 43.216.1364 (as recodified by this act).

NEW SECTION. **Sec. 4.** EXCEPTIONS TO APPROVED ACTIVITY REQUIREMENTS. (1)(a) Subject to the availability of amounts appropriated for this specific purpose, the department may not require an applicant or consumer to meet work requirements as a condition of receiving working connections child care benefits when the applicant or consumer is in a state registered apprenticeship program or is a full-time student of a community, technical, or tribal college and is enrolled in:

(i) A vocational education program that leads to a degree or certificate in a specific occupation; or

(ii) An associate degree program.

(b) An applicant or consumer is a full-time student for the purposes of this subsection if the applicant or consumer meets the college's definition of a full-time student.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department may extend the provisions of this section to full-time students who are enrolled in a bachelor's degree program or applied baccalaureate degree program.

NEW SECTION. **Sec. 5.** CATEGORICAL ELIGIBILITY—CHILD PROTECTIVE, CHILD WELFARE, OR FAMILY ASSESSMENT RESPONSE SERVICES AND PARTICIPATION IN SPECIALTY COURTS. (1) The department shall establish and implement policies in the working connections child care program to allow eligibility for families with children who:

(a) In the last six months have:

(i) Received child protective services as defined and used by chapters 26.44 and 74.13 RCW;

(ii) Received child welfare services as defined and used by chapter 74.13 RCW;

(iii) Received services through a family assessment response as defined and used by chapter 26.44 RCW; or

(iv) A parent or guardian participating in a specialty court or therapeutic court or who is a listed victim in a case in a specialty court or therapeutic court;

(b) Have been referred for child care as part of the family's case management as defined by RCW 74.13.020 or as part of the specialty court or therapeutic court's proceedings; and

(c) Are residing with a biological parent or guardian.

(2) Families who are eligible for working connections child care pursuant to this subsection do not have to keep receiving services or keep participating in a specialty court or therapeutic court identified in this subsection to maintain 12-month authorization as defined in RCW 43.216.136 (as recodified by this act) and have no copayment.

NEW SECTION. **Sec. 6.** EXPANDED ELIGIBILITY—REGISTERED APPRENTICESHIPS. (1) An applicant or consumer is eligible to receive working connections child care benefits for the care of one or more eligible children for the first 12 months of the applicant's or consumer's enrollment in a state registered apprenticeship program under chapter 49.04 RCW when:

(a) The applicant or consumer's household annual income adjusted for family size does not exceed 75 percent of the state median income at the time of application, or, beginning July 1, 2027, does not exceed 85 percent of the state median income if funds are appropriated for the purpose of RCW 43.216.1368(4) (as recodified by this act);

(b) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and either has a verified special need according to department rule or is under court supervision; and

(c) The household meets all other program eligibility requirements established in this chapter or in rule by the department in accordance with RCW 43.216.055, 43.216.065, and 43.216.136 (as recodified by this act).

(2) The department must adopt a copayment model for benefits granted under this subsection, which must align with any copayment identified or adopted for households with the same income level under section 3 of this act.

Sec. 7. RCW 43.216.1364 and 2023 c 222 s 2 are each amended to read as follows:

EXPANDED ELIGIBILITY—CHILD CARE EMPLOYEES.

(1) ((~~Beginning October 1, 2023, a~~)) A family is eligible for working connections child care when the household's annual income is at or below 85 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision;

(b) The applicant or consumer is employed in a licensed child care center or family home provider, as verified in the agency's electronic workforce registry; and

(c) The household meets all other program eligibility requirements established in this chapter or in rule by the department as authorized by RCW 43.216.055 or 43.216.065 or any other authority granted by this chapter.

(2) The department must waive the copayment to the extent allowable under federal law; otherwise, a maximum of $15 for any applicant or consumer that meets the requirements under this section.

Sec. 8. RCW 43.216.145 and 2020 c 339 s 1 are each amended to read as follows:

EXPANDED ELIGIBILITY—HIGH SCHOOL STUDENTS OR STUDENTS WORKING TOWARD A HIGH SCHOOL EQUIVALENCY CERTIFICATE.

(1) A parent who is attending high school is eligible to receive working connections child care.

(2) A parent age ((~~twenty-one~~)) 21 years or younger who is working toward completing a high school equivalency certificate is eligible to receive working connections child care.

(3) When determining consumer eligibility and copayment under this section, the department:

(a) Must, within existing resources, authorize full-day subsidized child care during the school year in cases where:

(i) The parent is participating in ((~~one hundred ten~~)) 110 hours of approved activities per month;

(ii) The household income of the parent does not exceed ((~~eighty-five~~)) 85 percent of the state median income at the time of application; and

(iii) The parent meets all other program eligibility requirements established in this chapter or in rule by the department as authorized by RCW 43.216.055 or 43.216.065 or any other authority granted by this chapter;

(b) May not consider the availability of the other biological parent when authorizing care; and

(c) May not require a copayment.

NEW SECTION. **Sec. 9.** Sections 3 through 6 of this act are each added to chapter 43.216 RCW and codified under the subchapter heading of "subsidized child care."

NEW SECTION. **Sec. 10.** RCW 43.216.136, 43.216.1364, 43.216.1368, 43.216.139, 43.216.141, 43.216.143, 43.216.145, 43.216.730, and 43.216.749 are each recodified as sections in chapter 43.216 RCW to be added under the subchapter heading of "subsidized child care."

NEW SECTION. **Sec. 11.** The following acts or parts of acts are each repealed:

(1) RCW 43.216.725 (Subsidized child care report and assessment) and 2011 1st sp.s. c 42 s 12; and

(2) RCW 43.216.137 (Working connections child care program—Unemployment compensation) and 2011 c 4 s 17.

Passed by the House January 29, 2024.
Passed by the Senate February 22, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 68

[House Bill 2137]

TOURISM PROMOTION AREA ASSESSMENTS—EXEMPTIONS

AN ACT Relating to technical changes to allowable exemptions from charges for tourism promotion area assessments; amending RCW 35.101.055; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 35.101.055 and 2008 c 137 s 6 are each amended to read as follows:

The lodging charge authorized in RCW 35.101.050 does not apply to temporary medical housing exempt under RCW 82.08.997, or any lodging business, lodging unit, or lodging guest so designated by the legislative authority.

NEW SECTION. **Sec. 2.** This act applies to any tourism promotion area established before, on, or after the effective date of this section.

Passed by the House February 8, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 69

[Second Substitute House Bill 2151]

PRIVATE CANNABIS TESTING LABORATORIES—ACCREDITATION

AN ACT Relating to reassigning the accreditation of private cannabis testing laboratories from the department of ecology to the department of agriculture; reenacting and amending RCW 69.50.348; creating a new section; repealing RCW 43.21A.736; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) By July 1, 2024, the department of agriculture must, in consultation with the liquor and cannabis board, adopt rules to implement section 2, chapter 277, Laws of 2019.

(2) The department of agriculture is authorized to use expedited rule making as authorized in chapter 34.05 RCW, the administrative procedure act, in order to implement subsection (1) of this section by July 1, 2024.

Sec. 2. RCW 69.50.348 and 2022 c 135 s 6 and 2022 c 16 s 68 are each reenacted and amended to read as follows:

(1) On a schedule determined by the board, every licensed cannabis producer and processor must submit representative samples of cannabis, useable cannabis, or cannabis-infused products produced or processed by the licensee to

an independent, third-party testing laboratory meeting the accreditation requirements established by the state department of ((~~ecology~~)) agriculture. The purpose of testing representative samples is to certify compliance with quality assurance and product standards adopted by the board under RCW 69.50.342 or the department of health under RCW 69.50.375. In conducting tests of cannabis product samples, testing laboratories must adhere to laboratory quality standards adopted by the state department of agriculture under chapter 15.150 RCW. Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee submitting the sample.

(2) Independent, third-party testing laboratories performing cannabis product testing under subsection (1) of this section must obtain and maintain accreditation.

(3) Licensees must submit the results of inspection and testing for quality assurance and product standards required under RCW 69.50.342 to the board on a form developed by the board.

(4) If a representative sample inspected and tested under this section does not meet the applicable quality assurance and product standards established by the board then, except as otherwise provided by the board in rule, the entire lot from which the sample was taken must be destroyed.

(5)(((~~(a)~~))) The department of ((~~ecology~~)) agriculture may determine, assess, and collect annual fees ((~~sufficient~~)) to ((~~cover~~)) support the direct and indirect costs of implementing a state cannabis product testing laboratory accreditation program and laboratory quality standards program, except for the initial program development costs. ((~~The department of ecology must develop a fee schedule allocating the costs of the accreditation program among its accredited cannabis product testing laboratories.~~)) The department of ((~~ecology~~)) agriculture may establish a payment schedule requiring periodic installments of the annual fee. ((~~The fee schedule must be established in amounts to fully cover, but not exceed, the administrative and oversight costs.~~)) The department of ((~~ecology~~)) agriculture must review and update its fee schedule biennially. The costs of cannabis product testing laboratory accreditation are those incurred by the department of ((~~ecology~~)) agriculture in administering and enforcing the accreditation program. The costs may include, but are not limited to, the costs incurred in undertaking the following accreditation functions:

(((~~(i)~~))) (a) Evaluating the protocols and procedures used by a laboratory;

(((~~(ii)~~))) (b) Performing on-site audits;

(((~~(iii)~~))) (c) Evaluating participation and successful completion of proficiency testing;

(((~~(iv)~~))) (d) Determining the capability of a laboratory to produce accurate and reliable test results; and

(((~~(v)~~))) (e) Such other accreditation activities as the department of ((~~ecology~~)) agriculture deems appropriate.

((~~(b) The state cannabis product testing laboratory accreditation program initial development costs must be fully paid from the dedicated cannabis account created in RCW 69.50.530.~~))

(6) The department of ((~~ecology~~)) agriculture and the interagency coordination team created in RCW 15.150.020 must act cooperatively to ensure effective implementation and administration of this section.

(7) All fees collected under this section must be deposited in the dedicated cannabis account created in RCW 69.50.530.

NEW SECTION. **Sec. 3.** RCW 43.21A.736 (Cannabis product testing—Fees—Rules) and 2019 c 277 s 5 are each repealed.

NEW SECTION. **Sec. 4.** Section 2 of this act takes effect July 1, 2024.

NEW SECTION. **Sec. 5.** Sections 1 and 3 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.

Passed by the House February 12, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 70

[Substitute House Bill 2216]

STATE EMPLOYMENT—COLLEGE DEGREE REQUIREMENTS

AN ACT Relating to reducing barriers to state employment by eliminating two-year and four-year degree requirements that are unnecessary; amending RCW 41.06.157; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** It is the intent of the legislature to reduce the number of positions in state employment that unnecessarily have requirements of completing a two-year or four-year college degree as the only way to meet the qualifications of a job. While the legislature recognizes that certain positions have a need for technical, scientific, or professional training that make a specialized course of study necessary, in other cases the requirement of a two-year or four-year college degree is added to job requirements as an indicator of general skills or knowledge, such as skills in writing, analysis, or presentations which are readily acquired in today's society through other means.

Sec. 2. RCW 41.06.157 and 2015 3rd sp.s. c 1 s 315 are each amended to read as follows:

(1) To promote the most effective use of the state's workforce and improve the effectiveness and efficiency of the delivery of services to the citizens of the state, the director shall adopt and maintain a comprehensive classification plan for all positions in the classified service. The classification plan must:

(a) Be simple and streamlined;

(b) Support state agencies in responding to changing technologies, economic and social conditions, and the needs of its citizens;

(c) Value workplace diversity;

(d) Facilitate the reorganization and decentralization of governmental services;

(e) Enhance mobility and career advancement opportunities; ((~~and~~))

(f) Consider rates in other public employment and private employment in the state; and

(g) Not require a two-year or four-year college degree as the only way to demonstrate qualifications for the role unless that degree is required by law for an employee to perform the essential functions of a classification.

(2) An appointing authority and an employee organization representing classified employees of the appointing authority for collective bargaining purposes may jointly request the director of financial management to initiate a classification study.

(3) For institutions of higher education and related boards, the director may adopt special salary ranges to be competitive with positions of a similar nature in the state or the locality in which the institution of higher education or related board is located.

(4) The director may undertake salary surveys of positions in other public and private employment to establish market rates. Any salary survey information collected from private employers which identifies a specific employer with salary rates which the employer pays to its employees shall not be subject to public disclosure under chapter 42.56 RCW.

Passed by the House February 8, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 71

[House Bill 2260]

SALE OF ALCOHOL TO MINORS—CIVIL PENALTIES

AN ACT Relating to establishing civil penalties for the unlawful sale or supply of alcohol to minors; amending RCW 66.44.270; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that preventing sales of alcohol to minors is a vital public health effort. However, the penalties associated with underage sale vary depending upon the seller's occupation or location. While servers and bartenders have administrative penalty options that are a component of the mandatory alcohol server training, store clerks do not and instead receive a citation for a gross misdemeanor.

The likelihood that these charges are filed varies by county, leaving some with no penalty at all, and others with a criminal record that may hamper their ability to find another job.

The legislature finds that retaining the criminal penalty is warranted in cases of intentional or repeat sales to minors. However, the legislature also finds that adding the option for administrative penalties would harmonize the penalties for store clerks with restaurant servers, and for store clerks found to have sold tobacco products to minors.

The legislature therefore finds that enabling the ability for the liquor and cannabis board to issue administrative penalties and creating an escalating schedule of monetary fines, would reduce geographic disparities as well as reducing the number of people with criminal records. The legislature further finds that this would not harm public health or expand youth access.

Sec. 2. RCW 66.44.270 and 2015 c 59 s 2 are each amended to read as follows:

(1) It is unlawful for any person to sell, give, or otherwise supply liquor to any person under the age of ((~~twenty-one~~)) 21 years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control. For the purposes of this subsection, "premises" includes real property, houses, buildings, and other structures, and motor vehicles and watercraft. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter 9A.20 RCW.

(2) The board may impose civil penalties as set forth in this section on individuals for the sale, gift, or otherwise supply of liquor to any person under the age of 21 occurring from a business licensed by the board under this chapter, and by a person performing acts of employment on behalf of the business. The board may impose a civil penalty in lieu of issuing a criminal citation under subsection (1) of this section.

(a) Any civil penalty imposed by the board may not be in addition to criminal enforcement, and the board may not issue a criminal citation in any matter in which it issues a civil penalty.

(b) Nothing in this section prevents criminal enforcement in lieu of a civil penalty for continued violations, or violations involving intentional sales of, or knowingly furnishing, alcohol to a person under the age of 21 years.

(c) Nothing in this section prevents enforcement using provisions of RCW 66.20.300 through 66.20.350 when a person holds an alcohol server permit.

(d) The monetary penalty that the board may impose based upon one or more violations under this section may not exceed the following:

(i) $200 for the first violation;

(ii) $400 for a second violation occurring within three years; and

(iii) $500 for a third, or subsequent, violation occurring within three years.

(e) The board may develop and offer a class for retail clerks and use this class in lieu of a monetary penalty for the clerk's first violation.

(f) The board may seek injunctive relief to enforce the provisions of this chapter. The board may initiate legal action to collect civil penalties imposed under this chapter if they have not been paid within 30 days after imposition. In any action filed by the board under this chapter, the court may, in addition to any other relief, award the board reasonable attorneys' fees and costs.

(g) All proceedings under this section must be conducted in accordance with chapter 34.05 RCW.

(3)(a) It is unlawful for any person under the age of ((~~twenty-one~~)) 21 years to possess, consume, or otherwise acquire any liquor. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter 9A.20 RCW.

(b) It is unlawful for a person under the age of ((~~twenty-one~~)) 21 years to be in a public place, or to be in a motor vehicle in a public place, while exhibiting the effects of having consumed liquor. For purposes of this subsection, exhibiting the effects of having consumed liquor means that a person has the odor of liquor on his or her breath and either: (i) Is in possession of or close proximity to a container that has or recently had liquor in it; or (ii) by speech, manner, appearance, behavior, lack of coordination, or otherwise, exhibits that he or she is under the influence of liquor. This subsection (((~~(2)~~))) (3)(b) does not

apply if the person is in the presence of a parent or guardian or has consumed or is consuming liquor under circumstances described in subsection (((~~(4), (5), or (7)~~))) (5), (6), or (8) of this section.

(((~~(3)~~))) (4) Subsections (1) and (((~~(2)~~))) (3)(a) of this section do not apply to liquor given or permitted to be given to a person under the age of ((~~twenty-one~~)) 21 years by a parent or guardian and consumed in the presence of the parent or guardian. This subsection shall not authorize consumption or possession of liquor by a person under the age of twenty-one years on any premises licensed under chapter 66.24 RCW.

(((~~(4)~~))) (5) This section does not apply to liquor given for medicinal purposes to a person under the age of ((~~twenty-one~~)) 21 years by a parent, guardian, physician, or dentist.

(((~~(5)~~))) (6) This section does not apply to liquor given to a person under the age of ((~~twenty-one~~)) 21 years when such liquor is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

(((~~(6)~~))) (7) This section does not apply to liquor provided to students under ((~~twenty-one~~)) 21 years of age in accordance with a special permit issued under RCW 66.20.010(12).

(((~~(7)~~))) (8)(a) A person under the age of ((~~twenty-one~~)) 21 years acting in good faith who seeks medical assistance for someone experiencing alcohol poisoning shall not be charged or prosecuted under subsection (((~~(2)~~))) (3)(a) of this section, if the evidence for the charge was obtained as a result of the person seeking medical assistance.

(b) A person under the age of ((~~twenty-one~~)) 21 years who experiences alcohol poisoning and is in need of medical assistance shall not be charged or prosecuted under subsection (((~~(2)~~))) (3)(a) of this section, if the evidence for the charge was obtained as a result of the poisoning and need for medical assistance.

(c) The protection in this subsection shall not be grounds for suppression of evidence in other criminal charges.

(((~~(8)~~))) (9) Conviction or forfeiture of bail for a violation of this section by a person under the age of ((~~twenty-one~~)) 21 years at the time of such conviction or forfeiture shall not be a disqualification of that person to acquire a license to sell or dispense any liquor after that person has attained the age of ((~~twenty-one~~)) 21 years.

Passed by the House February 6, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 72

[Substitute House Bill 2293]

AVIAN SALMON PREDATION WORK GROUP

AN ACT Relating to studying the effects of avian predation of salmon; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The department of fish and wildlife shall convene an avian salmon predation work group to: Identify all avian species that contribute to predation of juvenile salmon at a population level; determine whether such species are adversely impacting the recovery of any threatened or endangered salmon species; and identify remedies.

(2) The avian salmon predation work group consists of:

(a) Five members from federally recognized Indian tribes with treaty fishing rights in Washington waters, invited by the department of fish and wildlife as comanagers;

(b) One member each from the department of fish and wildlife; the United States fish and wildlife service; the United States army corps of engineers; the national marine fisheries service, west coast region; the Oregon state department of fish and wildlife; and the Puget Sound partnership;

(c) Two members each representing recreational fishers and commercial fishers; and

(d) One member each representing a salmon conservation organization and an avian conservation organization.

(3) If a member has not been designated for a position set forth in subsection (2) of this section, the work group must still conduct business and report as required in subsection (4) of this section.

(4) The work group must report to the department of fish and wildlife and the legislature in accordance with RCW 43.01.036 by June 30, 2025.

(5) This section expires July 1, 2026.

Passed by the House February 12, 2024.
Passed by the Senate February 23, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 73

[House Bill 2318]

STATE ROUTE 501—REMOVAL OF SECTION

AN ACT Relating to state route number 501; and amending RCW 47.17.640.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 47.17.640 and 1991 c 78 s 1 are each amended to read as follows:

A state highway to be known as state route number 501 is established as follows:

Beginning at a junction with state route number 5 at Vancouver, thence northerly by way of Lower River Road and an extension thereof to Ridgefield((~~, thence easterly to a junction with state route number 5 in the vicinity south of La Center~~)). ((~~That portion of state~~)) State route number 501 from the northerly junction of N.W. Lower River Road to the Ridgefield city limits is designated "the Erwin O. Rieger Memorial Highway." The department may enter into an agreement with the Port of Vancouver, Clark county, or the United States Army Engineers, or any combination thereof, to obtain material dredged from the Columbia river and have it stockpiled at no expense to the state.

Passed by the House February 8, 2024.

Passed by the Senate February 29, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 74

[Substitute House Bill 2329]

HOUSING PROVIDERS—INSURANCE MARKET STUDY

AN ACT Relating to conducting a study of the insurance market for housing providers receiving housing trust fund resources; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that homelessness is a multifaceted challenge that requires multiple creative solutions to house and shelter people in a way that prioritizes empathy, compassion, and safety. Housing providers receiving housing trust fund resources play a pivotal role by meeting the affordable housing needs of extremely low-income households, including housing people who are chronically homeless and pairing housing with case management and supportive services.

The legislature further finds that housing providers receiving housing trust fund resources in Washington are experiencing difficulties with their insurance coverages, including affordability and nonrenewal of policies. Providers cannot operate without insurance and Washington communities cannot thrive without these critical providers. The state must keep these housing providers in operation and ensure that they are appropriately insured so that the state can continue to house some of its most vulnerable residents.

NEW SECTION. **Sec. 2.** (1) The office of the insurance commissioner, in consultation with housing providers receiving housing trust fund resources under RCW 43.185A.130 and serving extremely low-income households as defined in RCW 36.70A.030, authorized insurers, unauthorized insurers, providers of nonprofit insurance services, risk-sharing pools for public housing authorities and nongovernmental owners of affordable housing properties, risk retention groups, relevant association groups including the surplus lines association of Washington, and other relevant state agencies including the department of enterprise services, the office of risk management, and the department of commerce, shall conduct a study of the property and liability coverages available to housing providers receiving housing trust fund resources and serving extremely low-income households.

(2) In conducting the study, the commissioner shall:

(a) Collect the information required under this section from entities transacting insurance with housing providers described in subsection (1) of this section, and any identified authorized insurers, unauthorized insurers, and risk retention groups, are required to provide the requested information to the commissioner;

(b) Obtain data from the previous five years on the number and types of policies in effect, whether and why policies were nonrenewed or canceled, claims activity, and premiums and deductibles; and

(c) Investigate and request any other relevant information that may assist the commissioner with analyzing the availability of property and liability coverages

for housing providers described in subsection (1) of this section and any other trends that may affect market availability.

(3) Consistent with RCW 43.01.036, the commissioner shall submit a report on its findings to the appropriate committees of the legislature by December 31, 2024. The report must make recommendations on potential policy or budget options, including considerations regarding the development of a single-state or multistate high-risk sharing pool and potential policy and budget options to address reinsurance market volatility. The commissioner may contract with a vendor to conduct an actuarial analysis if necessary to facilitate the development of recommendations concerning high-risk sharing pools under this subsection.

(4) Data requested by the commissioner for the purpose of complying with the study and reporting requirements in this section is confidential by law and privileged and is not subject to public disclosure under chapter 42.56 RCW. Nothing in this section prohibits the commissioner from preparing and publishing reports, analyses, or other documents using the data received under this section so long as the data is in aggregate form and does not permit the identification of information related to individual companies. Data in the aggregate form are deemed open records available for public inspection. Nothing in this section affects, limits, or amends the commissioner's authority under chapter 48.37 RCW.

(5) This section expires December 31, 2024.

Passed by the House February 13, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 75

[House Bill 2433]

SOUTHWEST WASHINGTON FAIR—ADMINISTRATION BY LEWIS COUNTY

AN ACT Relating to administration of the southwest Washington fair by the Lewis county board of county commissioners; and amending RCW 36.90.010, 36.90.020, 36.90.030, 36.90.050, and 36.90.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.90.010 and 1998 c 107 s 1 are each amended to read as follows:

The property of the Southwest Washington Fair Association including the buildings and structures thereon, as constructed or as may be built or constructed from time to time, or any alterations or additions thereto, shall be under the jurisdiction of Lewis county. That property will be under the management and control of the board of county commissioners of Lewis county or that board's designee, for fair and county purposes.

Sec. 2. RCW 36.90.020 and 1973 1st ex.s. c 97 s 2 are each amended to read as follows:

The southwest Washington fair commission heretofore established and authorized under the provisions of this chapter is abolished and all rights, duties and obligations of such commission is devolved upon the board of county commissioners of Lewis county and title to or all interest in real estate, choses in

action and all other assets, including but not limited to assignable contracts, cash, deposits in county funds (including any interest or premiums thereon), equipment, buildings, facilities, and appurtenances thereto held as of the date of passage of this 1973 amendatory act by or for the commission shall, on the effective date of this 1973 amendatory act vest in Lewis county for fair and county purposes.

Sec. 3. RCW 36.90.030 and 2009 c 549 s 4149 are each amended to read as follows:

The board of county commissioners in the county of Lewis as administrators of all property relating to the southwest Washington fair may elect to appoint either (1) a designee, whose operation and funds the board may control and oversee, to carry out the board's duties and obligations as set forth in RCW 36.90.020, or (2) a commission of citizens to advise and assist in carrying out such fair. The chair of the board of county commissioners of Lewis county may elect to serve as chair of any such commission. Such commission may elect a president and secretary and define their duties and fix their compensation, and provide for the keeping of its records. The commission may also designate the treasurer of Lewis county as fair treasurer. The funds relating to fair activities ((~~shall be kept separate and apart from the~~)) shall be managed and accounted for as are other funds of Lewis county((~~, but shall be deposited in the regular depositaries of Lewis county and all interest earned thereby shall be added to and become a part of the funds. Fair funds shall be audited as are other county funds~~)).

Sec. 4. RCW 36.90.050 and 1998 c 107 s 3 are each amended to read as follows:

The Lewis county board of county commissioners may acquire by gift, exchange, devise, lease, or purchase, real property for southwest Washington fair purposes or joint fair and county purposes, and may construct and maintain temporary or permanent improvements suitable and necessary for the purpose of holding and maintaining the southwest Washington fair or other county uses of the fairgrounds. Any such property deemed surplus by the board may be (1) sold at private sale after notice in a local publication of general circulation, or (2) exchanged for other property after notice in a local publication of general circulation, under Lewis county property management regulations.

Sec. 5. RCW 36.90.070 and 1973 1st ex.s. c 97 s 6 are each amended to read as follows:

Upon payment to the state of Washington by Lewis county of the sum of one dollar, which sum shall be deposited in the general fund when received by the treasurer of the state of Washington, such treasurer is authorized and directed to certify to the governor and secretary of state that such payment has been made on the following described property presently utilized for southwest Washington fair purposes situated in Lewis county, Washington: "Beginning at the intersection of the south line of section Seventeen (17) Township Fourteen (14) North of Range Two (2) West of W.M. with the West right-of-way line of the Somerville consent Road, and running thence North 15 degrees 20 feet East along the West line of said Road, Eleven Hundred Forty-four (1144) feet, thence North 2 degrees 33 feet West along the said west line Seventy-four and four-tenths (74.4) feet, thence west on a line parallel with the said south line of said

Section Seventeen (17) Eleven Hundred Sixty-seven and two tenths (1167.2) feet to within one hundred fifty (150) feet to the Center line of the Northern Pacific Railroad, thence south 16 degrees 20 feet West on a line parallel with and one hundred fifty (150) feet distant Easterly from the Center line of the Northern Pacific Railroad Eleven Hundred and Thirty-five and seven-tenths (1135.7) feet, thence East on a line parallel with and Eighty-seven and three-tenths (87.3) feet north of the south line of said section seventeen (17) eight hundred fifty-seven (857) feet, thence south 74 degrees 40 feet East three hundred thirty (330) feet to the point of beginning, containing thirty (30) acres in Section Seventeen (17) Township Fourteen (14) North of Range Two (2) West of W.M." and the governor is thereby authorized and directed forthwith to execute and the secretary of state is authorized and directed to attest to a deed conveying said lands to Lewis county, Washington. The office of the attorney general and the commissioner of public lands shall offer any necessary assistance in carrying out such conveyance. This conveyance shall be understood to have no use restrictions and to give Lewis county control of the property for fair and county purposes as set forth in this chapter.

Passed by the House February 9, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 76

[House Bill 2209]

LUNAR NEW YEAR

AN ACT Relating to celebrating lunar new year; reenacting and amending RCW 1.16.050; adding a new section to chapter 43.117 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that each year the people of the great state of Washington unite to celebrate the Lunar New Year, joining to distinguish Asian American joy, cultures, and beautiful diversity. The legislature further acknowledges both the wonderful heritage and collective trauma of our Asian American ancestors, and it deeply appreciates the Asian American community that has made Washington a vibrant place for us all to call home, building and supporting their communities despite the uncertainty they have faced at times. The legislature highlights the solidarity and strength of the Asian American community in the face of violent racism, during the past few years, well before, and ongoing. The legislature intends the Lunar New Year to serve as a time to embrace reflections and understanding as we look towards renewal.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.117 RCW to read as follows:

(1) The lunar new year of each year is designated as a time for people of this state to celebrate Asian American culture and to commemorate the contributions of Asian Americans to the history and heritage of Washington state.

(2) The legislature encourages state governmental entities, local governments, schools and institutions of higher education, and cultural organizations to celebrate the lunar new year.

(3) The commission shall create lunar new year programming and resources that these entities may use in planning and structuring their celebrations.

(4) For purposes of this section, "the lunar new year" is the date corresponding with the second new moon following the winter solstice, or the third new moon following the winter solstice should an intercalary month intervene.

Sec. 3. RCW 1.16.050 and 2023 c 387 s 3 and 2023 c 181 s 2 are each reenacted and amended to read as follows:

(1) The following are state legal holidays:

(a) Sunday;

(b) The first day of January, commonly called New Year's Day;

(c) The third Monday of January, celebrated as the anniversary of the birth of Martin Luther King, Jr.;

(d) The third Monday of February, to be known as Presidents' Day and celebrated as the anniversary of the births of Abraham Lincoln and George Washington;

(e) The last Monday of May, commonly known as Memorial Day;

(f) The nineteenth day of June, recognized as Juneteenth, a day of remembrance for the day the African slaves learned of their freedom;

(g) The fourth day of July, the anniversary of the Declaration of Independence;

(h) The first Monday in September, to be known as Labor Day;

(i) The eleventh day of November, to be known as Veterans Day;

(j) The fourth Thursday in November, to be known as Thanksgiving Day;

(k) The Friday immediately following the fourth Thursday in November, to be known as Native American Heritage Day; and

(l) The twenty-fifth day of December, commonly called Christmas Day.

(2) Employees of the state and its political subdivisions, except employees of school districts and except those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, are entitled to one paid holiday per calendar year in addition to those specified in this section. Each employee of the state or its political subdivisions may select the day on which the employee desires to take the additional holiday provided for in this section after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority.

(3) Employees of the state and its political subdivisions, including employees of school districts and those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, are entitled to two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization. This includes employees of public institutions of higher education, including community colleges, technical colleges, and workforce training programs. The employee may select the days on which the employee desires to take the two unpaid holidays after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or

resolution of the legislative authority. If an employee prefers to take the two unpaid holidays on specific days for a reason of faith or conscience, or an organized activity conducted under the auspices of a religious denomination, church, or religious organization, the employer must allow the employee to do so unless the employee's absence would impose an undue hardship on the employer or the employee is necessary to maintain public safety. Undue hardship shall have the meaning established in rule by the office of financial management under RCW 43.41.109.

(4) If any of the state legal holidays specified in this section are also federal legal holidays but observed on different dates, only the state legal holidays are recognized as a paid legal holiday for employees of the state and its political subdivisions. However, for port districts and the law enforcement and public transit employees of municipal corporations, either the federal or the state legal holiday is recognized as a paid legal holiday, but in no case may both holidays be recognized as a paid legal holiday for employees.

(5) Whenever any state legal holiday:

(a) Other than Sunday, falls upon a Sunday, the following Monday is the legal holiday; or

(b) Falls upon a Saturday, the preceding Friday is the legal holiday.

(6) Nothing in this section may be construed to have the effect of adding or deleting the number of paid holidays provided for in an agreement between employees and employers of political subdivisions of the state or as established by ordinance or resolution of the local government legislative authority.

(7) The legislature declares that the following days are recognized as provided in this subsection, but may not be considered legal holidays for any purpose:

(a) The thirteenth day of January, recognized as Korean-American day;

(b) The twelfth day of October, recognized as Columbus day;

(c) The ninth day of April, recognized as former prisoner of war recognition day;

(d) The twenty-sixth day of January, recognized as Washington army and air national guard day;

(e) The seventh day of August, recognized as purple heart recipient recognition day;

(f) The second Sunday in October, recognized as Washington state children's day;

(g) The sixteenth day of April, recognized as Mother Joseph day;

(h) The fourth day of September, recognized as Marcus Whitman day;

(i) The seventh day of December, recognized as Pearl Harbor remembrance day;

(j) The twenty-seventh day of July, recognized as national Korean war veterans armistice day;

(k) The nineteenth day of February, recognized as civil liberties day of remembrance;

(l) The thirtieth day of March, recognized as welcome home Vietnam veterans day;

(m) The eleventh day of January, recognized as human trafficking awareness day;

(n) The thirty-first day of March, recognized as Cesar Chavez day;

(o) The tenth day of April, recognized as Dolores Huerta day;

(p) The fourth Saturday of September, recognized as public lands day;

(q) The eighteenth day of December, recognized as blood donor day;

(r) The fifteenth day of May, recognized as water safety day; ((~~and~~))

(s) The ninth day of March, recognized as Billy Frank Jr. day; and

(t) The date corresponding with the second new moon following the winter solstice, or the third new moon following the winter solstice should an intercalary month intervene, recognized as the lunar new year.

Passed by the House January 31, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 13, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 77

[House Bill 1226]

RECREATIONAL LICENSING—SMELT, CRAWFISH, AND CARP

AN ACT Relating to providing for recreational licensing of smelt, crawfish, and carp; amending RCW 77.32.010; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that as Washington's growing population accesses limited natural resources, there is a need to increase compliance, and provide education, on appropriate gear, seasons, and species take limits.

(2) The legislature further finds that previously unregulated species are under increased recreational harvest. Recreational licensing is an appropriate mechanism to educate the public and preserve opportunity in the future.

(3) The legislature further finds that eulachon, also known as Pacific smelt and Columbia river smelt, are listed as a threatened species under the endangered species act and licensing requirements are needed to provide angler education and allow for better regulation and monitoring to prevent them from becoming endangered.

(4) The legislature also finds that licensing for carp will aid in enforcement of illegal fishing where people fishing for regulated species without a required license have claimed to be fishing for carp, thereby negatively affecting the fisheries of other regulated species.

(5) The legislature further finds that licensing for crawfish will provide the public with education that enables them to distinguish between native and invasive crawfish species, facilitating the removal of invasive crawfish.

Sec. 2. RCW 77.32.010 and 2019 c 290 s 3 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.

(4) A recreational fishing license is not required to fish for carp in Moses Lake or Vancouver Lake.

Passed by the House March 4, 2024.
Passed by the Senate February 23, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 78

[Engrossed Second Substitute House Bill 1272]
VOTERS' PAMPHLETS—VARIOUS PROVISIONS

AN ACT Relating to publishing, formatting, and distribution of the state and local voters' pamphlets; amending RCW 29A.32.010, 29A.32.020, 29A.32.031, 29A.32.060, 29A.32.070, 29A.32.121, 29A.32.210, 29A.32.220, 29A.32.241, 29A.32.250, 29A.32.260, and 29A.32.280; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 29A.32.010 and 2003 c 111 s 801 are each amended to read as follows:

The secretary of state shall, whenever at least one statewide measure or office is scheduled to appear on the general election ballot, print and distribute a voters' pamphlet.

The secretary of state shall distribute the voters' pamphlet to each household in the state, to public libraries, and to any other locations ((~~he or she~~)) the secretary deems appropriate. The secretary of state shall also produce ((~~taped~~)) recorded or Braille transcripts of the voters' pamphlet, publicize their availability, and mail without charge a copy to any person who requests one.

The secretary of state may make the material required to be distributed by this chapter available to the public in electronic form. The secretary of state may provide the material in electronic form to ((~~computer bulletin boards~~)) web based, print, and broadcast news media((~~, community computer networks,~~)) and similar services at the cost of reproduction or transmission of the data.

Sec. 2. RCW 29A.32.020 and 2003 c 111 s 802 are each amended to read as follows:

No person or entity may publish or distribute any campaign material that is deceptively similar in design or appearance to a voters' pamphlet that was published by the secretary of state during the ((~~ten~~)) 10-year period before the publication or distribution of the campaign material by the person or entity. The secretary of state shall take reasonable measures to prevent or to stop violations of this section. Such measures may include, among others, petitioning the

superior court for a temporary restraining order or other appropriate injunctive relief. In addition, the secretary may request the superior court to impose a civil fine on a violator of this section. The court is authorized to levy on and recover from each violator a civil fine not to exceed the greater of: (1) ((~~Two dollars~~)) $5 for each copy of the deceptive material distributed, or (2) ((~~one thousand dollars~~)) $10,000. In addition, the violator is liable for the state's legal expenses and other costs resulting from the violation. Any funds recovered under this section must be transmitted to the state treasurer for deposit in the general fund.

Sec. 3. RCW 29A.32.031 and 2023 c 109 s 8 are each amended to read as follows:

The voters' pamphlet published or distributed under RCW 29A.32.010 must contain:

(1) Information about each ballot measure initiated by or referred to the voters for their approval or rejection as required by RCW 29A.32.070;

(2) In even-numbered years, statements, if submitted, from candidates for the office of president and vice president of the United States, United States senator, United States representative, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, commissioner of public lands, superintendent of public instruction, insurance commissioner, state senator, state representative, justice of the supreme court, judge of the court of appeals, or judge of the superior court. Candidates may also submit campaign contact information and a photograph not more than five years old in a format that the secretary of state determines to be suitable for reproduction in the voters' pamphlet;

(3) In odd-numbered years, ((~~if~~)) statements, if submitted, from candidates for any office ((~~voted upon statewide~~)) listed in subsection (2) of this section that appears on the ballot due to a vacancy((~~, then statements and photographs for candidates for any vacant office listed in subsection (2) of this section must appear~~)). Candidates may also submit campaign contact information and a photograph not more than five years old in a format that the secretary of state determines to be suitable for reproduction in the voters' pamphlet;

(4) Contact information for the public disclosure commission established under RCW 42.17A.100, including the following statement: "For a list of the people and organizations that donated to state and local candidates and ballot measure campaigns, visit www.pdc.wa.gov." The statement must be placed in a prominent position, such as ((~~on the cover or on~~)) the first two pages of the voters' pamphlet. The secretary of state may substitute such language as is necessary for accuracy and clarity and consistent with the intent of this section;

(5) Contact information for major political parties;

(6) A brief statement explaining the deletion and addition of language for proposed measures under RCW 29A.32.080;

(7) A list of all student engagement hubs as designated under RCW 29A.40.180;

(8) A page providing information about how to access the internet presentation of the information created in RCW 44.48.160 about the state budgets, including a uniform resource locator, a quick response code, and a phone number for the legislative information center. The uniform resource locator and quick response codes will lead the voter to the internet information required in RCW 44.48.160; and

(9) Any additional information pertaining to elections as may be required by law or in the judgment of the secretary of state is deemed informative to the voters.

Sec. 4. RCW 29A.32.060 and 2015 c 171 s 2 are each amended to read as follows:

Committees shall write and submit arguments advocating the approval or rejection of each statewide ballot issue and rebuttals of those arguments. The secretary of state, the presiding officer of the senate, and the presiding officer of the house of representatives shall appoint the initial two members of each committee. In making these committee appointments the secretary of state and presiding officers of the senate and house of representatives shall consider legislators, sponsors of initiatives and referendums, and other interested groups known to advocate or oppose the ballot measure. Committees must have the explanatory and fiscal impact statements available before preparing their arguments.

The initial two members may select up to four additional members, and the committee shall elect a chairperson. The remaining committee member or members may fill vacancies through appointment.

After the committee submits its initial argument statements to the secretary of state, the secretary of state shall transmit the statements to the opposite committee. The opposite committee may then prepare rebuttal arguments. Rebuttals may not interject new points.

The voters' pamphlet may contain only text argument statements prepared according to this section. ((~~Arguments may contain graphs and charts supported by factual statistical data and pictures or other illustrations. Cartoons~~)) Graphs, charts, photographs, cartoons, or caricatures are not permitted.

Sec. 5. RCW 29A.32.070 and 2023 c 109 s 2 are each amended to read as follows:

The secretary of state shall determine the format and layout of the voters' pamphlet published under RCW 29A.32.010. The secretary of state shall print the pamphlet in clear, readable type on a size, quality, and weight of paper that in the judgment of the secretary of state best serves the voters. The pamphlet must contain a table of contents. Measures and arguments must be printed in the order specified by RCW 29A.72.290.

The secretary of state's name may not appear in the voters' pamphlet in ((~~his or her~~)) an official capacity if the secretary is a candidate for office during the same year. ((~~His or her~~)) The secretary's name may only be included as part of the information normally included for candidates.

The voters' pamphlet must provide the following information for each statewide issue on the ballot:

(1) The legal identification of the measure by serial designation or number;

(2) The official ballot title of the measure;

(3) A statement prepared by the attorney general explaining the law as it presently exists;

(4) A statement prepared by the attorney general explaining the effect of the proposed measure if it becomes law;

(5) The fiscal impact statement prepared under RCW 29A.72.025;

(6) The total number of votes cast for and against the measure in the senate and house of representatives, if the measure has been passed by the legislature;

(7) An argument advocating the voters' approval of the measure together with any statement in rebuttal of the opposing argument;

(8) An argument advocating the voters' rejection of the measure together with any statement in rebuttal of the opposing argument;

(9) Each argument or rebuttal statement must be followed by the names of the committee members who submitted them, and may be followed by a telephone number that citizens may call to obtain information on the ballot measure;

(10) The full text of the measure.

Sec. 6. RCW 29A.32.121 and 2004 c 271 s 168 are each amended to read as follows:

(1) The maximum number of words for statements submitted by candidates is as follows: State representative, ((~~one hundred~~)) 100 words; state senator, judge of the superior court, judge of the court of appeals, justice of the supreme court, and all state offices voted upon throughout the state, except that of governor, ((~~two hundred~~)) 200 words; president and vice president, United States senator, United States representative, and governor, ((~~three hundred~~)) 300 words.

(2) Arguments written by committees under RCW 29A.32.060 may not exceed ((~~two hundred fifty~~)) 250 words in length.

(3) Rebuttal arguments written by committees may not exceed ((~~seventy-five~~)) 75 words in length.

(4) The secretary of state or county auditor shall allocate space in the pamphlet based on the number of candidates or nominees for each office.

Sec. 7. RCW 29A.32.210 and 2020 c 337 s 6 are each amended to read as follows:

Before any primary or general election, or any special election held under RCW 29A.04.321 or 29A.04.330, each county auditor shall print and distribute a local voters' pamphlet. The pamphlet shall provide information on all measures and candidates appearing on ballots within that ((~~jurisdiction~~)) county. The format of any local voters' pamphlet shall, whenever applicable, comply with the provisions of this chapter regarding the publication of the state candidates' and voters' pamphlets.

Sec. 8. RCW 29A.32.220 and 2003 c 111 s 814 are each amended to read as follows:

(1) Not later than ((~~ninety~~)) 90 days before the publication and distribution of a local voters' pamphlet by a county, the county auditor shall notify each city, town, or special taxing district ((~~located wholly~~)) with issues or offices appearing on ballots within that county that a pamphlet will be produced.

(2) ((~~If a~~)) All voters' ((~~pamphlet is~~)) pamphlets published by the county ((~~for a primary or general election, the pamphlet shall be published for~~)) pursuant to RCW 29A.32.210 must include the elective offices and ballot measures of the county and ((~~for~~)) the elective offices and ballot measures of each unit of local government ((~~located entirely~~)) within the county which will appear on the ballot at that primary or election. ((~~However, the offices and measures of a first-class or code city shall not be included in the pamphlet if the city publishes and distributes its own voters' pamphlet for the primary or election~~

~~for its offices and measures. The offices and measures of any other town or city are not required to appear in the county's pamphlet if the town or city is obligated by ordinance or charter to publish and distribute a voters' pamphlet for the primary or election for its offices and measures and it does so.~~))

If the required appearance in a county's voters' pamphlet of the offices or measures of a unit of local government would create undue financial hardship for the unit of government, the legislative authority of the unit may petition the legislative authority of the county to waive this requirement. The legislative authority of the county may provide such a waiver if it does so not later than ((~~sixty~~)) 60 days before the publication of the pamphlet and it finds that the requirement would create such hardship.

(3) If a city, town, or district is located within more than one county, ((~~the respective county auditors may enter into an interlocal agreement to permit the distribution of each county's local voters' pamphlet into those parts of the city, town, or district located outside of that county~~)) all appropriate information for that jurisdiction must appear in the local voters' pamphlet for each of the counties containing the jurisdiction. Arguments, candidate statements, and photographs must be submitted to the county auditor of the county that accepted any resolutions or candidate filings for that jurisdiction. The auditor that receives this information shall provide it to the other county auditors after reviewing and accepting the submissions.

(((~~(4) If a first-class or code city authorizes the production and distribution of a local voters' pamphlet, the city clerk of that city shall notify any special taxing district located wholly within that city that a pamphlet will be produced. Notification shall be provided in the manner required or provided for in subsection (1) of this section.~~

~~(5) A unit of local government located within a county and the county may enter into an interlocal agreement for the publication of a voters' pamphlet for offices or measures not required by subsection (2) of this section to appear in a county's pamphlet.~~))

Sec. 9. RCW 29A.32.241 and 2020 c 208 s 12 are each amended to read as follows:

(1) The local voters' pamphlet shall include but not be limited to the following:

(a) Appearing on the cover, the words "official local voters' pamphlet," the name of the jurisdiction producing the pamphlet, and the date of the election or primary;

(b) A list of jurisdictions that have measures or candidates in the pamphlet;

(c) Information on how a person may register to vote and obtain a ballot;

(d) Candidate statements and photographs;

(e) The text of each measure accompanied by an explanatory statement prepared by the prosecuting attorney for any county measure or by the attorney for the jurisdiction submitting the measure if other than a county measure. All explanatory statements for city, town, or district measures not approved by the attorney for the jurisdiction submitting the measure shall be reviewed and approved by the county prosecuting attorney or city attorney, when applicable, before inclusion in the pamphlet;

(((~~(e)~~))) (f) The arguments for and against each measure submitted by committees selected pursuant to RCW 29A.32.280; and

((~~(f)~~)) (g) A list of all student engagement hubs in the county as designated under RCW 29A.40.180((~~; and~~

~~(g) For partisan primary elections, information on how to vote the applicable ballot format and an explanation that minor political party candidates and independent candidates will appear only on the general election ballot~~)).

(2) The county auditor's name may not appear in the local voters' pamphlet in ((~~his or her~~)) an official capacity if the county auditor is a candidate for office during the same year. ((~~His or her~~)) The auditor's name may only be included as part of the information normally included for candidates.

Sec. 10. RCW 29A.32.250 and 2003 c 111 s 817 are each amended to read as follows:

((~~If the legislative authority of a county or first-class or code city provides for the inclusion of candidates in the local voters' pamphlet, the pamphlet~~)) Local voters' pamphlets shall include ((~~the~~)) candidate statements ((~~from candidates~~)) accepted by the county auditor and may also include ((~~those~~)) candidates' photographs accepted by the county auditor.

Sec. 11. RCW 29A.32.260 and 2022 c 193 s 2 are each amended to read as follows:

As soon as practicable before the primary, special election, or general election, the county auditor((~~, or if applicable, the city clerk of a first-class or code city, as appropriate,~~)) shall mail the local voters' pamphlet to every residence in each jurisdiction ((~~that has included information~~)) within the county that is participating in the associated primary or election and for which election information is included in the pamphlet. The county auditor ((~~or city clerk, as appropriate,~~)) may choose to mail the pamphlet to each registered voter in each jurisdiction ((~~that has included information in the pamphlet~~)) within the county that is participating in the associated primary or election and for which election information is included in the pamphlet, if in ((~~his or her~~)) the auditor's judgment, a more economical and effective distribution of the pamphlet would result. The county auditor shall either mail or send a printable electronic version of the state and local voters' pamphlets to any service or overseas voter registered in the jurisdiction who has requested them.

Sec. 12. RCW 29A.32.280 and 2015 c 146 s 3 are each amended to read as follows:

(1) For each measure from a unit of local government ((~~that is~~)) included in a local voters' pamphlet, the legislative authority of that jurisdiction shall, not later than the resolution deadline, formally appoint a committee to prepare arguments advocating voters' approval of the measure and shall formally appoint a committee to prepare arguments advocating voters' rejection of the measure.

(2) The authority shall appoint persons that reside within the jurisdictional boundaries and are known to favor the measure to serve on the committee advocating approval and shall, whenever possible, appoint persons that reside within the jurisdictional boundaries and are known to oppose the measure to serve on the committee advocating rejection.

(3) Each committee shall have not more than three members, however, a committee may seek the advice of any person or persons.

(4) If the legislative authority of a unit of local government fails to make such appointments by the prescribed deadline, the county auditor shall

((~~whenever possible make the appointments~~)) issue a media release and publish information on the auditor's election website announcing the opportunity to form committees and provide statements. If the legislative authority is unable to make appointments, the auditor shall make appointments on a first-come, first-served basis if qualified committee members contact the auditor by the appropriate deadline.

(5) If no statement is produced, the auditor shall include a statement in the pamphlet stating that no person in the jurisdiction contacted the auditor to provide a statement, and there are no statements for that measure.

NEW SECTION. **Sec. 13.** This act takes effect January 1, 2025.

Passed by the House March 5, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 79

[Substitute House Bill 1453]

MEDICAL CANNABIS PATIENTS—EXCISE TAX EXEMPTION

AN ACT Relating to providing a tax exemption for medical cannabis patients; amending RCW 69.50.535; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 69.50.535 and 2022 c 16 s 101 are each amended to read as follows:

(1)(a) There is levied and collected a cannabis excise tax equal to thirty-seven percent of the selling price on each retail sale in this state of cannabis concentrates, useable cannabis, and cannabis-infused products. This tax is separate and in addition to general state and local sales and use taxes that apply to retail sales of tangible personal property, and is not part of the total retail price to which general state and local sales and use taxes apply. The tax must be separately itemized from the state and local retail sales tax on the sales receipt provided to the buyer.

(b) The tax levied in this section must be reflected in the price list or quoted shelf price in the licensed cannabis retail store and in any advertising that includes prices for all useable cannabis, cannabis concentrates, or cannabis-infused products.

(2)(a) Until June 30, 2029, the tax levied by subsection (1) of this section does not apply to sales by a cannabis retailer with a medical cannabis endorsement to qualifying patients or designated providers who have been issued a recognition card, of cannabis concentrates, useable cannabis, or cannabis-infused products, identified by the department as a compliant cannabis product in chapter 246-70 WAC and tested to the standards in WAC 246-70-040.

(b) Each seller making exempt sales under this subsection (2) must maintain information establishing eligibility for the exemption in the form and manner required by the board.

(c) The board must provide a separate tax reporting line on the excise tax form for exemption amounts claimed under this subsection (2).

(3) All revenues collected from the cannabis excise tax imposed under this section must be deposited each day in the dedicated cannabis account.

(((~~(3)~~))) (4) The tax imposed in this section must be paid by the buyer to the seller. Each seller must collect from the buyer the full amount of the tax payable on each taxable sale. The tax collected as required by this section is deemed to be held in trust by the seller until paid to the board. If any seller fails to collect the tax imposed in this section or, having collected the tax, fails to pay it as prescribed by the board, whether such failure is the result of the seller's own acts or the result of acts or conditions beyond the seller's control, the seller is, nevertheless, personally liable to the state for the amount of the tax.

(((~~(4)~~))) (5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) ((~~"Board" means the state liquor and cannabis board.~~

~~(b)~~))) "Retail sale" has the same meaning as in RCW 82.08.010.

(((~~(c)~~))) (b) "Selling price" has the same meaning as in RCW 82.08.010, except that when product is sold under circumstances where the total amount of consideration paid for the product is not indicative of its true value, "selling price" means the true value of the product sold.

(((~~(d)~~))) (c) "Product" means cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products.

(((~~(e)~~))) (d) "True value" means market value based on sales at comparable locations in this state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. However, in the absence of such sales of the same or similar product, true value means the value of the product sold as determined by all of the seller's direct and indirect costs attributable to the product.

(((~~(5)~~))) (6)(a) The board must regularly review the tax level established under this section and make recommendations, in consultation with the department of revenue, to the legislature as appropriate regarding adjustments that would further the goal of discouraging use while undercutting illegal market prices.

(b) The board must report, in compliance with RCW 43.01.036, to the appropriate committees of the legislature every two years. The report at a minimum must include the following:

(i) The specific recommendations required under (a) of this subsection;

(ii) A comparison of gross sales and tax collections prior to and after any cannabis tax change;

(iii) The increase or decrease in the volume of legal cannabis sold prior to and after any cannabis tax change;

(iv) Increases or decreases in the number of licensed cannabis producers, processors, and retailers;

(v) The number of illegal and noncompliant cannabis outlets the board requires to be closed;

(vi) Gross cannabis sales and tax collections in Oregon; and

(vii) The total amount of reported sales and use taxes exempted for qualifying patients. The department of revenue must provide the data of exempt amounts to the board.

(c) The board is not required to report to the legislature as required in (b) of this subsection after January 1, 2025.

(((~~(6)~~))) (7) The legislature does not intend and does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal antitrust laws including, but not limited to, agreements among retailers as to the selling price of any goods sold.

NEW SECTION. **Sec. 2.** (1) This section is the tax preference performance statement for the tax preference contained in section 1, chapter . . ., Laws of 2024 (section 1 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 to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to ensure medical cannabis products are accessible and affordable for qualifying patients and designated providers.

(4) The joint legislative audit and review committee must include in its review of this tax preference an evaluation of:

(a) Any change in the number of qualifying patients or designated providers;

(b) Any change in the amount, types, or sales of tax-exempt products, as identified in section 1 of this act; and

(c) Any other information the joint legislative audit and review committee deems necessary to evaluate the tax preference in section 1 of this act.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may access any data collected by the department of health or the liquor and cannabis board or any other data collected by the state.

(6) The joint legislative audit and review committee must submit a report of its findings to the legislature by December 1, 2028.

Passed by the House March 6, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 80

[Second Engrossed Substitute House Bill 1508]

HEALTH CARE COST TRANSPARENCY BOARD—VARIOUS PROVISIONS

AN ACT Relating to improving consumer affordability through the health care cost transparency board; amending RCW 70.390.040, 70.390.050, 70.390.070, and 70.405.030; adding new sections to chapter 70.390 RCW; and adding a new section to chapter 43.71C RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.390.040 and 2020 c 340 s 4 are each amended to read as follows:

(1) The board shall establish an advisory committee on data issues and ((~~an~~)) a health care stakeholder advisory committee ((~~of health care providers and carriers~~)). The board may establish other advisory committees as it finds

necessary. Any other standing advisory committee established by the board shall include members representing the interests of consumer, labor, and employer purchasers, at a minimum, and may include other stakeholders with expertise in the subject of the advisory committee, such as health care providers, payers, and health care cost researchers.

(2) Appointments to the advisory committee on data issues shall be made by the board. Members of the committee must have expertise in health data collection and reporting, health care claims data analysis, health care economic analysis, ((~~and~~)) actuarial analysis, or other relevant expertise related to health data.

(3) Appointments to the health care stakeholder advisory committee ((~~of health care providers and carriers~~)) shall be made by the board and must include the following membership:

(a) One member representing hospitals and hospital systems, selected from a list of three nominees submitted by the Washington state hospital association;

(b) One member representing federally qualified health centers, selected from a list of three nominees submitted by the Washington association for community health;

(c) One physician, selected from a list of three nominees submitted by the Washington state medical association;

(d) One primary care physician, selected from a list of three nominees submitted by the Washington academy of family physicians;

(e) One member representing behavioral health providers, selected from a list of three nominees submitted by the Washington council for behavioral health;

(f) One member representing pharmacists and pharmacies, selected from a list of three nominees submitted by the Washington state pharmacy association;

(g) One member representing advanced registered nurse practitioners, selected from a list of three nominees submitted by ARNPs united of Washington state;

(h) One member representing tribal health providers, selected from a list of three nominees submitted by the American Indian health commission;

(i) One member representing a health maintenance organization, selected from a list of three nominees submitted by the association of Washington health care plans;

(j) One member representing a managed care organization that contracts with the authority to serve medical assistance enrollees, selected from a list of three nominees submitted by the association of Washington health care plans;

(k) One member representing a health care service contractor, selected from a list of three nominees submitted by the association of Washington health care plans;

(l) One member representing an ambulatory surgery center selected from a list of three nominees submitted by the ambulatory surgery center association; ((~~and~~))

(m) Three members, at least one of whom represents a disability insurer, selected from a list of six nominees submitted by America's health insurance plans;

(n) At least two members representing the interests of consumers, selected from a list of nominees submitted by consumer organizations;

(o) At least two members representing the interests of labor purchasers, selected from a list of nominees submitted by the Washington state labor council; and

(p) At least two members representing the interests of employer purchasers, including at least one small business representative, selected from a list of nominees submitted by business organizations. The members appointed under this subsection (3)(p) may not be directly or indirectly affiliated with an employer which has income from health care services, health care products, health insurance, or other health care sector-related activities as its primary source of revenue.

Sec. 2. RCW 70.390.050 and 2020 c 340 s 5 are each amended to read as follows:

(1) The board has the authority to establish and appoint advisory committees, in accordance with the requirements of RCW 70.390.040, and shall seek input and recommendations from ((~~the~~)) relevant advisory committees ((~~on topics relevant to the work of the board~~)).

(2) The board shall:

(a) Determine the types and sources of data necessary to annually calculate total health care expenditures and health care cost growth, ((~~and to~~)) establish the health care cost growth benchmark, and analyze the impact of cost drivers on health care spending, including execution of any necessary access and data security agreements with the custodians of the data. The board shall first identify existing data sources, such as the statewide health care claims database established in chapter 43.371 RCW and prescription drug data collected under chapter 43.71C RCW, and primarily rely on these sources when possible in order to minimize the creation of new reporting requirements. The board may use data received from existing data sources including, but not limited to, publicly available information filed by carriers under Title 48 RCW and data collected under chapters 43.70, 43.71, 43.71C, 43.371, and 70.405 RCW, in its analyses and discussions to the same extent that the custodians of the data are permitted to use the data. As appropriate to promote administrative efficiencies, the board may share its data with the prescription drug affordability board under chapter 70.405 RCW and other health care cost analysis efforts conducted by the state;

(b) Determine the means and methods for gathering data to annually calculate total health care expenditures and health care cost growth, and to establish the health care cost growth benchmark. The board must select an appropriate economic indicator to use when establishing the health care cost growth benchmark. The activities may include selecting methodologies and determining sources of data. The board shall ((~~accept~~)) solicit and consider recommendations from the advisory committee on data issues and the health care stakeholder advisory committee ((~~of health care providers and carriers~~)) regarding the value and feasibility of reporting various categories of information under (c) of this subsection, such as urban and rural, public sector and private sector, and major categories of health services, including prescription drugs, inpatient treatment, and outpatient treatment;

(c) Annually calculate total health care expenditures and health care cost growth:

(i) Statewide and by geographic rating area;

(ii) For each health care provider or provider system and each payer, taking into account the health status of the patients of the health care provider or the enrollees of the payer, utilization by the patients of the health care provider or the enrollees of the payer, intensity of services provided to the patients of the health care provider or the enrollees of the payer, and regional differences in input prices. The board must develop an implementation plan for reporting information about health care providers, provider systems, and payers;

(iii) By market segment;

(iv) Per capita; and

(v) For other categories, as recommended by the advisory committees in (b) of this subsection, and approved by the board;

(d) Annually establish the health care cost growth benchmark for increases in total health expenditures. The board, in determining the health care cost growth benchmark, shall begin with an initial implementation that applies to the highest cost drivers in the health care system and develop a phased plan to include other components of the health system for subsequent years;

(e) Beginning in 2023, analyze the impacts of cost drivers to health care and incorporate this analysis into determining the annual total health care expenditures and establishing the annual health care cost growth benchmark. The cost drivers may include, to the extent such data is available:

(i) Labor, including but not limited to, wages, benefits, and salaries;

(ii) Capital costs, including but not limited to new technology;

(iii) Supply costs, including but not limited to prescription drug costs;

(iv) Uncompensated care;

(v) Administrative and compliance costs;

(vi) Federal, state, and local taxes;

(vii) Capacity, funding, and access to postacute care, long-term services and supports, and housing; ((~~and~~))

(viii) Regional differences in input prices; ((~~and~~

~~(f)~~)) (ix) Financial earnings of health care providers and payers, including information regarding profits, assets, accumulated surpluses, reserves, and investment income, and similar information;

(x) Utilization trends and adjustments for demographic changes and severity of illness;

(xi) New state health insurance benefit mandates enacted by the legislature that require carriers to reimburse the cost of specified procedures or prescriptions; and

(xii) Other cost drivers determined by the board to be informative to determining annual total health care expenditures and establishing the annual health care cost growth benchmark; and

(f) Release reports in accordance with RCW 70.390.070.

Sec. 3. RCW 70.390.070 and 2020 c 340 s 7 are each amended to read as follows:

((~~(1) By August 1, 2021, the board shall submit a preliminary report to the governor and each chamber of the legislature. The preliminary report shall address the progress toward establishment of the board and advisory committees and the establishment of total health care expenditures, health care cost growth, and the health care cost growth benchmark for the state, including proposed methodologies for determining each of these calculations. The preliminary~~

~~report shall include a discussion of any obstacles related to conducting the board's work including any deficiencies in data necessary to perform its responsibilities under RCW 70.390.050 and any supplemental data needs.~~

~~(2) Beginning August 1, 2022~~)) By December 1st of each year, the board shall submit annual reports to the governor and each chamber of the legislature. ((~~The first annual report shall determine the total health care expenditures for the most recent year for which data is available and shall establish the health care cost growth benchmark for the following year.~~)) The annual reports may include policy recommendations applicable to the board's activities and analysis of its work, including any recommendations related to lowering health care costs, focusing on private sector purchasers, and the establishment of a rating system of health care providers and payers.

NEW SECTION. **Sec. 4.** A new section is added to chapter 70.390 RCW to read as follows:

(1) At least biennially, the board shall conduct a survey of underinsurance among Washington residents.

(a) The survey shall be conducted among a representative sample of Washington residents. Analysis of the survey results shall be disaggregated to the greatest extent feasible by demographic factors such as race, ethnicity, gender and gender identity, age, disability status, household income level, type of insurance coverage, geography, and preferred language. In addition, the survey shall be designed to allow for the analyses of the aggregate impact of out-of-pocket costs and premiums according to the standards in (b) of this subsection as well as the share of Washington residents who delay or forego care due to cost.

(b) The board shall measure underinsurance as the share of Washington residents whose out-of-pocket costs over the prior 12 months, excluding premiums, are equal to:

(i) For persons whose household income is over 200 percent of the federal poverty level, 10 percent or more of household income;

(ii) For persons whose household income is less than 200 percent of the federal poverty level, five percent or more of household income; or

(iii) For any income level, deductibles constituting five percent or more of household income.

(c) Beginning in 2026, the board may implement improvements to the measure of underinsurance defined in (b) of this subsection, such as a broader health care affordability index that considers health care expenses in the context of other household expenses.

(2) At least biennially, the board shall conduct a survey of insurance trends among employers and employees. The survey must be conducted among a representative sample of Washington employers and employees.

(3) The board may conduct the surveys through the authority, by contract with a private entity, or by arrangement with another state agency conducting a related survey.

(4) Beginning in 2025, analysis of the survey results shall be included in the annual report required by RCW 70.390.070.

NEW SECTION. **Sec. 5.** A new section is added to chapter 70.390 RCW to read as follows:

(1) No later than December 1, 2024, and annually thereafter, the board shall hold a public hearing related to discussing the growth in total health care expenditures in relation to the health care cost growth benchmark in the previous performance period, in accordance with the open public meetings act, chapter 42.30 RCW. The agenda and any materials for this hearing must be made available to the public at least 14 days prior to the hearing.

(2)(a) Except as provided in (b) of this subsection, to the extent data permits, the hearing must include the public identification of any payers or health care providers for which health care cost growth in the previous performance period exceeded the health care cost growth benchmark.

(b) Provider groups with fewer than 10,000 unique attributed lives shall be exempt from identification under (a) of this subsection.

(3) At the hearing, the board:

(a) May require testimony by payers or health care providers that have substantially exceeded the health care cost growth benchmark in the previous calendar year to better understand the reasons for the excess health care cost growth and measures that are being undertaken to restore health care cost growth within the limits of the benchmark;

(b) Shall invite testimony from health care stakeholders, other than payers and health care providers, including health care consumers, business interests, and labor representatives; and

(c) Shall provide an opportunity for public comment.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.71C RCW to read as follows:

Information collected pursuant to this chapter may be shared with the health care cost transparency board established under chapter 70.390 RCW, subject to the same disclosure restrictions applicable under this chapter.

Sec. 7. RCW 70.405.030 and 2022 c 153 s 3 are each amended to read as follows:

By June 30, 2023, and annually thereafter, utilizing data collected pursuant to ((~~chapter~~)) chapters 43.71C, 43.371, and 70.390 RCW, ((~~the all-payer health care claims database,~~)) or other data deemed relevant by the board, the board must identify prescription drugs that have been on the market for at least seven years, are dispensed at a retail, specialty, or mail-order pharmacy, are not designated by the United States food and drug administration under 21 U.S.C. Sec. 360bb as a drug solely for the treatment of a rare disease or condition, and meet the following thresholds:

(1) Brand name prescription drugs and biologic products that:

(a) Have a wholesale acquisition cost of $60,000 or more per year or course of treatment lasting less than one year; or

(b) Have a price increase of 15 percent or more in any 12-month period or for a course of treatment lasting less than 12 months, or a 50 percent cumulative increase over three years;

(2) A biosimilar product with an initial wholesale acquisition cost that is not at least 15 percent lower than the reference biological product; and

(3) Generic drugs with a wholesale acquisition cost of $100 or more for a 30-day supply or less that has increased in price by 200 percent or more in the preceding 12 months.

Passed by the House February 6, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 81

[Engrossed Substitute House Bill 1608]

ANAPHYLAXIS MEDICATION—SCHOOLS

AN ACT Relating to expanding access to anaphylaxis medications in schools; amending RCW 28A.210.383; and adding a new section to chapter 43.70 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.70 RCW to read as follows:

The secretary or the secretary's designee, if a licensed health professional with the authority to prescribe epinephrine, shall, as is consistent with the exercise of sound professional judgment, issue a statewide standing order prescribing epinephrine and epinephrine autoinjectors to any school district or school for use by a school nurse or other designated trained school personnel, as authorized under RCW 28A.210.383, for any student or individual experiencing anaphylaxis on school property, a school bus, a field trip, or designated school activity.

Sec. 2. RCW 28A.210.383 and 2014 c 34 s 1 are each amended to read as follows:

(1) School districts and nonpublic schools may maintain at a school in a designated location a supply of epinephrine and epinephrine autoinjectors based on the number of students enrolled in the school.

(2)(a) A licensed health professional with the authority to prescribe epinephrine ((~~autoinjectors~~)), including, but not limited to, the secretary of health or the secretary's designee in accordance with section 1 of this act, may prescribe epinephrine, including epinephrine autoinjectors, in the name of the school district or school to be maintained for use when necessary. Epinephrine prescriptions must be accompanied by a standing order issued in accordance with this section or section 1 of this act for the administration of school-supplied, undesignated epinephrine and epinephrine autoinjectors for potentially life-threatening allergic reactions.

(b) There are no changes to current prescription or self-administration practices for children with existing epinephrine autoinjector prescriptions or a guided anaphylaxis care plan.

(c) Epinephrine and epinephrine autoinjectors may be obtained from donation sources, but must be accompanied by a prescription.

(3)(a) When a student has a prescription for an epinephrine autoinjector on file, the school nurse ((~~or~~)) may utilize the school district or school supply of epinephrine and the school nurse and the designated trained school personnel may utilize the school district or school supply of epinephrine autoinjectors to

respond to an anaphylactic reaction under a standing protocol according to RCW 28A.210.380.

(b) When a student does not have an epinephrine autoinjector or prescription for an epinephrine autoinjector on file, the school nurse may utilize the school district or school supply of epinephrine or epinephrine autoinjectors to respond to an anaphylactic reaction under a standing protocol according to RCW ((~~28A.210.300~~)) 28A.210.380.

(c) Epinephrine and epinephrine autoinjectors may be used on school property, including the school building, playground, and school bus, as well as during field trips or sanctioned excursions away from school property. The school nurse or designated trained school personnel may carry an appropriate supply of school-owned epinephrine or epinephrine autoinjectors on field trips or excursions.

(4)(a) If a student is injured or harmed due to the administration of epinephrine that a licensed health professional with prescribing authority has prescribed and a pharmacist has dispensed to a school under this section, the licensed health professional with prescribing authority and pharmacist may not be held responsible for the injury unless he or she issued the prescription with a conscious disregard for safety.

(b) In the event a school nurse or other school employee administers epinephrine in substantial compliance with a student's prescription that has been prescribed by a licensed health professional within the scope of the professional's prescriptive authority or by statewide standing order in accordance with section 1 of this act, if applicable, and written policies of the school district or private school, then the school employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof are not liable in any criminal action or for civil damages in their individual, marital, governmental, corporate, or other capacity as a result of providing the epinephrine.

(c) School employees, except those licensed under chapter 18.79 RCW, who have not agreed in writing to the use of epinephrine autoinjectors as a specific part of their job description, may file with the school district a written letter of refusal to use epinephrine autoinjectors. This written letter of refusal may not serve as grounds for discharge, nonrenewal of an employment contract, or other action adversely affecting the employee's contract status.

((~~(5) The office of the superintendent of public instruction shall review the anaphylaxis policy guidelines required under RCW 28A.210.380 and make a recommendation to the education committees of the legislature by December 1, 2013, based on student safety, regarding whether to designate other trained school employees to administer epinephrine autoinjectors to students without prescriptions for epinephrine autoinjectors demonstrating the symptoms of anaphylaxis when a school nurse is not in the vicinity.~~))

Passed by the House January 25, 2024.

Passed by the Senate February 29, 2024.

Approved by the Governor March 14, 2024.

Filed in Office of Secretary of State March 14, 2024.

CHAPTER 82

[House Bill 1867]

ESTATE TAX—FILING EXEMPTION

AN ACT Relating to eliminating the estate tax filing requirement for certain estates involving a qualifying familial residence; amending RCW 83.100.050; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 83.100.050 and 2017 c 323 s 601 are each amended to read as follows:

(1) ((~~A~~)) Except as provided in subsection (7) of this section, a Washington return must be filed if the gross estate equals or exceeds the applicable exclusion amount.

(2) If a Washington return is required as provided in subsection (1) of this section:

(a) A person required to file a federal return must file with the department on or before the date the federal return is required to be filed, including any extension of time for filing under subsection (4) or (6) of this section, a Washington return for the tax due under this chapter.

(b) If no federal return is required to be filed, a taxpayer shall file with the department on or before the date a federal return would have been required to be filed, including any extension of time for filing under subsection (5) or (6) of this section, a Washington return for the tax due under this chapter.

(3) A Washington return delivered to the department by United States mail is considered to have been received by the department on the date of the United States postmark stamped on the cover in which the return is mailed, if the postmark date is within the time allowed for filing the Washington return, including extensions.

(4) In addition to the Washington return required to be filed in subsection (2) of this section, a person must file with the department on or before the date the federal return is or would have been required to be filed all supporting documentation for completed Washington return schedules, and, if a federal return has been filed, a copy of the federal return. If the person required to file the federal return has obtained an extension of time for filing the federal return, the person must file the Washington return within the same time period and in the same manner as provided for the federal return. A copy of the federal extension must be filed with the department on or before the date the Washington return is due, not including any extension of time for filing, or within thirty days of issuance, whichever is later.

(5) A person may obtain an extension of time for filing the Washington return as provided by rule of the department, if the person is required to file a Washington return under subsection (2) of this section, but is not required to file a federal return.

(6) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the time for filing a Washington return under this section as the department deems proper.

(7)(a) A Washington return is not required to be filed for a decedent's estate if:

(i) The estate is not otherwise required to file an estate tax return to claim a specific election;

(ii) The decedent was survived by a spouse, and the decedent's qualifying family residence included in the decedent's gross estate passed from the decedent to the spouse, consistent with section 2056 of the internal revenue code; and

(iii) The value of the decedent's gross estate less the value of the decedent's interest in a qualifying family residence that is included in the value of the decedent's gross estate is less than the applicable exclusion amount.

(b) The following definitions apply to this subsection:

(i) "Principal place of residence" means a residence that, except as otherwise provided in this subsection (7)(b)(i), has been occupied by both the decedent and the decedent's spouse or domestic partner for more than six months of the 12 months immediately preceding the decedent's date of death. "Principal place of residence" also means a residence of the decedent and the decedent's spouse or domestic partner when, during the six-month period immediately preceding the decedent's date of death, the decedent, the decedent's spouse or domestic partner, or both the decedent and decedent's spouse or domestic partner, were confined to a hospital, nursing home, assisted living facility, adult family home, or home of a relative of the decedent or decedent's spouse or domestic partner for purposes of long-term care if the decedent and the decedent's spouse or domestic partner did not occupy any other residence for more than six months of the 12 months immediately preceding the decedent's date of death, and during the six-month period immediately preceding the decedent's date of death:

(A) The residence was temporarily unoccupied;

(B) The residence was occupied by either or both (I) the decedent's spouse or domestic partner, or (II) a person financially dependent on the decedent or the decedent's spouse or domestic partner for support; or

(C) The residence or portion of the residence was rented for the purposes of paying costs related to the care of the decedent or the decedent's spouse or domestic partner in a nursing home, hospital, assisted living facility, or adult family home.

(ii) "Qualifying family residence" means the principal place of residence of the marital community or domestic partnership at the decedent's date of death.

(iii) "Relative" has the same meaning as "member of the family" in RCW 83.100.046.

(iv) "Residence" means a single-family dwelling unit, whether such unit is separate or part of a multiunit dwelling, including the land on which such dwelling stands, regardless of whether ownership of the single-family dwelling unit and land on which the dwelling unit stands is vested in the same person. "Residence" includes:

(A) A single-family dwelling unit in a cooperative housing association, corporation, or partnership, when the decedent has an ownership share in such entity;

(B) A single-family dwelling unit situated upon lands the fee of which is vested in or held in trust by the United States or any of its instrumentalities, a federally recognized Indian tribe, a state of the United States or any of its political subdivisions, or a municipal corporation;

(C) A single-family dwelling unit consisting of a manufactured/mobile home or park model that has substantially lost its identity as a mobile unit by virtue of it being fixed in location and placed on a foundation with fixed pipe connections with sewer, water, or other utilities; and

(D) A single-family dwelling unit consisting of a floating home as defined in RCW 82.45.032.

NEW SECTION. **Sec. 2.** This act applies to decedents dying on or after January 1, 2025.

NEW SECTION. **Sec. 3.** RCW 82.32.805 and 82.32.808 do not apply to this act.

Passed by the House January 31, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 83

[House Bill 1955]

ELECTRIC UTILITIES—GREENHOUSE GAS DISCLOSURE—REPEAL

AN ACT Relating to repealing the greenhouse gas content disclosure provision; amending RCW 19.405.020; and repealing RCW 19.405.070.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** RCW 19.405.070 (Greenhouse gas content calculation) and 2019 c 288 s 7 are each repealed.

Sec. 2. RCW 19.405.020 and 2023 c 233 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) "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 RCW 19.405.090(2).

(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 70A.45.010.

(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 electric customers 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 discounts 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 May 7, 2019;

(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 70A.45.010.

(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 RCW 19.405.140 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)~~))) (23) "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)~~))) (24) "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)~~))) (25)(a) "Market customer" means a nonresidential 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 a utility who becomes a market customer after May 7, 2019.

(((~~(27)~~))) (26)(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)~~))) (27)(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)~~))) (28)(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)~~))) (29) "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 May 7, 2019, to transmit electricity generated by a coal-fired resource.

(((~~(31)~~))) (30) "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)~~))) (31) "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)~~))) (32) "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)~~))) (33) "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)~~))) (34)(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 May 7, 2019.

(((~~(36)~~))) (35) "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 May 7, 2019, 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)~~))) (36) "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)~~))) (37) "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)~~))) (38) "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)~~))) (39) "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.

Passed by the House January 29, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 84

[House Bill 1963]

LICENSE PLATE COVERS

AN ACT Relating to prohibiting license plate covers; amending RCW 46.16A.200; and adding a new section to chapter 46.16A RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.16A.200 and 2022 c 130 s 1 are each amended to read as follows:

(1) **Design.** All license plates may be obtained by the director from the metal working plant of a state correctional facility or from any source in accordance with existing state of Washington purchasing procedures. License plates:

(a) May vary in background, color, and design;

(b) Must be legible and clearly identifiable as a Washington state license plate;

(c) Must designate the name of the state of Washington without abbreviation;

(d) Must be treated with fully reflectorized materials designed to increase visibility and legibility at night;

(e) Must be of a size and color and show the registration period as determined by the director; and

(f) Before July 1, 2010, may display a symbol or artwork approved by the former special license plate review board and the legislature. Beginning July 1,

2010, special license plate series approved by the department and enacted into law by the legislature may display a symbol or artwork approved by the department.

(2) **Exceptions to reflectorized materials.** License plates issued before January 1, 1968, are not required to be treated with reflectorized materials.

(3) **Dealer license plates.** License plates issued to a dealer must contain an indication that the license plates have been issued to a vehicle dealer.

(4)(a) **Furnished.** The director shall furnish to all persons making satisfactory application for a vehicle registration:

(i) Two identical license plates each containing the license plate number; or

(ii) One license plate if the vehicle is a trailer, semitrailer, camper, moped, collector vehicle, horseless carriage, or motorcycle.

(b) The director may adopt types of license plates to be used as long as the license plates are legible.

(5)(a) **Display.** License plates must be:

(i) Attached conspicuously at the front and rear of each vehicle if two license plates have been issued;

(ii) Attached to the rear of the vehicle if one license plate has been issued;

(iii) ((~~Kept~~)) Except as provided in subsection (7)(c)(ii) of this section, kept clean and uncovered and be able to be plainly seen and read at all times unless an exception in (b) of this subsection applies; and

(iv) Attached in a horizontal position at a distance of not more than four feet from the ground.

(b)(i) The Washington state patrol may grant exceptions to this subsection if the body construction of the vehicle makes compliance with this section impossible.

(ii) If the applicable requirements of (b)(iii) of this subsection are met, the display of a single license plate properly attached to a vehicle that has two license plates properly attached in accordance with (a)(i) of this subsection may be temporarily obstructed by one or more of the following devices or by the cargo the device is carrying:

(A) A trailer hitch;

(B) A wheelchair lift or wheelchair carrier;

(C) A trailer being towed by the vehicle, provided the trailer meets any applicable trailer license plate requirements under this chapter; or

(D) A bicycle rack, ski rack, or luggage rack.

(iii) The obstruction of a single license plate under (b)(ii) or (b)(iv) of this subsection is only authorized if the following requirements are met:

(A) The device is installed according to manufacturer specifications or generally accepted installation practices; and

(B) The device or cargo the device is carrying does not prevent the license plate from being read from one or more accessible viewing angles when the vehicle is parked, except if the device is a trailer that meets the trailer license plate requirements under this chapter.

(iv) If the applicable requirements of (b)(iii) of this subsection are met, the display of a single license plate attached to a trailer in accordance with (a)(ii) of this subsection and meeting any applicable trailer license plate requirements under this chapter may be obstructed by a device for transporting a forklift used for product delivery purposes. For purposes of license plate visibility, the single

trailer license plate obstructed by a device for carrying a forklift may be relocated on the trailer or the towing vehicle to a position that is more than four feet from the ground.

(6) **Change of license classification.** A person who has altered a vehicle that makes the current license plate or plates invalid for the vehicle's use shall:

(a) Surrender the current license plate or plates to the department, county auditor or other agent, or subagent appointed by the director;

(b) Apply for a new license plate or plates; and

(c) Pay a change of classification fee required under RCW 46.17.310.

(7) **Unlawful acts.** It is unlawful to:

(a) Display a license plate or plates on the front or rear of any vehicle that were not issued by the director for the vehicle;

(b) Display a license plate or plates on any vehicle that have been changed, altered, or disfigured, or have become illegible;

(c) ((~~Use~~)) (i) Except as provided in (c)(ii) of this subsection, use license plate holders, frames, covers, or other materials that conceal, obstruct, distort, change, alter, or make a license plate or plates illegible((~~.~~));

(ii) License plate frames may be used on license plates only if the frames do not obscure license tabs or identifying letters or numbers on the plates and the license plates can be plainly seen and read at all times;

(d) Operate a vehicle unless a valid license plate or plates are attached as required under this section;

(e) Transfer a license plate or plates issued under this chapter between two or more vehicles without first making application to transfer the license plates. A violation of this subsection (7)(e) is a traffic infraction subject to a fine not to exceed ((~~five hundred dollars~~)) $500. Any law enforcement agency that determines that a license plate or plates have been transferred between two or more vehicles shall confiscate the license plate or plates and return them to the department for nullification along with full details of the reasons for confiscation. Each vehicle identified in the transfer will be issued a new license plate or plates upon application by the owner or owners and the payment of full fees and taxes; or

(f) Fail, neglect, or refuse to endorse the registration certificate, except as authorized under this section.

(8) **Transfer.** (a) Standard issue license plates must be replaced when ownership of the vehicle changes, pursuant to subsection (9)(a)(i) of this section, but the registered owner may retain the license plates and transfer them to a replacement vehicle of the same use. In addition to all other taxes and fees due upon change in ownership, a registered owner wishing to keep standard issue license plates shall pay the license plate transfer fee required under RCW 46.17.200(1)(c) when applying for license plate transfer.

(b) Special license plates and personalized license plates may be treated in the same manner as described in (a) of this subsection unless otherwise limited by law.

(c) License plates issued to the state or any county, city, town, school district, or other political subdivision entitled to exemption as provided by law may be treated in the same manner as described in (a) of this subsection.

(d) License plate replacement is not required when a change in vehicle ownership is the result of one or more of the following circumstances:

(i) When adding a lienholder to the certificate of title or removing a lienholder from the certificate of title;

(ii) When a vehicle is transferred from one spouse or registered domestic partner to another;

(iii) When removing a deceased spouse or registered domestic partner from the certificate of title;

(iv) When a vehicle is transferred by gift or inheritance to one or more members of the registered owner's immediate family;

(v) When a vehicle is transferred into or out of a trust in which the registered owner or one or more immediate family members of the registered owner is the beneficiary;

(vi) When a leaseholder buys out the leased vehicle; or

(vii) When a person changes his or her name.

(9) **Replacement.** (a) Except as provided in subsection (8)(a) of this section, an owner or the owner's authorized representative must apply for a replacement license plate or plates: (i) When taking ownership of the vehicle; (ii) if the current license plate or plates assigned to the vehicle have been lost, defaced, or destroyed; or (iii) if one or both plates have become so illegible or are in such a condition as to be difficult to distinguish. An owner or the owner's authorized representative may apply for a replacement license plate or plates at any time the owner chooses. The department shall offer to owners the option of retaining the current license plate number when obtaining replacement license plates for the fee required in RCW 46.17.200(1)(b).

(b) The application for a replacement license plate or plates must:

(i) Be on a form furnished or approved by the director; and

(ii) Be accompanied by the fee required under RCW 46.17.200(1)(a).

(c) When a vehicle is sold to a vehicle dealer for resale, the application for a replacement plate or plates need not be made until the vehicle is sold by the vehicle dealer.

(d) The department shall not require the payment of any fee to replace a license plate or plates for vehicles owned, rented, or leased by foreign countries or international bodies to which the United States government is a signatory by treaty.

(10) **Replacement—Exceptions.** The following license plates are not required to be replaced as required in subsection (9) of this section:

(a) Horseless carriage license plates issued under RCW 46.18.255 before January 1, 1987;

(b) Medal of Honor license plates issued under RCW 46.18.230;

(c) License plates for commercial motor vehicles with a gross weight greater than ((~~twenty-six thousand~~)) 26,000 pounds.

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

(12) **Tabs or emblems.** The director may issue tabs or emblems to be attached to license plates or elsewhere on the vehicle to signify initial registration and renewals. Renewals become effective when tabs or emblems have been issued and properly displayed.

NEW SECTION. **Sec. 2.** A new section is added to chapter 46.16A RCW to read as follows:

Until January 1, 2025, the penalty for a violation of RCW 46.16A.200(7)(c), relating to the use of license plate covers that make a license plate illegible, may

only be a written warning. The warning must include information about the requirements of the law and the applicable penalty beginning January 1, 2025.

Passed by the House February 8, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 85

[House Bill 1976]

ENERGY PERFORMANCE STANDARD—INCENTIVES FOR TIER 1 AND 2 BUILDINGS

AN ACT Relating to changing the incentive structure for tier 1 and tier 2 buildings; and amending RCW 19.27A.220.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 19.27A.220 and 2022 c 177 s 4 are each amended to read as follows:

(1) The department must establish a state energy performance standard early adoption incentive program consistent with the requirements of this section. This early adoption incentive program may include incentive payments for early adoption of tier 2 covered building owner requirements as described in subsection (6) of this section.

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

(3) Upon receiving documentation demonstrating that a building owner qualifies for an incentive under this section, the department must authorize each applicable entity administering incentive payments, as provided in RCW 19.27A.240, to make an incentive payment to the building owner. When a building is served by more than one entity offering incentives or more than one type of fuel, incentive payments must be proportional to the energy use intensity reduction of each specific fuel provided by each entity for tier 1 buildings. The department may authorize any participating utility, regardless of fuel specific savings, serving a tier 2 building to administer the incentive payment.

(4) A covered building owner may receive an incentive payment in the amounts specified in subsection (8)(a) of this section only if the following requirements are met:

(a) The building is either: (i) A covered commercial building subject to the requirements of the standard established under RCW 19.27A.210; or (ii) a multifamily residential building where the floor area exceeds 50,000 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 15 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 or multifamily residential building is participating in the incentive program by administering incentive payments as provided in RCW 19.27A.240; and

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

(5) A covered 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:

(a) For a building with more than 220,000 gross square feet, beginning July 1, 2021, through June 1, 2025;

(b) For a building with more than 90,000 gross square feet but less than 220,001 gross square feet, beginning July 1, 2021, through June 1, 2026; and

(c) For a building with more than 50,000 gross square feet but less than 90,001 gross square feet, beginning July 1, 2021, through June 1, 2027.

(6)(a) A tier 2 covered building owner may receive an incentive payment in the amounts specified in subsection (8)(b) of this section only if all required benchmarking, energy management, and operations and maintenance planning documentation as required under RCW 19.27A.250 has been submitted to the department and an incentive application has been completed.

(b) An eligible tier 2 covered building owner may submit an application beginning July 1, 2025, through June 1, 2030.

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

(8)(a) An eligible owner of a tier 1 covered building or an eligible owner of a multifamily residential building greater than 50,000 gross square feet, excluding the parking area, that demonstrates early compliance with the applicable energy use intensity target under the standard established under RCW 19.27A.210 may receive a base incentive payment of 85 cents per gross square foot of floor area, excluding parking, unconditioned, or semiconditioned spaces. The department may provide incentives greater than the base incentive payment for upgrading tier 1 buildings.

(b) A tier 2 eligible building owner that demonstrates compliance with the applicable benchmarking, energy management, and operations and maintenance planning requirements may receive a base incentive payment of 30 cents per gross square foot of floor area, excluding parking, unconditioned, or semiconditioned spaces. The department may provide incentives greater than the base incentive payment for upgrading tier 2 buildings. The department may implement a tiered incentive structure for upgrading multifamily buildings to provide an enhanced incentive payment to multifamily building owners willing to commit to antidisplacement provisions.

(9) The incentives provided in subsection (8) of this section are subject to the limitations and requirements of this section, including any rules or procedures implementing this section.

(10) 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.

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

(12) By September 30, 2025, and every two years thereafter, the department must report to the appropriate committees of the legislature on the results of the incentive program under this section and may provide recommendations to improve the effectiveness of the program. The 2025 report to the legislature must include recommendations for aligning the incentive program established under this section consistent with a goal of reducing greenhouse gas emissions from substitutes, as defined in RCW 70A.60.010.

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

Passed by the House February 7, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 86

[House Bill 1982]

COMMUNITY ECONOMIC REVITALIZATION BOARD—RURAL BROADBAND PROGRAM

AN ACT Relating to the authority of the community economic revitalization board with respect to loans and grants to political subdivisions and federally recognized Indian tribes for broadband; amending RCW 43.160.020; adding a new section to chapter 43.160 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes that high-speed internet connectivity through broadband is essential to support educational opportunity; innovations in the provision of education, public safety, and health care; and business growth. The legislature also finds that open-access broadband networks create a public platform that bolsters the private sector's ability to provide broadband internet access to communities for which access was previously cost-prohibitive. Therefore, to efficiently and sustainably expand access to broadband throughout Washington, this act establishes a grant and loan program through the community economic revitalization board for local governments and federally recognized Indian tribes to develop open-access broadband networks.

Sec. 2. RCW 43.160.020 and 2012 c 225 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 community economic revitalization board.

(2) "Broadband" means a network of deployed telecommunications equipment and technologies necessary to provide high-speed internet access and other advanced telecommunications services.

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

((~~(3)~~)) (4) "Local government" or "political subdivision" means any port district, county, city, town, special purpose district, and any other municipal corporations or quasi-municipal corporations in the state providing for public facilities under this chapter.

(((~~(4)~~))) (5) "Public facilities" means a project of a local government or a federally recognized Indian tribe for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of: Bridges; roads; research, testing, training, and incubation facilities in areas designated as innovation partnership zones under RCW 43.330.270; buildings or structures; domestic and industrial water, earth stabilization, sanitary sewer, storm sewer, railroad, electricity, telecommunications, transportation, natural gas, and port facilities; all for the purpose of job creation, job retention, or job expansion.

(((~~(5)~~))) (6) "Rural county" means a county with a population density of fewer 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.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.160 RCW to read as follows:

(1) The board is authorized to make rural broadband loans and grants to local governments and to federally recognized Indian tribes for the purposes of financing the cost to build infrastructure to provide high-speed, open-access broadband service, to rural and underserved communities, for the purpose of economic or community development.

(2) Applications for funding must be made in the form and manner as the board may prescribe. In making grants or loans the board must conform to the following requirements:

(a) The board may not provide financial assistance:

(i) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion; or

(ii) For the deployment of publicly owned telecommunications network infrastructure (commonly referred to as "backbone") solely for the sake of creating competitive, publicly owned telecommunications network infrastructure.

(b) The board may provide financial assistance only for projects located in a rural community as defined by the board, or located in a rural county, that encourage, foster, develop, and improve broadband within the state in order to:

(i) Drive job creation, promote innovation, and expand markets for local businesses; or

(ii) Serve the ongoing and growing needs of the local education system, health care system, public safety system, industries and businesses, governmental operations, and citizens.

(c) An application must be approved by the local government and supported by the local associate development organization or local workforce development council or approved by the governing body of the federally recognized Indian tribe.

(d) The board may allow de minimis general system improvements to be funded if they are critically linked to the viability of the project.

(e) When evaluating and prioritizing projects, the board must give consideration, at a minimum, to the following factors:

(i) The project's value to the community, including evidence of support from affected local businesses and government;

(ii) The project's feasibility, using standard economic principles;

(iii) Commitment of local matching resources and local participation;

(iv) The project's use of a technology-neutral approach in order to expand access at the lowest cost;

(v) The project's inclusion in a capital facilities plan, comprehensive plan, or local economic development plan consistent with applicable state planning requirements; and

(vi) The project's readiness to proceed.

(3) A responsible official of the local government or the federally recognized Indian tribe must be present during board deliberations and provide information that the board requests.

(4) Before any financial assistance application is approved, the local government or the federally recognized Indian tribe seeking the assistance must demonstrate to the board that no other timely source of funding is available to it at costs reasonably similar to financing available from the board.

Passed by the House February 8, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 14, 2024.
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CHAPTER 87

[Substitute House Bill 1996]

RECREATIONAL VEHICLE MANUFACTURERS AND DEALERS

AN ACT Relating to establishing the Washington recreational vehicle manufacturer and dealer law; reenacting and amending RCW 46.96.020; adding a new chapter to Title 46 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Area of sales responsibility" means the geographical area agreed to by the dealer and the manufacturer in the manufacturer/dealer agreement within which the dealer has the exclusive right to display or sell the manufacturer's new recreational vehicles of a particular line-make.

(2) "Component manufacturer" means any person, firm, corporation, or business entity that engages in the manufacturing of components, accessories, or parts used in manufacturing recreational vehicles.

(3) "Dealer" means any person, firm, corporation, or business entity licensed or required to be licensed that sells new recreational vehicles at retail in the state of Washington.

(4) "Distributor" means any person, firm, corporation, or business entity that purchases new recreational vehicles for resale to dealers.

(5) "Factory campaign" means an effort on the part of a warrantor to contact recreational vehicle owners or dealers in order to address a part or equipment issue.

(6) "Family member" means a spouse, child, grandchild, parent, sibling, niece, or nephew, or the spouse thereof.

(7) "Line-make" means a specific series of recreational vehicle products that:

(a) Are targeted to a particular market segment as determined by their décor, features, equipment, size, weight, and price range;

(b) Have lengths and interior floor plans that distinguish the recreational vehicles from other recreational vehicles with substantially the same décor, equipment, features, price, and weight;

(c) Belong to a single, distinct classification of recreational vehicle product type having a substantial degree of commonality in the construction of the chassis, frame, and body; and

(d) The manufacturer/dealer agreement authorizes a dealer to sell.

(8) "Manufacturer" means any person, firm, corporation, or business entity that engages in the manufacturing of recreational vehicles.

(9) "Manufacturer/dealer agreement" means a written agreement or contract entered into between a manufacturer and a dealer that fixes the rights and responsibilities of the parties and pursuant to which the dealer sells new recreational vehicles.

(10) "Model" is a series of recreational vehicle products identified by a common series trade name or trademark that is a subset of a line-make.

(11) "Proprietary part" means any part manufactured by or for and sold exclusively by the manufacturer.

(12) "Recreational vehicle" means a vehicle that is towed by a consumer-owned tow vehicle and designed to provide temporary living quarters for recreational, camping, or travel use, including only travel trailers, fifth-wheel travel trailers, truck campers, and folding camping trailers.

(13) "Transient customer" means a customer who is temporarily traveling through a dealer's area of sales responsibility.

(14) "Warrantor" means any person, firm, corporation, or business entity that gives a warranty in connection with a new recreational vehicle or parts, accessories, or components thereof. "Warrantor" does not include service contracts, mechanical or other insurance, or extended warranties sold for separate consideration by a dealer or other person not controlled by a manufacturer.

Requirement for a Written Manufacturer/Dealer Agreement; Area of Sales Responsibility

NEW SECTION. **Sec. 2.** (1) A manufacturer or distributor may not sell a new recreational vehicle in this state to or through a dealer without having first entered into a manufacturer/dealer agreement with a dealer that has been signed by both parties.

(2) The manufacturer shall designate the area of sales responsibility exclusively assigned to a dealer in the manufacturer/dealer agreement and may not change such area or contract with another dealer for sale of the same line-make in the designated area during the duration of the agreement.

(3) The terms of the manufacturer/dealer agreement, including the area of sales responsibility, may not be reviewed or changed during the duration of the manufacturer/dealer agreement without the written mutual consent of the parties. The duration of the manufacturer/dealer agreement must be stated in the dealer agreement.

(4) A recreational vehicle dealer may not sell a new recreational vehicle in this state without having first entered into a manufacturer/dealer agreement with

a manufacturer or distributor and may not sell outside of the area of sales responsibility designated in the agreement.

(5) A manufacturer may not unilaterally issue a policy or procedure that violates or substantially alters a provision of the manufacturer/dealer agreement during the duration of such agreement.

(6) A manufacturer will distribute new recreational vehicles to its dealers in a fair and equitable manner. If requested, a manufacturer will provide information on its manner of distribution.

(7) A manufacturer agrees to provide the dealer with adequate technical data to perform proper service and repairs.

Termination, Cancellation, and Nonrenewal of a Manufacturer/Dealer Agreement

NEW SECTION. **Sec. 3.** (1) A manufacturer or distributor, directly or through any officer, agent, or employee, may only terminate, cancel, or fail to renew a model, line-make, or entire manufacturer/dealer agreement with good cause, and, upon renewal, may not require additional inventory stocking requirements or increased retail sales targets in excess of the market growth in the dealer's area of sales responsibility.

(a) The manufacturer or distributor has the burden of showing good cause for terminating, canceling, or failing to renew a model, line-make, or manufacturer/dealer agreement with a dealer. For purposes of determining whether there is good cause for the proposed action, any of the following factors may be considered:

(i) The extent of the affected dealer's penetration in the relevant market area for the relevant model or line-make;

(ii) The nature and extent of the dealer's investment in its business;

(iii) The adequacy of the dealer's service facilities, equipment, parts, supplies, and personnel;

(iv) The effect of the proposed action on the community;

(v) The extent and quality of the dealer's service under recreational vehicle warranties;

(vi) The failure to follow agreed-upon, reasonable procedures or standards related to the overall operation of the dealership consistent with the law and the manufacturer/dealer agreement; or

(vii) The dealer's performance under the terms of its manufacturer/dealer agreement.

(b) Except as otherwise provided in this section, a manufacturer or distributor shall provide a dealer with at least 120 days prior written notice of termination, cancellation, or nonrenewal of a model, line-make, or the entire manufacturer/dealer agreement.

(i) The notice must state all reasons for the proposed termination, cancellation, or nonrenewal and must further state that if, within 30 days following receipt of the notice, the dealer provides to the manufacturer or distributor a written notice of intent to cure all claimed deficiencies, the dealer will then have 120 days following receipt of the notice to rectify the deficiencies. If the deficiencies are rectified within 120 days, the manufacturer's or distributor's notice is voided. If the dealer fails to provide the notice of intent to cure the deficiencies in the prescribed time period, the termination, cancellation, or nonrenewal takes effect 30 days after the dealer's receipt of the notice unless

the dealer has new and untitled inventory on hand that may be disposed of pursuant to subsection (3) of this section.

(ii) The notice period may be reduced to 30 days if the grounds for termination, cancellation, or nonrenewal are due to:

(A) A dealer or one of its owners being convicted of, or entering a plea of nolo contendere to, a felony;

(B) The abandonment or closing of the business operations of the dealer for 10 consecutive business days unless the closing is due to an act of God, strike, labor difficulty, or other cause over which the dealer has no control;

(C) A significant misrepresentation by the dealer materially affecting the business relationship; or

(D) A suspension or revocation of the dealer's license, or refusal to renew the dealer's license, by the department.

(iii) The notice provisions of this subsection (1)(b) do not apply if the reason for termination, cancellation, or nonrenewal is insolvency, the occurrence of an assignment for the benefit of creditors, or bankruptcy.

(2) A dealer may terminate, cancel, or not renew a model, line-make, or the entire manufacturer/dealer agreement with a manufacturer or distributor with or without good cause at any time by giving 30 days written notice to the manufacturer. If the termination, cancellation, or nonrenewal is for good cause, the dealer has the burden of showing good cause. Any of the following items, among others, may be deemed good cause for the proposed action by a dealer:

(a) A manufacturer being convicted of, or entering a plea of nolo contendere to, a felony;

(b) The business operations of the manufacturer have been abandoned or closed for 10 consecutive business days, unless the closing is due to an act of God, strike, labor difficulty, or other cause over which the manufacturer has no control;

(c) A significant misrepresentation by the manufacturer materially affecting the business relationship;

(d) A material violation of this act, which is not cured within 30 days after written notice by the dealer;

(e) A declaration by the manufacturer of bankruptcy, insolvency, or the occurrence of an assignment for the benefit of creditors or bankruptcy;

(f) A material violation of the manufacturer/dealer agreement that is not cured within 120 days after written notice by the dealer;

(g) Manufacturer coercion of dealer; or

(h) A manufacturer violation of area of sales responsibility protections, or allowing other dealers to violate such protections.

(3) If the manufacturer/dealer agreement is terminated, canceled, or not renewed by the dealer for good cause, the manufacturer shall, at the election of the dealer and within 45 days after termination, cancellation, or nonrenewal, repurchase:

(a) All new, untitled recreational vehicles that were acquired from the manufacturer or distributor within 18 months before the date of the notice of termination, cancellation, or nonrenewal that have not been used, except for demonstration purposes, and that have not been altered or damaged, at 100 percent of the net invoice cost, including transportation, less applicable rebates and discounts to the dealer. If any of the recreational vehicles repurchased are

damaged, the amount due to the dealer shall be reduced by the cost to repair the damaged recreational vehicle. Damage prior to delivery to the dealer will not disqualify repurchase under this subsection. Any repurchased recreational vehicle must be paid in full before the vehicle is removed from the dealer's premises. Upon payment, the recreational vehicle must be immediately surrendered to the manufacturer;

(b) All undamaged accessories and proprietary parts sold to the dealer for resale within the 12 months prior to termination, cancellation, or nonrenewal, if accompanied by the original invoice, at 105 percent of the original net price paid to the manufacturer or distributor to compensate the dealer for handling, packing, and shipping the parts; and

(c) Any properly functioning diagnostic equipment, special tools, current signage, and other equipment and machinery at 100 percent of the dealer's net cost, plus freight, destination, delivery, and distribution charges and sales taxes, if any, if it was purchased by the dealer within five years before termination, cancellation, or nonrenewal and upon the manufacturer's or distributor's request and can no longer be used in the normal course of the dealer's ongoing business.

(4) If the manufacturer/dealer agreement is terminated, canceled, or not renewed by the manufacturer or distributor without good cause, in violation of subsection (1) of this section, then the manufacturer or distributor shall repurchase dealer inventory, equipment, parts, etc. as provided in subsection (3) of this section.

(5) When selling the remaining inventory after termination:

(a) A dealer is not prohibited from selling the remaining in-stock inventory of a particular line-make after a manufacturer/dealer agreement has been terminated, canceled, or not renewed by the manufacturer or distributor.

(b) If recreational vehicles of a line-make subject to the terminated manufacturer/dealer agreement are not repurchased or required to be repurchased by the manufacturer or distributor, the dealer may continue to sell such recreational vehicles that are subject to the terminated manufacturer/dealer agreement and are currently in stock until those recreational vehicles are no longer in the dealer's inventory.

(6) When taking on an additional line-make of a recreational vehicle, a dealer shall notify in writing any manufacturer with whom the dealer has a manufacturer/dealer agreement of the same line-make at least 30 days prior to entering into a manufacturer/dealer agreement with the manufacturer of the additional line-make.

Transfer of Ownership; Family Succession

NEW SECTION. **Sec. 4.** (1) If a dealer desires to make a change in ownership by the sale of the business assets, stock transfer, or otherwise, the dealer shall give the manufacturer or distributor written notice at least 10 business days before the closing, including all supporting documentation as may be reasonably required by the manufacturer or distributor to determine if an objection to the sale may be made. In the absence of a breach by the selling dealer of its dealer agreement or this chapter, the manufacturer or distributor shall not object to the proposed change in ownership unless the prospective transferee:

(a) Has previously been terminated for cause by the manufacturer;

(b) Has been convicted of a felony or any crime of fraud, deceit, or moral turpitude;

(c) Lacks any license required by law;

(d) Does not have an active line of credit sufficient to purchase a manufacturer's product; or

(e) Has undergone in the last 10 years bankruptcy, insolvency, a general assignment for the benefit of creditors, or the appointment of a receiver, trustee, or conservator to take possession of the transferee's business or property.

(2) If the manufacturer or distributor objects to a proposed change of ownership, the manufacturer or distributor shall give written notice of its reasons to the dealer within seven business days after receipt of the dealer's notification and complete documentation. The manufacturer or distributor has the burden of proof with regard to its objection. If the manufacturer or distributor does not give timely notice of its objection, the change or sale shall be deemed approved.

(3)(a) It is unlawful for a manufacturer or distributor to fail to provide a dealer an opportunity to designate, in writing, a family member as a successor to the dealership in the event of the death, incapacity, or retirement of the dealer. It is unlawful to prevent or refuse to honor the succession to a dealership by a family member of the deceased, incapacitated, or retired dealer unless the manufacturer or distributor has provided to the dealer written notice of its objections within 10 business days after receipt of the dealer's modification of the dealer's succession plan. In the absence of a breach of the dealer agreement, the manufacturer may object to the succession for the following reasons only:

(i) Conviction of the successor of a felony or any crime of fraud, deceit, or moral turpitude;

(ii) Bankruptcy or insolvency of the successor during the past 10 years;

(iii) Prior termination by the manufacturer of the successor for breach of a manufacturer/dealer agreement;

(iv) The lack of an active line of credit for the successor sufficient to purchase the manufacturer's product; or

(v) The lack of any license for the successor required by law.

(b) The manufacturer or distributor has the burden of proof regarding its objection. However, a family member may not succeed to a dealership if the succession involves, without the manufacturer's or distributor's consent, a relocation of the business or an alteration of the terms and conditions of the manufacturer/dealer agreement.

Warranty Obligations

NEW SECTION. **Sec. 5.** (1) Each warrantor shall:

(a) Specify in writing to each of its dealers, the dealer's obligations, if any, for preparation, delivery, and warranty service on its products based on the warrantor's stated policies that must be reasonable and customary in the recreational vehicle industry;

(b) Compensate the dealer for warranty service performed by the dealer that is covered by the warrantor's own warranty;

(c) Provide the dealer the schedule of compensation to be paid and the time allowances for the performance of any work and service. The schedule of compensation must include reasonable compensation for diagnostic work as well as warranty labor. If the schedule of compensation required by this section does not include a particular repair, the warrantor will reimburse the dealer for

warranty service for the actual time expended unless the warrantor demonstrates that the actual time was not reasonable. In such event, the dealer will be paid a reasonable sum.

(2) Time allowances for the diagnosis and performance of warranty labor must be reasonable for the work to be performed. The compensation of a dealer for warranty labor may not be less than the lowest retail labor rate actually charged by the dealer in the ordinary course of business for like nonwarranty labor as long as such rate is reasonable in the dealer's market.

(3) The warrantor shall reimburse the dealer for any warranty part, accessory, or complete component at actual wholesale cost plus a minimum 30 percent handling charge and the cost, if any, of freight to return such part, component, or accessory to the warrantor. If a part is sent to the dealer at no cost, the dealer is entitled to payment of 30 percent of the wholesale cost of the part from the warrantor as a handling charge. The maximum handling charge for a product sent to the dealer at no cost shall not exceed $300. The warrantor will also reimburse the dealer the cost of freight to return a warranty part, accessory, or complete component to the warrantor.

(4) Warranty audits of dealer records may be conducted by the warrantor on a reasonable basis, and dealer claims for warranty compensation may not be denied except for cause, such as performance of nonwarranty repairs, material noncompliance with the warrantor's published policies and procedures, lack of material documentation, fraud, or misrepresentation.

(5) The dealer shall submit warranty claims within 45 days after completing the work.

(6) The dealer shall notify the warrantor as soon as is reasonably possible, verbally or in writing, if the dealer is unable or unwilling to perform material or repetitive warranty repairs.

(7) The warrantor shall disapprove warranty claims in writing within 45 days after the date of submission by the dealer in the manner and form prescribed by the warrantor. Claims not specifically disapproved in writing within 45 days shall be construed to be approved and must be paid within 60 days.

(8) It is a violation of this chapter for any warrantor to:

(a) Fail to perform any of its warranty obligations with respect to its warranted products;

(b) Fail to include, in written notices of factory campaigns to recreational vehicle owners and dealers, the expected date by which necessary parts and equipment, including tires and chassis or chassis parts, will be available to dealers to perform the campaign work. The warrantor may ship parts to the dealer to affect the campaign work, and, if such parts are in excess of the dealer's requirements, the dealer may return unused parts to the warrantor for credit after completion of the campaign;

(c) Fail to compensate any of its dealers for authorized repairs effected by the dealer of merchandise damaged in manufacture or transit to the dealer, if the carrier is designated by the warrantor, factory branch, distributor, or distributor branch;

(d) Fail to compensate any of its dealers for authorized warranty service in accordance with the time allowances set forth in the schedule of compensation if performed in a timely and competent manner;

(e) Intentionally misrepresent in any way to purchasers of recreational vehicles that warranties with respect to the manufacture, performance, or design of the vehicle are made by the dealer as warrantor or cowarrantor; or

(f) Require the dealer to make warranties to customers in any manner related to the manufacture of the recreational vehicle.

(9) It is a violation of this chapter for any dealer to:

(a) Fail to perform predelivery inspection functions, as specified by the warrantor, in a competent and timely manner;

(b) Fail to perform warranty service work authorized by the warrantor in a reasonably competent and timely manner on any transient customer's vehicle of the same line-make unless the dealer determines that the customer is acting in a manner detrimental to its business;

(c) Fail to track actual time expended to perform warranty work not governed by time allowances in the schedule of compensation;

(d) Claim an agency relationship with warrantor or manufacturer; or

(e) Misrepresent the terms of any warranty.

(10) Notwithstanding the terms of any manufacturer/dealer agreement, it is a violation of this chapter for:

(a) A warrantor to fail to indemnify, defend, and hold harmless its dealer against any losses or damages to the extent such losses or damages are caused by the negligence or willful misconduct of the warrantor. The dealer may not be denied indemnification or a defense for failing to discover, disclose, or remedy a defect in the design or manufacturing of the recreational vehicle. The dealer shall provide to the warrantor a copy of any suit in which allegations are made that come within this subsection within 10 days after receiving such suit. This subsection shall continue to apply even after the recreational vehicle is titled. Indemnification must include court costs, reasonable attorneys' fees, and expert witness fees incurred by the dealer.

(b) A dealer to fail to indemnify, defend, and hold harmless its warrantor against any losses or damages to the extent such losses or damages are caused by the negligence or willful misconduct of the dealer. The warrantor shall provide to the dealer a copy of any suit in which allegations are made that come within this subsection within 10 days after receiving such suit. This subsection shall continue to apply even after the recreational vehicle is titled. Indemnification must include court costs, reasonable attorneys' fees, and expert witness fees incurred by the warrantor.

Inspection and Rejection By the Dealer

NEW SECTION. **Sec. 6.** (1)(a) Whenever a new recreational vehicle is damaged prior to transit to the dealer or is damaged in transit to the dealer when the carrier or means of transportation has been selected by the manufacturer or distributor, the dealer shall notify the manufacturer or distributor of the damage within the time frame specified in the manufacturer/dealer agreement and:

(i) Request from the manufacturer or distributor authorization to replace the components, parts, and accessories damaged or otherwise correct the damage; or

(ii) Reject the vehicle within the time frame set forth in subsection (3) of this section.

(b) If the manufacturer or distributor refuses or fails to authorize repair of such damage within 10 days after receipt of notification or if the dealer rejects

the recreational vehicle because of damage, ownership of the new recreational vehicle reverts to the manufacturer or distributor.

(2) The dealer shall exercise due care in custody of the damaged recreational vehicle, but the dealer shall have no other obligations, financial or otherwise, with respect to that recreational vehicle.

(3) The time frame for inspection and rejection by the dealer must be part of the manufacturer/dealer agreement and may not be less than two business days after the physical delivery of the recreational vehicle.

Coercion of Dealer Prohibited

NEW SECTION. **Sec. 7.** (1) A manufacturer or distributor may not coerce or attempt to coerce a dealer to:

(a) Purchase a product that the dealer did not order;

(b) Enter into an agreement with the manufacturer or distributor;

(c) Take any action that is unfair or unreasonable to the dealer;

(d) Enter into an agreement that requires the dealer to submit its disputes to binding arbitration or otherwise waive rights or responsibilities provided under this chapter; or

(e) Forego exercising a right authorized by a manufacturer/dealer agreement or any law governing the manufacturer/dealer relationship.

(2) As used in this section, the term "coerce" includes, but is not limited to, threatening to terminate, cancel, or not renew a manufacturer/dealer agreement without good cause or threatening to withhold product lines or delay product delivery as an inducement to amending the manufacturer/dealer agreement.

(3) The dealer bears the burden of proof regarding the prohibited acts described in this section.

Civil Dispute Resolution; Mediation; Relief

NEW SECTION. **Sec. 8.** (1) A dealer, manufacturer, distributor, or warrantor injured by another party's violation of this chapter may bring a civil action in superior court to recover actual damages. The court shall award attorneys' fees and costs to the prevailing party in such action. Venue for any civil action authorized by this section must exclusively be in the county in which the dealership is located. In an action involving more than one dealer, the venue may be in any county in which a dealer who is party to the action is located.

(2) Before bringing suit under this section, the party bringing suit for an alleged violation shall serve a written demand for mediation upon the offending party. This subsection does not apply to a proceeding for injunctive relief.

(a) The demand for mediation shall be served upon the offending party via certified mail at the address stated within the agreement between the parties or, if the address is not contained in the agreement or the address is no longer valid, the address on the offending party's license filed with the state. In the event of a civil action between two dealers, the demand must be mailed to the address on the dealer's license filed with the state.

(b) The demand for mediation must contain a brief statement of the dispute and the relief sought by the party filing the demand.

(c) Within 20 days after the date a demand for mediation is served, the parties shall mutually select an independent mediator and meet with the mediator for the purpose of attempting to resolve the dispute. The meeting place must be in this state in a location selected by the mediator. The mediator may

extend the date of the meeting for good cause shown by either party or upon stipulation of both parties.

(d) The service of a demand for mediation under this subsection stays the time for the filing of any complaint, petition, protest, or action under this chapter until representatives of both parties have met with a mutually selected mediator for the purpose of attempting to resolve the dispute. If a complaint, petition, protest, or action is filed before that meeting, the court shall enter an order suspending the proceeding or action until the meeting has occurred and may, upon written stipulation of all parties to the proceeding or action that they wish to continue to mediate under this subsection, enter an order suspending the proceeding or action for as long a period as the court considers appropriate. A suspension order issued under this subsection may be revoked by the court.

(e) The parties to the mediation shall bear their own costs for attorneys' fees and divide equally the cost of the mediator.

(3) In addition to the remedies provided in this section and notwithstanding the existence of any additional remedy at law, a dealer or manufacturer may apply to a superior court for the grant, upon a hearing and for cause shown, of a temporary or permanent injunction, or both, restraining any person from acting as a dealer, manufacturer, or distributor without being properly licensed pursuant to this chapter, from violating or continuing to violate any of the provisions of this chapter, or from failing or refusing to comply with the requirements of this chapter. Such injunction shall be issued without bond. A single act in violation of any of the provisions of this chapter is sufficient to authorize the issuance of an injunction.

Penalties

NEW SECTION. **Sec. 9.** This state may suspend or revoke any dealer, manufacturer, or distributor license upon a finding that any such party violated any provision of this chapter. The department may impose, levy, and collect by legal process fines, in an amount not to exceed $1,000 for each violation, against any person if it finds that such person has violated any provision of this chapter. Such person is entitled to an administrative hearing or other proceeding authorized under state law to contest the action or fine levied, or about to be levied, against the person.

Sec. 10. RCW 46.96.020 and 2014 c 214 s 2 are each reenacted and amended to read as follows:

In addition to the definitions contained in RCW 46.70.011, which are incorporated by reference into this chapter, the definitions set forth in this section apply only for the purposes of this chapter.

(1) "Completed vehicle" means a vehicle that requires no further manufacturing operations to perform its intended function.

(2) "Dealer management computer system" means a computer hardware and software system that is owned or leased by a new motor vehicle dealer, including the dealer's use of internet applications, software, or hardware, whether located at an existing dealership facility or provided at a remote location, that provides access to customer records and transactions by a motor vehicle dealer located in this state, and that allows the new motor vehicle dealer timely information in order to sell vehicles, parts, or services through the existing dealership facility.

(3) "Dealer management computer system vendor" means a seller or reseller of dealer management computer systems, to the extent that the seller or reseller is engaged in such activities.

(4) "Designated successor" means:

(a) The spouse, biological or adopted child, stepchild, grandchild, parent, brother, or sister of the owner of a new motor vehicle dealership who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motor vehicle dealership under the terms of the owner's will or similar document, and if there is no such will or similar document, then under applicable intestate laws;

(b) A qualified person experienced in the business of a new motor vehicle dealer who has been nominated by the owner of a new motor vehicle dealership as the successor in a written, notarized, and witnessed instrument submitted to the manufacturer; or

(c) In the case of an incapacitated owner of a new motor vehicle dealership, the person who has been appointed by a court as the legal representative of the incapacitated owner's property.

(5) "Final-stage manufacturer" means a person who purchases an incomplete vehicle from a licensed motor vehicle dealer and performs such manufacturing operations that the incomplete vehicle becomes a completed vehicle.

(6) "Franchise" means one or more agreements, whether oral or written, between a manufacturer and a new motor vehicle dealer, under which the new motor vehicle dealer is authorized to sell, service, and repair new motor vehicles, parts, and accessories under a common name, trade name, trademark, or service mark of the manufacturer.

"Franchise" includes an oral or written contract and includes a dealer agreement, either expressed or implied, between a manufacturer and a new motor vehicle dealer that purports to fix the legal rights and liabilities between the parties and under which (a) the dealer is granted the right to purchase and resell motor vehicles manufactured, distributed, or imported by the manufacturer; (b) the dealer's business is associated with the trademark, trade name, commercial symbol, or advertisement designating the franchisor or the products distributed by the manufacturer; and (c) the dealer's business relies on the manufacturer for a continued supply of motor vehicles, parts, and accessories.

(7) "Good faith" means honesty in fact and fair dealing in the trade as defined and interpreted in RCW 62A.2-103.

(8) "Incomplete vehicle" means an assemblage consisting of, at a minimum, chassis (including the frame) structure, power train, steering system, suspension system, and braking system, in the state that those systems are to be part of the completed vehicle, but requires further manufacturing operations to become a completed vehicle.

(9) A "new motor vehicle" is a vehicle that has not been titled by a state and ownership of which may be transferred on a manufacturer's statement of origin (MSO). <u>"New motor vehicle" does not include recreational vehicles as defined in section 1 of this act.</u>

(10) "New motor vehicle dealer" means a motor vehicle dealer engaged in the business of buying, selling, exchanging, or otherwise dealing in new motor vehicles or new and used motor vehicles at an established place of business,

under a franchise, sales and service agreement, or contract with the manufacturer of the new motor vehicles. However, "new motor vehicle dealer" does not include a miscellaneous vehicle dealer as defined in RCW 46.70.011(17)(c) or a motorcycle dealer as defined in chapter 46.94 RCW.

(11) "Owner" means a person holding an ownership interest in the business entity operating as a new motor vehicle dealer and who is the designated dealer in the new motor vehicle franchise agreement.

(12) "Person" means every natural person, partnership, corporation, association, trust, estate, or any other legal entity.

(13) "Security breach" means an incident of unauthorized access to and acquisition of records or data containing new motor vehicle dealer or dealer customer information where unauthorized use of the dealer's customer or dealer information has occurred or is reasonably likely to occur or that creates a material risk of harm to the dealer or dealer's customer. Any incident of unauthorized access to and acquisition of records or data containing dealer or dealer customer information, or any incident of disclosure of dealer customer information to one or more third parties that has not been specifically authorized by the dealer or dealer's customer, constitutes a security breach.

NEW SECTION. **Sec. 11.** Sections 1 through 9 of this act constitute a new chapter in Title 46 RCW.

Passed by the House February 13, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 88

[Substitute House Bill 1999]

FABRICATED INTIMATE OR SEXUALLY EXPLICIT IMAGES

AN ACT Relating to fabricated intimate or sexually explicit images and depictions; amending RCW 9.68A.011, 9.68A.055, 9.68A.110, 9.68A.170, 9.68A.180, 9.68A.190, 9A.86.010, 9A.86.020, 7.110.010, 7.110.020, 7.110.030, 7.110.050, and 7.110.060; adding a new section to chapter 9A.86 RCW; adding a new section to chapter 7.110 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.68A.011 and 2010 c 227 s 3 are each amended to read as follows:

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

(1) An "internet session" means a period of time during which an internet user, using a specific internet protocol address, visits or is logged into an internet site for an uninterrupted period of time.

(2) To "photograph" means to make a print, negative, slide, digital image, motion picture, or videotape. A "photograph" means anything tangible or intangible produced by photographing.

(3) "Visual or printed matter" means any photograph or other material that contains a reproduction of a photograph. "Visual or printed matter" includes, but is not limited to, any such photograph or other material that constitutes a fabricated depiction of an identifiable minor.

(4) "Sexually explicit conduct" means actual or simulated:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals;

(b) Penetration of the vagina or rectum by any object;

(c) Masturbation;

(d) Sadomasochistic abuse;

(e) Defecation or urination for the purpose of sexual stimulation of the viewer;

(f) Depiction of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer. For the purposes of this subsection (4)(f), it is not necessary that the minor know that he or she is participating in the described conduct, or any aspect of it; and

(g) Touching of a person's clothed or unclothed genitals, pubic area, buttocks, or breast area for the purpose of sexual stimulation of the viewer.

(5) "Minor" means any person under eighteen years of age.

(6) "Live performance" means any play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, with or without consideration.

(7) "Fabricated depiction of an identifiable minor" and "fabricated depiction" mean any visual or printed matter that depicts a minor who is identifiable from the matter itself or from information displayed with or otherwise connected to the matter, and that was created or altered by digitization to depict the minor engaging in sexually explicit conduct in which the minor did not actually engage.

(8) "Digitization" means creating or altering any visual or printed matter to depict an identifiable minor in a realistic manner utilizing images of another person or computer-generated images, regardless of whether such creation or alteration is accomplished manually or through an automated process. "Digitization" includes, but is not limited to, creation or alteration of any visual or printed matter by using artificial intelligence.

Sec. 2. RCW 9.68A.055 and 2019 c 128 s 9 are each amended to read as follows:

A minor who possesses any depiction or depictions, including any fabricated depiction or depictions, of any other minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011 forfeits any right to continued possession of the depiction or depictions and any court exercising jurisdiction over such depiction or depictions shall order forfeiture of the depiction or depictions to the custody of law enforcement.

Sec. 3. RCW 9.68A.110 and 2011 c 241 s 4 are each amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100 through

9.68A.102, except for the purpose of facilitating an investigation where the minor is also the alleged victim and the:

(a) Investigation is authorized pursuant to RCW 9.73.230(1)(b)(ii) or 9.73.210(1)(b); or

(b) Minor's aid in the investigation involves only telephone or electronic communication with the defendant.

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.100, 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not know the alleged victim's age. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.075, it shall be an affirmative defense that the defendant was a law enforcement officer or a person specifically authorized, in writing, to assist a law enforcement officer and acting at the direction of a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor, or that the defendant was providing individual case treatment as a recognized medical facility or as a psychiatrist or psychologist licensed under Title 18 RCW. Nothing in chapter 227, Laws of 2010 is intended to in any way affect or diminish the immunity afforded an electronic communication service provider, remote computing service provider, or domain name registrar acting in the performance of its reporting or preservation responsibilities under 18 U.S.C. Secs. 2258a, 2258b, or 2258c.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.075, the state is not required to establish the identity of the alleged victim unless the charged offense involves a fabricated depiction.

(6) In a prosecution under RCW 9.68A.070 or 9.68A.075, it shall be an affirmative defense that:

(a) The defendant was employed at or conducting research in partnership or in cooperation with any institution of higher education as defined in RCW 28B.07.020 or 28B.10.016, and:

(i) He or she was engaged in a research activity;

(ii) The research activity was specifically approved prior to the possession or viewing activity being conducted in writing by a person, or other such entity vested with the authority to grant such approval by the institution of higher education; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the authorized research; or

(b) The defendant was an employee of the Washington state legislature engaged in research at the request of a member of the legislature and:

(i) The request for research is made prior to the possession or viewing activity being conducted in writing by a member of the legislature;

(ii) The research is directly related to a legislative activity; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the requested research and legislative activity.

(7) In a prosecution under RCW 9.68A.050, 9.68A.053, 9.68A.060, 9.68A.070, or 9.68A.075 where the charged offense involves a fabricated depiction, it is not a defense that the defendant lacked knowledge of whether the fabricated depiction had been created or altered by digitization.

(8) Nothing in this section authorizes otherwise unlawful viewing or possession of visual or printed matter depicting a minor engaged in sexually explicit conduct.

Sec. 4. RCW 9.68A.170 and 2012 c 135 s 2 are each amended to read as follows:

(1) In any criminal proceeding, any property or material that constitutes a depiction of a minor engaged in sexually explicit conduct, including any fabricated depictions, shall remain in the care, custody, and control of either a law enforcement agency or the court.

(2) Despite any request by the defendant or prosecution, any property or material that constitutes a depiction of a minor engaged in sexually explicit conduct, including any fabricated depictions, shall not be copied, photographed, duplicated, or otherwise reproduced, so long as the property or material is made reasonably available to the parties. Such property or material shall be deemed to be reasonably available to the parties if the prosecution, defense counsel, or any individual sought to be qualified to furnish expert testimony at trial has ample opportunity for inspection, viewing, and examination of the property or material at a law enforcement facility or a neutral facility approved by the court upon petition by the defense.

(3) The defendant may view and examine the property and materials only while in the presence of his or her attorney. If the defendant is proceeding pro se, the court will appoint an individual to supervise the defendant while he or she examines the materials.

(4) The court may direct that a mirror image of a computer hard drive containing such depictions be produced for use by an expert only upon a showing that an expert has been retained and is prepared to conduct a forensic examination while the mirror imaged hard drive remains in the care, custody, and control of a law enforcement agency or the court. Upon a substantial showing that the expert's analysis cannot be accomplished while the mirror imaged hard drive is kept within the care, custody, and control of a law enforcement agency or the court, the court may order its release to the expert for analysis for a limited time. If release is granted, the court shall issue a protective order setting forth such terms and conditions as are necessary to protect the rights of the victims, to document the chain of custody, and to protect physical evidence.

Sec. 5. RCW 9.68A.180 and 2012 c 135 s 3 are each amended to read as follows:

(1) Whenever a depiction of a minor engaged in sexually explicit conduct, regardless of its format and whether it is a fabricated depiction, is marked as an

exhibit in a criminal proceeding, the prosecutor shall seek an order sealing the exhibit at the close of the trial. Any exhibits sealed under this section shall be sealed with evidence tape in a manner that prevents access to, or viewing of, the depiction of a minor engaged in sexually explicit conduct and shall be labeled so as to identify its contents. Anyone seeking to view such an exhibit must obtain permission from the superior court after providing at least ten days notice to the prosecuting attorney. Appellate attorneys for the defendant and the state shall be given access to the exhibit, which must remain in the care and custody of either a law enforcement agency or the court. Any other person moving to view such an exhibit must demonstrate to the court that his or her reason for viewing the exhibit is of sufficient importance to justify another violation of the victim's privacy.

(2) Whenever the clerk of the court receives an exhibit of a depiction of a minor engaged in sexually explicit conduct, he or she shall store the exhibit in a secure location, such as a safe. The clerk may arrange for the transfer of such exhibits to a law enforcement agency evidence room for safekeeping provided the agency agrees not to destroy or dispose of the exhibits without an order of the court.

(3) If the criminal proceeding ends in a conviction, the clerk of the court shall destroy any exhibit containing a depiction of a minor engaged in sexually explicit conduct, including any fabricated depictions, five years after the judgment is final, as determined by the provisions of RCW 10.73.090(3). Before any destruction, the clerk shall contact the prosecuting attorney and verify that there is no collateral attack on the judgment pending in any court. If the criminal proceeding ends in a mistrial, the clerk shall either maintain the exhibit or return it to the law enforcement agency that investigated the criminal charges for safekeeping until the matter is set for retrial. If the criminal proceeding ends in an acquittal, the clerk shall return the exhibit to the law enforcement agency that investigated the criminal charges for either safekeeping or destruction.

Sec. 6. RCW 9.68A.190 and 2012 c 135 s 4 are each amended to read as follows:

Any depiction of a minor engaged in sexually explicit conduct, in any format and including any fabricated depictions, distributed as discovery to defense counsel or an expert witness prior to June 7, 2012, shall either be returned to the law enforcement agency that investigated the criminal charges or destroyed, if the case is no longer pending in superior court. If the case is still pending, the depiction shall be returned to the superior court judge assigned to the case or the presiding judge. The court shall order either the destruction of the depiction or the safekeeping of the depiction if it will be used at trial.

It is not a defense to violations of this chapter for crimes committed after December 31, 2012, that the initial receipt of the depictions was done under the color of law through the discovery process.

NEW SECTION. **Sec. 7.** A new section is added to chapter 9A.86 RCW to read as follows:

(1) A person commits the crime of disclosing fabricated intimate images when the person knowingly discloses a fabricated intimate image of another person and the person disclosing the image:

(a) Knows or should have known that the depicted person has not consented to the disclosure; and

(b) Knows or reasonably should know that disclosure would cause harm to the depicted person.

(2) A person who is under the age of 18 is not guilty of the crime of disclosing fabricated intimate images unless the person:

(a) Intentionally and maliciously disclosed a fabricated intimate image of another person; and

(b) Knows or should have known that the depicted person has not consented to the disclosure.

(3) This section does not apply to:

(a) Disclosures made in the public interest including, but not limited to, the reporting of unlawful conduct, or the lawful and common practices of law enforcement, criminal reporting, legal proceedings, or medical treatment; or

(b) Images that constitute commentary, criticism, or disclosure protected by the Washington state Constitution or the United States Constitution.

(4) This section does not impose liability upon the following entities solely as a result of content provided by another person:

(a) An interactive computer service, as defined in Title 47 U.S.C. Sec. 230(f)(2);

(b) A mobile telecommunications service provider, as defined in RCW 82.04.065; or

(c) A telecommunications network or broadband provider.

(5) In any prosecution for a violation of this section, it is not a defense that:

(a) The perpetrator lacked knowledge of whether the disclosed image had been created or altered by digitization; or

(b) The depicted person consented to the creation or alteration of the image.

(6) For purposes of this section:

(a) "Digitization" means creating or altering an image of a person in a realistic manner utilizing images of another person or computer-generated images, regardless of whether such creation or alteration is accomplished manually or through an automated process. "Digitization" includes, but is not limited to, creation or alteration of an image by using artificial intelligence.

(b) "Disclosing" includes transferring, publishing, or disseminating, as well as making a digital depiction available for distribution or downloading through the facilities of a telecommunications network or through any other means of transferring computer programs or data to a computer.

(c) "Fabricated intimate image" means any photograph, motion picture film, videotape, digital image, or any other recording or transmission of another person who is identifiable from the image itself or from information displayed with or otherwise connected to the image, and that was created or altered by digitization to depict:

(i) Computer-generated intimate body parts or the intimate body parts of another person as the intimate body parts of the depicted person, whether nude or visible through less than opaque clothing and including the genitals, pubic area, anus, or postpubescent female nipple; or

(ii) The depicted person engaging in sexual activity, including masturbation, sexual contact, or sexual intercourse, as those terms are defined in RCW 9A.44.010, in which the depicted person did not actually engage.

(7) The crime of disclosing fabricated intimate images:

(a) Is a gross misdemeanor on the first offense; or

(b) Is a class C felony if the defendant has one or more prior convictions for a violation of this section or RCW 9A.86.010.

(8) Nothing in this section is construed to:

(a) Alter or negate any rights, obligations, or immunities of an interactive service provider under Title 47 U.S.C. Sec. 230; or

(b) Limit or preclude a plaintiff from securing or recovering any other available remedy.

Sec. 8. RCW 9A.86.010 and 2016 c 91 s 1 are each amended to read as follows:

(1) A person commits the crime of disclosing intimate images when the person knowingly discloses an intimate image of another person and the person disclosing the image:

(a) Obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private;

(b) Knows or should have known that the depicted person has not consented to the disclosure; and

(c) Knows or reasonably should know that disclosure would cause harm to the depicted person.

(2) A person who is under the age of eighteen is not guilty of the crime of disclosing intimate images unless the person:

(a) Intentionally and maliciously disclosed an intimate image of another person;

(b) Obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private; and

(c) Knows or should have known that the depicted person has not consented to the disclosure.

(3) This section does not apply to:

(a) Images involving voluntary exposure in public or commercial settings; or

(b) Disclosures made in the public interest including, but not limited to, the reporting of unlawful conduct, or the lawful and common practices of law enforcement, criminal reporting, legal proceedings, or medical treatment.

(4) This section does not impose liability upon the following entities solely as a result of content provided by another person:

(a) An interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2);

(b) A mobile telecommunications service provider, as defined in RCW 82.04.065; or

(c) A telecommunications network or broadband provider.

(5) It shall be an affirmative defense to a violation of this section that the defendant is a family member of a minor and did not intend any harm or harassment in disclosing the images of the minor to other family or friends of the defendant. This affirmative defense shall not apply to matters defined under RCW 9.68A.011.

(6) For purposes of this section:

(a) "Disclosing" includes transferring, publishing, or disseminating, as well as making a digital depiction available for distribution or downloading through

the facilities of a telecommunications network or through any other means of transferring computer programs or data to a computer;

(b) "Intimate image" means any photograph, motion picture film, videotape, digital image, or any other recording or transmission of another person who is identifiable from the image itself or from information displayed with or otherwise connected to the image, and that was taken in a private setting, is not a matter of public concern, and depicts:

(i) Sexual activity, including sexual intercourse as defined in RCW 9A.44.010 and masturbation; or

(ii) A person's intimate body parts, whether nude or visible through less than opaque clothing, including the genitals, pubic area, anus, or postpubescent female nipple.

(7) The crime of disclosing intimate images:

(a) Is a gross misdemeanor on the first offense; or

(b) Is a class C felony if the defendant has one or more prior convictions for ((~~disclosing intimate images~~)) a violation of this section or section 7 of this act.

(8) Nothing in this section is construed to:

(a) Alter or negate any rights, obligations, or immunities of an interactive service provider under 47 U.S.C. Sec. 230; or

(b) Limit or preclude a plaintiff from securing or recovering any other available remedy.

Sec. 9. RCW 9A.86.020 and 2019 c 128 s 10 are each amended to read as follows:

A minor who possesses any image of any other minor which constitutes an intimate image as defined in RCW 9A.86.010 or a fabricated intimate image as defined in section 7 of this act forfeits any right to continued possession of the image and any court exercising jurisdiction over such image shall order forfeiture of the image.

Sec. 10. RCW 7.110.010 and 2023 c 65 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) "Child" means an unemancipated individual who is less than 18 years of age.

(2) "Consent" means affirmative, conscious, and voluntary authorization by an individual with legal capacity to give authorization.

((~~(2)~~)) (3) "Depicted individual" means an individual whose body is shown in whole or in part in an intimate image or a fabricated intimate image.

(4) "Digitization" means creating or altering an image of a person in a realistic manner by utilizing images of another person or computer-generated images, regardless of whether such creation or alteration is accomplished manually or through an automated process. "Digitization" includes, but is not limited to, creating or altering an image with the use of artificial intelligence.

((~~(3)~~)) (5) "Disclosing" has the same meaning as provided in RCW 9A.86.010. "Disclosure" has the same meaning as "disclosing."

((~~(4)~~)) (6) "Fabricated intimate image" means any photograph, motion picture film, videotape, digital image or video, or any other recording or visual

depiction of an identifiable depicted individual that was created or altered by digitization and that depicts:

(a) Computer-generated intimate body parts or the intimate body parts of another human being as the intimate body parts of the depicted individual, whether nude or visible through less than opaque clothing and including the genitals, pubic area, anus, or postpubescent female nipple; or

(b) The depicted individual engaging in sexual activity, including masturbation, sexual contact, or sexual intercourse, as those terms are defined in RCW 9A.44.010, in which the depicted individual did not engage.

(7) "Harm" includes physical harm, economic harm, and emotional distress whether or not accompanied by physical or economic harm.

(8) "Identifiable" means recognizable by a person other than the depicted individual:

(a) From an intimate image or fabricated intimate image itself; or

(b) From an intimate image or fabricated intimate image and identifying characteristic displayed in connection with the intimate image.

((~~(5)~~)) (9) "Identifying characteristic" means information that may be used to identify a depicted individual.

((~~(6)~~)) (10) "Individual" means a human being.

((~~(7)~~)) (11) "Intimate image" has the same meaning as provided in RCW 9A.86.010.

((~~(8)~~)) (12) "Parent" has the same meaning as provided in RCW 26.26A.010.

(13) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency or instrumentality, or other legal entity.

(14) "Private" means:

(a) Created or obtained under circumstances in which a depicted individual had a reasonable expectation of privacy; or

(b) Made accessible through theft, bribery, extortion, fraud, false pretenses, voyeurism, or exceeding authorized access to an account, message, file, device, resource, or property.

Sec. 11. RCW 7.110.020 and 2023 c 65 s 3 are each amended to read as follows:

(1) ((~~For the purposes of this section:~~

~~(a) "Harm" includes physical harm, economic harm, and emotional distress whether or not accompanied by physical or economic harm.~~

~~(b) "Private" means:~~

~~(i) Created or obtained under circumstances in which a depicted individual had a reasonable expectation of privacy; or~~

~~(ii) Made accessible through theft, bribery, extortion, fraud, false pretenses, voyeurism, or exceeding authorized access to an account, message, file, device, resource, or property.~~

~~(2)~~)) Except as otherwise provided in RCW 7.110.030, a depicted individual who is identifiable and who suffers harm from a person's intentional disclosure or threatened disclosure of an intimate image that was private without the depicted individual's consent has a cause of action against the person if the person knew or acted with reckless disregard for whether:

(a) The depicted individual did not consent to the disclosure;

(b) The intimate image was private; and

(c) The depicted individual was identifiable.

(((~~(3)~~))) (2) The following conduct by a depicted individual does not establish by itself that the individual consented to the disclosure of the intimate image which is the subject of an action under this chapter or that the individual lacked a reasonable expectation of privacy:

(a) Consent to creation of the image; or

(b) Previous consensual disclosure of the image.

(((~~(4)~~))) (3) A depicted individual who does not consent to the uncovering of the part of the body depicted in an intimate image of the individual retains a reasonable expectation of privacy even if the image was created when the individual was in a public place.

NEW SECTION. **Sec. 12.** A new section is added to chapter 7.110 RCW to read as follows:

(1) A depicted individual who is identifiable and who suffers harm from a person's intentional disclosure or threatened disclosure of a fabricated intimate image without the depicted individual's consent has a cause of action against the person if the person knew or acted with reckless disregard for whether:

(a) The depicted individual did not consent to the disclosure; and

(b) The depicted individual was identifiable.

(2)(a) A depicted individual's consent to the creation of the fabricated intimate image does not by itself establish that the depicted individual consented to its disclosure.

(b) Consent is deemed validly given only if:

(i) It is set forth in an agreement written in plain language signed knowingly and voluntarily by the depicted individual; and

(ii) It includes a general description of the fabricated intimate image and, if applicable, the audiovisual work into which it will be incorporated.

(3) It is not a defense to an action under this section that there is a disclaimer stating that the fabricated intimate image of the depicted individual was unauthorized or that the depicted individual did not participate in the creation or development of the fabricated intimate image.

Sec. 13. RCW 7.110.030 and 2023 c 65 s 4 are each amended to read as follows:

(1) ((~~For the purposes of this section:~~

~~(a) "Child" means an unemancipated individual who is less than 18 years of age.~~

~~(b) "Parent" has the same meaning as provided in RCW 26.26A.010.~~

~~(2)~~))) A person is not liable under this chapter if the person proves that disclosure of, or a threat to disclose, an intimate image or fabricated intimate image was:

(a) Made in good faith in:

(i) Law enforcement activities;

(ii) A legal proceeding; or

(iii) Medical education or treatment;

(b) Made in good faith in the reporting or investigation of:

(i) Unlawful conduct; or

(ii) Unsolicited and unwelcome conduct;

(c) Related to a matter of public concern or public interest; or

(d) Reasonably intended to assist the depicted individual.

(((~~(3) Subject~~)) (2) In an action brought under RCW 7.110.020 and subject to subsection (((~~(4)~~))) (3) of this section, a defendant who is a parent, legal guardian, or individual with legal custody of a child is not liable under this chapter for a disclosure or threatened disclosure of an intimate image, as defined in RCW 7.110.010(((~~(7)~~))) (11), of the child.

(((~~(4)~~))) (3) If a defendant asserts an exception to liability under subsection (((~~(3)~~))) (2) of this section, the exception does not apply if the plaintiff proves the disclosure was:

(a) Prohibited by law other than this chapter; or

(b) Made for the purpose of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.

(((~~(5)~~))) (4) Disclosure of, or a threat to disclose, an intimate image or fabricated intimate image is not a matter of public concern or public interest solely because the depicted individual is a public figure.

(5) A person is not liable in an action brought under section 12 of this act if the fabricated intimate image is commentary, criticism, or disclosure protected by the Washington state Constitution or the United States Constitution.

Sec. 14. RCW 7.110.050 and 2023 c 65 s 6 are each amended to read as follows:

(1) In an action under this chapter, a prevailing plaintiff may recover:

(a) The greater of:

(i) Economic and noneconomic damages proximately caused by the defendant's disclosure or threatened disclosure, including damages for emotional distress whether or not accompanied by other damages; or

(ii) Statutory damages not to exceed $10,000 against each defendant found liable under this chapter for all disclosures and threatened disclosures by the defendant of which the plaintiff knew or reasonably should have known when filing the action or which became known during the pendency of the action. In determining the amount of statutory damages under this subsection (1)(a)(ii), consideration must be given to the age of the parties at the time of the disclosure or threatened disclosure, the number of disclosures or threatened disclosures made by the defendant, the breadth of distribution of the intimate image or fabricated intimate image by the defendant, and other exacerbating or mitigating factors;

(b) An amount equal to any monetary gain made by the defendant from disclosure of the intimate image or fabricated intimate image; and

(c) Punitive damages in an amount not to exceed three times the amount of damages under (a) of this subsection.

(2) In an action under this chapter, the court may award a prevailing plaintiff:

(a) Reasonable attorneys' fees and costs; and

(b) Additional relief, including injunctive relief.

(3) This chapter does not affect a right or remedy available under law of this state other than this chapter.

Sec. 15. RCW 7.110.060 and 2023 c 65 s 7 are each amended to read as follows:

(1) An action under RCW 7.110.020(((~~(2)~~))) or section 12 of this act for:

(a) An unauthorized disclosure may not be brought later than four years from the date the disclosure was discovered or should have been discovered with the exercise of reasonable diligence; and

(b) A threat to disclose may not be brought later than four years from the date of the threat to disclose.

(2) Except as otherwise provided in subsection (3) of this section, this section is subject to the tolling statutes of this state.

(3) In an action under RCW 7.110.020(((~~(2)~~))) or section 12 of this act by a depicted individual who was a minor on the date of the disclosure or threat to disclose, the time specified in subsection (1)(((~~(a)~~))) of this section does not begin to run until the depicted individual attains the age of majority.

Passed by the House February 8, 2024.

Passed by the Senate February 28, 2024.

Approved by the Governor March 14, 2024.

Filed in Office of Secretary of State March 14, 2024.

CHAPTER 89

[House Bill 2004]

HIGHER EDUCATION—SERVICE MEMBERS—EARLY COURSE REGISTRATION

AN ACT Relating to early registration at institutions of higher education for eligible veterans, national guard members, active duty military members, and their spouses, domestic partners, and dependents; and adding a new section to chapter 28B.10 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) Beginning in the 2024-25 academic year, institutions of higher education that offer an early course registration period for any segment of the student population must have a process in place to offer students who are eligible veterans, national guard members, active duty military members, and their spouses, domestic partners, and dependents early course registration as follows:

(a) New students who are eligible under this subsection and who have completed all of their admission processes must be offered an early course registration period; and

(b) Continuing and returning former students who are eligible under this subsection and who have met current enrollment requirements must be offered early course registration among continuing students with the same level of class standing or credit as determined by the attending institution and according to institutional policies.

(2) For purposes of this section, "eligible veterans or national guard members" has the same meaning as in RCW 28B.15.621.

Passed by the House February 7, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 90

[Substitute House Bill 2127]

WORKERS' COMPENSATION—RETURN TO WORK

AN ACT Relating to increasing incentives to return to work in workers' compensation; amending RCW 51.32.090, 51.32.095, 51.32.096, and 51.32.250; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 51.32.090 and 2023 c 171 s 7 are each amended to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3)(a) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall:

(i) For claims for injuries that occurred before May 7, 1993, continue in the proportion which the new earning power shall bear to the old; or

(ii) For claims for injuries occurring on or after May 7, 1993, equal ((~~eighty~~)) 80 percent of the actual difference between the worker's present wages and earning power at the time of injury, but: (A) The total of these payments and the worker's present wages may not exceed ((~~one hundred fifty~~)) 150 percent of the average monthly wage in the state as computed under RCW 51.08.018; (B) the payments may not exceed ((~~one hundred~~)) 100 percent of the entitlement as computed under subsection (1) of this section; and (C) the payments may not be less than the worker would have received if (a)(i) of this subsection had been applicable to the worker's claim.

(b) No compensation shall be payable under this subsection (3) unless the loss of earning power shall exceed five percent.

(c) The prior closure of the claim or the receipt of permanent partial disability benefits shall not affect the rate at which loss of earning power benefits are calculated upon reopening the claim.

(4)(a) The legislature finds that long-term disability and the cost of injuries is significantly reduced when injured workers remain at work following their injury. To encourage employers at the time of injury to provide light duty or transitional work for their workers, wage subsidies and other incentives are made available to employers insured with the department.

(b) Whenever the employer of injury requests that a worker who is entitled to temporary total disability under this chapter be certified by the attending provider as able to perform available work other than his or her usual work, the employer shall furnish to the attending provider, with a copy to the worker, a statement describing the work available with the employer of injury in terms that will enable the attending provider to relate the activities of the job to the worker's disability. The attending provider shall then determine whether the worker is able to perform the work described. The worker's temporary total disability payments shall continue until the worker is released by his or her attending provider for the work, and begins the work with the employer of injury. If the work thereafter comes to an end before the worker's recovery is sufficient in the judgment of his or her attending provider to permit him or her to return to his or her usual job, or to perform other available work offered by the employer of injury, the worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her attending provider he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work.

(c) To further encourage employers to maintain the employment of their injured workers, an employer insured with the department and that offers work to a worker pursuant to this subsection (4) shall be eligible for reimbursement of the injured worker's wages for light duty or transitional work equal to ((~~fifty~~)) 50 percent of the basic, gross wages paid for that work, for a maximum of ((~~sixty-six~~)) 120 workdays within a consecutive ((~~twenty four~~)) 24-month period. In no event may the wage subsidies paid to an employer on a claim exceed ((~~ten thousand dollars~~)) $25,000. Wage subsidies shall be calculated using the worker's basic hourly wages or basic salary, and no subsidy shall be paid for any other form of compensation or payment to the worker such as tips, commissions, bonuses, board, housing, fuel, health care, dental care, vision care, per diem, reimbursements for work-related expenses, or any other payments. An employer may not, under any circumstances, receive a wage subsidy for a day in which the worker did not actually perform any work, regardless of whether or not the employer paid the worker wages for that day.

(d) If an employer insured with the department offers a worker work pursuant to this subsection (4) and the worker must be provided with training or instruction to be qualified to perform the offered work, the employer shall be eligible for a reimbursement from the department for any tuition, books, fees, and materials required for that training or instruction, up to a maximum of ((~~one thousand dollars~~)) $2,000. Reimbursing an employer for the costs of such training or instruction does not constitute a determination by the department that the worker is eligible for vocational services authorized by RCW 51.32.095 ((~~and 51.32.099~~)).

(e) If an employer insured with the department offers a worker work pursuant to this subsection (4), and the employer provides the worker with clothing that is necessary to allow the worker to perform the offered work, the employer shall be eligible for reimbursement for such clothing from the department, up to a maximum of ((~~four hundred dollars~~)) $1,000. However, an employer shall not receive reimbursement for any clothing it provided to the

worker that it normally provides to its workers. The clothing purchased for the worker shall become the worker's property once the work comes to an end.

(f) If an employer insured with the department offers a worker work pursuant to this subsection (4) and the worker must be provided with tools or equipment to perform the offered work, the employer shall be eligible for a reimbursement from the department for such tools and equipment and related costs as determined by department rule, up to a maximum of ((~~two thousand five hundred dollars~~)) $5,000. An employer shall not be reimbursed for any tools or equipment purchased prior to offering the work to the worker pursuant to this subsection (4). An employer shall not be reimbursed for any tools or equipment that it normally provides to its workers. The tools and equipment shall be the property of the employer.

(g) An employer may offer work to a worker pursuant to this subsection (4) more than once, but in no event may the employer receive wage subsidies for more than ((~~sixty-six~~)) 120 days of work in a consecutive ((~~twenty-four~~)) 24-month period under one claim. An employer may continue to offer work pursuant to this subsection (4) after the worker has performed ((~~sixty-six~~)) 120 days of work, but the employer shall not be eligible to receive wage subsidies for such work.

(h) An employer shall not receive any wage subsidies or reimbursement of any expenses pursuant to this subsection (4) unless the employer has completed and submitted the reimbursement request on forms developed by the department, along with all related information required by department rules. No wage subsidy or reimbursement shall be paid to an employer who fails to submit a form for such payment within one year of the date the work was performed. In no event shall an employer receive wage subsidy payments or reimbursements of any expenses pursuant to this subsection (4) unless the worker's attending provider has restricted him or her from performing his or her usual work and the worker's attending provider has released him or her to perform the work offered.

(i) Payments made under (b) through (g) of this subsection are subject to penalties under RCW 51.32.240(5) in cases where the funds were obtained through willful misrepresentation.

(j) Once the worker returns to work under the terms of this subsection (4), he or she shall not be assigned by the employer to work other than the available work described without the worker's written consent, or without prior review and approval by the worker's attending provider. An employer who directs a claimant to perform work other than that approved by the attending provider and without the approval of the worker's attending provider shall not receive any wage subsidy or other reimbursements for such work.

(k) If the worker returns to work under this subsection (4), any employee health and welfare benefits that the worker was receiving at the time of injury shall continue or be resumed at the level provided at the time of injury. Such benefits shall not be continued or resumed if to do so is inconsistent with the terms of the benefit program, or with the terms of the collective bargaining agreement currently in force.

(l) In the event of any dispute as to the validity of the work offered or as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination pursuant to an order that contains

the notice required by RCW 51.52.060 and that is subject to appeal subject to RCW 51.52.050.

(5) An employer's experience rating shall not be affected by the employer's request for or receipt of wage subsidies.

(6) The department shall create a Washington stay-at-work account which shall be funded by assessments of employers insured through the state fund for the costs of the payments authorized by subsection (4) of this section ((~~and~~)), for the cost of creating a reserve for anticipated liabilities, and for costs authorized in RCW 51.32.095(2). Employers may collect up to one-half the fund assessment from workers.

(7) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of ((~~fourteen~~)) 14 consecutive calendar days from date of injury: PROVIDED, That attempts to return to work in the first ((~~fourteen~~)) 14 days following the injury shall not serve to break the continuity of the period of disability if the disability continues ((~~fourteen~~)) 14 days after the injury occurs.

(8) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages: PROVIDED, That holiday pay, vacation pay, sick leave, or other similar benefits shall not be deemed to be payments by the employer for the purposes of this subsection.

(9) In no event shall the monthly payments provided in this section:

(a) Exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(b) For dates of injury or disease manifestation after July 1, 2008, be less than ((~~fifteen~~)) 15 percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ((~~ten dollars~~)) $10 per month if the worker is married and an additional ((~~ten dollars~~)) $10 per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (9)(b) is greater than ((~~one hundred~~)) 100 percent of the wages of the worker as determined under RCW 51.08.178, the monthly payment due to the worker shall be equal to the greater of the monthly wages of the worker or the minimum benefit set forth in this section on June 30, 2008.

(10) If the supervisor of industrial insurance determines that the worker is voluntarily retired and is no longer attached to the workforce, benefits shall not be paid under this section.

(11) The department shall adopt rules as necessary to implement this section.

Sec. 2. RCW 51.32.095 and 2023 c 171 s 8 are each amended to read as follows:

(1) One of the primary purposes of this title is to enable the injured worker to become employable at gainful employment. To this end, the department or self-insurers must utilize the services of individuals and organizations, public or private, whose experience, training, and interests in vocational rehabilitation and retraining qualify them to lend expert assistance to the supervisor of industrial insurance in such programs of vocational rehabilitation as may be reasonable to make the worker employable consistent with his or her physical and mental status. Where, after evaluation and recommendation by such individuals or organizations and prior to final evaluation of the worker's permanent disability and in the sole opinion of the supervisor or supervisor's designee, whether or not medical treatment has been concluded, vocational rehabilitation is both necessary and likely to enable the injured worker to become employable at gainful employment, the supervisor or supervisor's designee may, in his or her sole discretion, pay or, if the employer is a self-insurer, direct the self-insurer to pay the cost as provided in subsection ((~~(5)~~)) (6) of this section ((~~or RCW 51.32.099,~~)) as appropriate. An injured worker may not participate in vocational rehabilitation under this section ((~~or RCW 51.32.099~~)) if such participation would result in a payment of benefits as described in RCW 51.32.240(5), and any benefits so paid must be recovered according to the terms of that section.

(2)(a) To help injured workers maintain and build labor market readiness skills during vocational services in the sole discretion of the supervisor or supervisor's designee, funds may be payable to a department-approved training provider as defined by department rule, so that courses may be available for basic skills development.

(b) Participation in basic skills development is optional for the worker.

(c) Funds may pay for but are not limited to:

(i) English language training;

(ii) Basic computer literacy;

(iii) General education development or high school equivalency training;

(iv) Technology or software needed to effectively participate in basic skills development;

(v) Tutoring for approved basic skills training;

(vi) Other skills that prepare an injured worker for gainful employment.

(d) Travel and accommodation expenses are not payable under (c) of this subsection.

(e) These funds are available once per claim equal to 25 percent of the maximum funding available for vocational retraining defined in RCW 51.32.096(4)(d). Use of these funds for basic skills development does not reduce funds that are available for a formal retraining plan.

(i) Funds must be paid directly to training providers or to vendors to procure necessary equipment or assistance, and may not be paid directly to the worker.

(ii) Self-insured employers must pay for the costs of basic skills development for their injured workers independently from this fund.

(f) Eligibility of training for this funding is based upon a recommendation from the assigned vocational rehabilitation counselor, and approval at the sole

discretion of the supervisor of industrial insurance or their designee to ensure the proposed training is consistent with basic skills development as used in this section.

(g) The injured worker's knowledge and skills gained through basic skills development may not be construed as acquisition of transferable skills under subsection (3)(f) of this section, and does not disqualify the injured worker from being found eligible for continued vocational rehabilitation services or retraining programs available under this title. Payment for the costs of basic skills training or instruction does not constitute a determination by the department that the worker is eligible for vocational services authorized by this section.

(h) Injured workers may finish specific courses that were approved and paid in full prior to vocational referral closure or claim closure. Otherwise funding for this type of skills development ends when the vocational referral closes or the claim closes.

(i) This funding is not associated in any way with eligibility for temporary total disability benefits or any vocational services.

(j) A worker's eligibility for or participation in basic skills development does not preclude the employer of injury's right to offer work under RCW 51.32.090(4) or to offer work consistent with the priorities identified in subsection (3) of this section.

(3) Vocational rehabilitation services may be provided to an injured worker when in the sole discretion of the supervisor or the supervisor's designee vocational rehabilitation is both necessary and likely to make the worker employable at gainful employment. In determining whether to provide vocational services and at what level, the following list must be used, in order of priority with the highest priority given to returning a worker to employment:

(a) Return to the previous job with the same employer;

(b) Modification of the previous job with the same employer including transitional return to work;

(c) A new job with the same employer in keeping with any limitations or restrictions;

(d) Modification of a new job with the same employer including transitional return to work;

(e) Modification of the previous job with a new employer;

(f) A new job with a new employer or self-employment based upon transferable skills;

(g) Modification of a new job with a new employer;

(h) A new job with a new employer or self-employment involving on-the-job training;

(i) Short-term retraining.

((~~(3)~~)) (4) Notwithstanding subsection ((~~(2)~~)) (3) of this section, vocational services may be provided to an injured worker who has suffered the loss or complete use of both legs, or arms, or one leg and one arm, or total eyesight when, in the sole discretion of the supervisor or the supervisor's designee, these services will either substantially improve the worker's quality of life or substantially improve the worker's ability to function in an employment setting, regardless of whether or not these services are either necessary or reasonably likely to make the worker employable at any gainful employment. Vocational services must be completed prior to the commencement of the worker's

entitlement to benefits under RCW 51.32.060. However, workers who are eligible for vocational services under this subsection are not eligible for option 2 benefits, as provided in RCW ((~~51.32.099(4) and~~)) 51.32.096.

((~~(4)~~)) (5) To encourage the employment of individuals who have suffered an injury or occupational disease resulting in permanent disability which may be a substantial obstacle to employment, the supervisor or supervisor's designee, in his or her sole discretion, may provide assistance including job placement services for eligible injured workers who are receiving vocational services under the return-to-work priorities listed in subsection ((~~(2)~~)) (3)(b) through (i) of this section, except for self-employment, and to employers that employ them. The assistance listed in (a) through (f) of this subsection is only available in cases where the worker is employed:

(a) Reduction or elimination of premiums or assessments owed by employers for such workers;

(b) Reduction or elimination of charges against the employers in the event of further injury to such workers in their employ;

(c) Reimbursement of the injured worker's wages for light duty or transitional work consistent with the limitations in RCW 51.32.090(4)(c);

(d) Reimbursement for the costs of clothing that is necessary to allow the worker to perform the offered work consistent with the limitations in RCW 51.32.090(4)(e);

(e) Reimbursement for the costs of tools or equipment to allow the worker to perform the work consistent with the limitations in RCW 51.32.090(4)(f);

(f) A one-time payment ((~~equal to the lesser of ten percent of the worker's wages including commissions and bonuses paid or ten thousand dollars~~)) of $25,000 for continuous employment without reduction in base wages for at least ((~~twelve~~)) 12 months. The ((~~twelve~~)) 12 months begin the first date of employment and the one-time payment is available at the sole discretion of the supervisor of industrial insurance;

(g) The benefits described in this section are available to a state fund employer without regard to whether the worker was employed by the state fund employer at the time of injury. The benefits are available to a self-insured employer only in cases where the worker was employed by a state fund employer at the time of injury or occupational disease manifestation;

(h) The benefits described in (a) through (f) of this subsection ((~~(4)~~)) (5) are only available in instances where a department-employed vocational rehabilitation professional ((~~and the injured worker's health care provider have confirmed~~)) has determined that the worker has returned to work that is reasonably consistent with the worker's ((~~limitations and physical~~)) restrictions.

((~~(5)~~)) (6)(a) Except as provided in (b) of this subsection, costs for vocational rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section may include the cost of books, tuition, fees, supplies, equipment, transportation, child or dependent care, and other necessary expenses for any such worker in an amount not to exceed ((~~three thousand dollars~~)) $3,000 in any ((~~fifty-two~~)) 52 week period, and the cost of continuing the temporary total disability compensation under RCW 51.32.090 while the worker is actively and successfully undergoing a formal program of vocational rehabilitation.

(b) Beginning with vocational rehabilitation plans approved on or after July 1, 1999, through December 31, 2007, costs for vocational rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section may include the cost of books, tuition, fees, supplies, equipment, child or dependent care, and other necessary expenses for any such worker in an amount not to exceed ((~~four thousand dollars~~)) $4,000 in any ((~~fifty-two~~)) 52 week period, and the cost of transportation and continuing the temporary total disability compensation under RCW 51.32.090 while the worker is actively and successfully undergoing a formal program of vocational rehabilitation.

(c) The expenses allowed under (a) or (b) of this subsection may include training fees for on-the-job training and the cost of furnishing tools and other equipment necessary for self-employment or reemployment. However, compensation or payment of retraining with job placement expenses under (a) or (b) of this subsection may not be authorized for a period of more than ((~~fifty-two~~)) 52 weeks, except that such period may, in the sole discretion of the supervisor after his or her review, be extended for an additional ((~~fifty-two~~)) 52 weeks or portion thereof by written order of the supervisor.

(d) In cases where the worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging must also be paid.

(e) Costs paid under this subsection must be chargeable to the employer's cost experience or must be paid by the self-insurer as the case may be.

(((~~(6)~~))) (7) In addition to the vocational rehabilitation expenditures provided for under subsection (((~~(5)~~))) (6) of this section ((~~and RCW 51.32.099~~)), an additional ((~~five thousand dollars~~)) $10,000 may, upon authorization of the supervisor or the supervisor's designee, be expended for: (a) Accommodations for an injured worker that are medically necessary for the worker to participate in an approved retraining plan; and (b) accommodations necessary to perform the essential functions of an occupation in which an injured worker is seeking employment, consistent with the retraining plan or the recommendations of a vocational evaluation. The injured worker's attending provider must verify the necessity of the modifications or accommodations. The total expenditures authorized in this subsection and the expenditures authorized under RCW 51.32.250 may not exceed ((~~five thousand dollars~~)) $10,000.

(((~~(7)(a)~~))) (8) When the department has approved a vocational plan for a worker prior to January 1, 2008, regardless of whether the worker has begun participating in the approved plan, costs for vocational rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section are limited to those provided under subsections (((~~(5)~~))) (6) and (((~~(6)~~))) (7) of this section.

((~~(b) For vocational plans approved for a worker between January 1, 2008, through July 31, 2015, total vocational costs allowed by the supervisor or supervisor's designee under subsection (1) of this section is limited to those provided under the pilot program established in RCW 51.32.099, and vocational rehabilitation services must conform to the requirements in RCW 51.32.099.~~

(~~(8)~~))) (9) The department must establish criteria to monitor the quality and effectiveness of rehabilitation services provided by the individuals and organizations. The state fund must make referrals for vocational rehabilitation services based on these performance criteria.

(((~~(9)~~))) (10) The department must engage in, where feasible and cost-effective, a cooperative program with the state employment security department to provide job placement services under this section including participation by the department as a partner with WorkSource and with the private vocational rehabilitation community to refer workers to these vocational professionals for job search and job placement assistance. As a partner, the department must place vocational professional full-time employees at selected WorkSource locations who will work with employers to market the benefits of on-the-job training programs and preferred worker financial incentives as described in subsection (((~~(4)~~))) (5) of this section. For the purposes of this subsection, "WorkSource" means the established state system that administers the federal workforce investment act of 1998.

(((~~(10)~~))) (11) The benefits in this section and RCW ((~~51.32.099 and~~)) 51.32.096 must be provided for the injured workers of self-insured employers. Self-insurers must report both benefits provided and benefits denied in the manner prescribed by the department by rule adopted under chapter 34.05 RCW. The director may, in his or her sole discretion and upon his or her own initiative or at any time that a dispute arises under this section or RCW ((~~51.32.099 or~~)) 51.32.096, promptly make such inquiries as circumstances require and take such other action as he or she considers will properly determine the matter and protect the rights of the parties.

(((~~(11)~~))) (12) Except as otherwise provided, the benefits provided for in this section and RCW ((~~51.32.099 and~~)) 51.32.096 are available to any otherwise eligible worker regardless of the date of industrial injury. However, claims may not be reopened solely for vocational rehabilitation purposes.

Sec. 3. RCW 51.32.096 and 2015 c 137 s 5 are each amended to read as follows:

(1) ((~~Through the collaboration of the vocational rehabilitation subcommittee established in RCW 51.32.099, certain vocational rehabilitation benefits and options have been identified as permanently needed to support appropriate outcomes for eligible injured workers.~~)) To continue the partnership of business and labor with regard to best practices in the provision of vocational services and to identify further improvements to Washington's vocational rehabilitation system and benefits, the director must appoint a vocational rehabilitation advisory committee to consist of at least one member representing employers insured by the state fund, one member representing self-insured employers, and two members representing workers. The appointments must be made from lists of nominations provided by statewide business, self-insured employers, and labor organizations.

(2) Prior to or during plan development, the department may authorize payment for workers who choose to pursue basic skills development training, such as English as a second language and general equivalency degree courses.

(3)(a) For the purposes of this section, the day the worker commences vocational plan development means the date the department or self-insurer notifies the worker of his or her eligibility for plan development services or of an eligibility determination in response to a dispute of a vocational decision.

(b) When the supervisor or supervisor's designee has decided that vocational rehabilitation is both necessary and likely to make the worker employable at gainful employment, he or she must be provided with services necessary to

develop a vocational plan that, if completed, would render the worker employable. The vocational professional assigned to the claim must, at the initial meeting with the worker, fully inform the worker of the return-to-work priorities set forth in RCW 51.32.095((~~(2)~~)) (3) and of his or her rights and responsibilities under the workers' compensation vocational system. The department must provide tools to the vocational professional for communicating this and other information required by RCW 51.32.095 and this section to the worker.

(c) On the date the worker commences vocational plan development, the department must also inform the employer in writing of the employer's right to make a valid return-to-work offer during the first ((~~fifteen~~)) 15 days following the commencement of vocational plan development. However, at the sole discretion of the supervisor or the supervisor's designee, an employer may be granted an extension of time of up to ((~~ten~~)) 10 additional days to make a valid return-to-work offer. The additional days may be allowed by the department with or without a request from the employer. The extension may only be granted if the employer made a return-to-work offer to the worker within ((~~fifteen~~)) 15 days of the date the worker commenced vocational plan development that met some but not all of the requirements in this section. To be valid, the offer must be for bona fide employment with the employer of injury, consistent with the worker's documented physical and mental restrictions as provided by the worker's health care provider. When the employer makes a valid return-to-work offer, the vocational plan development services and temporary total disability compensation must be terminated effective on the starting date for the job without regard to whether the worker accepts the return-to-work offer.

(d) Following the time period described in (c) of this subsection, the employer may still provide, and the worker may accept, any valid return-to-work offer. The worker's acceptance of such an offer must result in the termination of vocational plan development or implementation services and temporary total disability compensation effective the day the employment begins.

((~~(3)~~)) (4)(a) All vocational plans must contain an accountability agreement signed by the worker detailing expectations regarding progress, attendance, and other factors influencing successful participation in the plan. Failure to abide by the agreed expectations must result in suspension of vocational benefits pursuant to RCW 51.32.110, including the opportunity for the worker to demonstrate good cause.

(b) Any formal education included as part of the vocational plan must be for an accredited or licensed program or other program approved by the department. The department must develop rules that provide criteria for the approval of nonaccredited or unlicensed programs.

(c) The vocational plan for an individual worker must be completed and submitted to the department within ((~~ninety~~)) 90 days of the day the worker commences vocational plan development. The department may extend the ((~~ninety~~)) 90 days for good cause. Criteria for good cause must be provided in rule.

(d) Costs for the vocational plan may include books, tuition, fees, supplies, equipment, child or dependent care, training fees for on-the-job training, the cost of furnishing tools and other equipment necessary for self-employment or reemployment, and other necessary expenses in an amount not to exceed ((~~seventeen thousand five hundred dollars~~)) $17,500. This amount must be

adjusted effective July 1st of each year for vocational plans or retraining benefits available under subsection (((~~(4)~~))) (5)(b) of this section approved on or after this date but before June 30th of the next year based on the average percentage change in tuition for the next fall quarter for all Washington state community colleges. Effective July 1, 2016, and each July 1st thereafter, the increase cannot exceed two percent per year, unless the amount available would be less than ((~~one hundred fifty~~)) 150 percent of the average cost of a two-year community college training plan. Effective July 1st following the calendar year in which the amount available is less than ((~~one hundred fifty~~)) 150 percent of the average cost of a two-year community college plan, costs for newly approved plans can be up to ((~~one hundred fifty~~)) 150 percent of this community college plan average. The average cost of two-year community college training plans will be calculated by the department based on plans completed during the preceding calendar year.

(e) The duration of the vocational plan may not exceed two years from the date the plan is implemented. The worker must receive temporary total disability compensation under RCW 51.32.090 and the cost of transportation while he or she is actively and successfully participating in a vocational plan.

(f) If the worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging must also be paid.

(((~~(4)~~))) (5) Except as provided in RCW 51.32.095(((~~(3)~~))) (4), during vocational plan development the worker must, with the assistance of a vocational professional, participate in vocational counseling and occupational exploration to include, but not be limited to, identifying possible job goals, training needs, resources, and expenses, consistent with the worker's physical and mental status. A vocational rehabilitation plan must be developed by the worker and the vocational professional and submitted to the department or self-insurer. Following this submission, the worker must elect one of the following options:

(a) Option 1: The department or self-insurer implements and the worker participates in the vocational plan developed by the vocational professional and approved by the worker and the department or self-insurer. For state fund claims, the department must review and approve the vocational plan before implementation may begin. If the department takes no action within ((~~fifteen~~)) 15 days, the plan is deemed approved. Beginning the date the department approves the plan, or the date of a determination that the plan is valid following a dispute, through completion of the first academic quarter or three months' training, the worker may elect option 2. However, in the sole discretion of the supervisor or supervisor's designee, the department may approve an election for option 2 benefits that was submitted in writing within ((~~twenty-five~~)) 25 days of the end of the first academic quarter or three months' training if the worker provides a written explanation establishing that he or she was unable to submit his or her election of option 2 benefits within ((~~fifteen~~)) 15 days. In no circumstance may the department approve of an election for option 2 benefits that was submitted more than ((~~twenty-five~~)) 25 days after the end of the first academic quarter or three months' training.

(i) Following successful completion of the vocational plan, any subsequent assessment of whether vocational rehabilitation is both necessary and likely to enable the injured worker to become employable at gainful employment under

RCW 51.32.095(1) must include consideration of transferable skills obtained in the vocational plan.

(ii) If a vocational plan is successfully completed on a claim which is thereafter reopened as provided in RCW 51.32.160, the cost and duration available for any subsequent vocational plan is limited to that in subsection (((~~(3)~~)) (4)(d) and (e) of this section, less that previously expended.

(b) Option 2: The worker declines further vocational services under the claim and receives an amount equal to nine months of temporary total disability compensation under RCW 51.32.090. The award must be reduced by the amount of any temporary total disability compensation paid for days starting with the first day of the academic quarter or three months' training and for any days through the date the department received the worker's written election of option 2. The award is payable in biweekly payments in accordance with the schedule of temporary total disability payments, until such award is paid in full. These payments may not include interest on the unpaid balance. However, upon application by the worker, and at the discretion of the department, the compensation may be converted to a lump sum payment. The vocational costs defined in subsection (((~~(3)~~)) (4)(d) of this section must remain available to the worker less any amount expended for the worker's participation in the first academic quarter or three months' training, upon application to the department or self-insurer, for a period of five years. The vocational costs must, if expended, be available for programs or courses at any accredited or licensed institution or program from a list of those approved by the department for tuition, books, fees, supplies, equipment, and tools, without department or self-insurer oversight. Up to ((~~ten~~)) 10 percent of the total funds available to the worker can be used for vocational counseling and job placement services. The department must issue an order as provided in RCW 51.52.050 confirming the option 2 election, setting a payment schedule, and terminating temporary total disability benefits effective the date of the order confirming that election. The department must thereafter close the claim. A worker who elects option 2 benefits is not entitled to further temporary total, or to permanent total, disability benefits except upon a showing of a worsening in the condition or conditions accepted under the claim such that claim closure is not appropriate, in which case the option 2 selection must be rescinded and the amount paid to the worker must be assessed as an overpayment. A claim that was closed based on the worker's election of option 2 benefits may be reopened as provided in RCW 51.32.160, but cannot be reopened for the sole purpose of allowing the worker to seek vocational assistance.

(i) If, within five years from the date the option 2 order becomes final, the worker is subsequently injured or suffers an occupational disease or reopens the claim as provided in RCW 51.32.160, and vocational rehabilitation is found both necessary and likely to enable the injured worker to become employable at gainful employment under RCW 51.32.095(1), the duration of any vocational plan under subsection (((~~(3)~~)) (4)(e) of this section may not exceed ((~~fifteen~~)) 15 months.

(ii) If the available vocational costs are utilized by the worker, any subsequent assessment of whether vocational rehabilitation is both necessary and likely to enable the injured worker to become employable at gainful

employment under RCW 51.32.095(1) must include consideration of the transferable skills obtained.

(iii) If the available vocational costs are utilized by the worker and the claim is thereafter reopened as provided in RCW 51.32.160, the cost available for any vocational plan is limited to that in subsection (((~~(3)~~))) (4)(d) of this section less that previously expended.

(iv) Option 2 may only be elected once per worker.

(c) The director, in his or her sole discretion, may provide the worker vocational assistance not to exceed that in subsection (((~~(3)~~))) (4) of this section, without regard to the worker's prior option selection or benefits expended, where vocational assistance would prevent permanent total disability under RCW 51.32.060.

(((~~(5)~~))) (6)(a) "Vocational plan interruption" for the purposes of this section means an occurrence which disrupts the plan to the extent the employability goal is no longer attainable. "Vocational plan interruption" does not include institutionally scheduled breaks in educational programs, occasional absence due to illness, or modifications to the plan which will allow it to be completed within the cost and time provisions of subsection (((~~(3)~~))) (4)(d) and (e) of this section.

(b) When a vocational plan interruption is beyond the control of the worker, the department or self-insurer must recommence plan development. If necessary to complete vocational services, the cost and duration of the plan may include credit for that expended prior to the interruption. A vocational plan interruption is considered outside the control of the worker when it is due to the closure of the accredited institution, when it is due to a death in the worker's immediate family, or when documented changes in the worker's accepted medical conditions prevent further participation in the vocational plan.

(c) When a vocational plan interruption is the result of the worker's actions, the worker's entitlement to benefits must be suspended in accordance with RCW 51.32.110, including the opportunity for the worker to demonstrate good cause. If plan development or implementation is recommenced, the cost and duration of the plan may not include credit for that expended prior to the interruption. A vocational plan interruption is considered a result of the worker's actions when it is due to the failure to meet attendance expectations set by the training or educational institution, failure to achieve passing grades or acceptable performance review, unaccepted or postinjury conditions that prevent further participation in the vocational plan, or the worker's failure to abide by the accountability agreement in subsection (((~~(3)~~))) (4)(a) of this section.

(((~~(6)~~))) (7) Costs paid for vocational services and plans must be chargeable to the employer's cost experience or must be paid by the self-insurer, as the case may be. For state fund vocational plans implemented on or after January 1, 2008, the costs may be paid from the medical aid fund at the sole discretion of the director under the following circumstances:

(a) The worker previously participated in a vocational plan or selected a worker option as described in ((~~RCW 51.32.099(4) or in~~)) subsection (((~~(4)~~))) (5) of this section;

(b) The worker's prior vocational plan or selected option was based on an approved plan or option on or after January 1, 2008;

(c) For state fund employers, the date of injury or disease manifestation of the subsequent claim is within the period of time used to calculate their experience factor;

(d) The subsequent claim is for an injury or occupational disease that resulted from employment and work-related activities beyond the worker's documented restrictions.

((~~(7)~~)) (8) The vocational plan costs payable from the medical aid fund must include the costs of temporary total disability benefits, except those payable from the supplemental pension fund, from the date the vocational plan is implemented to the date the worker completes the plan or ceases participation. The vocational costs paid from the medical aid fund may not be charged to the state fund employer's cost experience.

Sec. 4. RCW 51.32.250 and 1988 c 161 s 10 are each amended to read as follows:

Modification of the injured worker's previous job or modification of a new job is recognized as a desirable method of returning the injured worker to gainful employment. In order to assist employers in meeting the costs of job modification, and to encourage employers to modify jobs to accommodate retaining or hiring workers with disabilities resulting from work-related injury, the supervisor or the supervisor's designee, in his or her discretion, may pay job modification costs in an amount not to exceed ((~~five thousand dollars~~)) $10,000 per worker per job modification. This payment is intended to be a cooperative participation with the employer and funds shall be taken from the appropriate account within the second injury fund.

The benefits provided for in this section are available to any otherwise eligible worker regardless of the date of industrial injury.

NEW SECTION. **Sec. 5.** This act takes effect January 1, 2025.

Passed by the House February 6, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 91

[House Bill 2204]

EMERGENCY LIQUOR PERMITS

AN ACT Relating to the creation of a special liquor permit to authorize the sale of liquor by a manufacturer of liquor at another licensed premises during an emergency; and amending RCW 66.20.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 66.20.010 and 2023 c 257 s 1 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee must issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation;

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 82.08.150, 66.24.290, and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner

during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 82.08.150, 66.24.290, and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a liquor spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 82.08.150, 66.24.290, and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests;

(12) Where the application is for a special permit to allow tasting of alcohol by persons at least 18 years of age under the following circumstances:

(a) The application is from a community or technical college as defined in RCW 28B.50.030, a regional university, or a state university;

(b) The person who is permitted to taste under this subsection is enrolled as a student in a required or elective class that is part of a culinary, sommelier, wine business, enology, viticulture, wine technology, beer technology, or spirituous technology-related degree program;

(c) The alcohol served to any person in the degree-related programs under (b) of this subsection is tasted but not consumed for the purposes of educational training as part of the class curriculum with the approval of the educational provider;

(d) The service and tasting of alcoholic beverages is supervised by a faculty or staff member of the educational provider who is 21 years of age or older. The supervising faculty or staff member shall possess a class 12 or 13 alcohol server permit under the provisions of RCW 66.20.310;

(e) The enrolled student permitted to taste the alcoholic beverages does not purchase the alcoholic beverages;

(f) The enrolled student permitted to taste the alcoholic beverages conducts the tasting either: (i) On the premises of the college or university at which the student is enrolled; or (ii) while on a field trip to a grape-growing area or production facility so long as the enrolled student is accompanied by a faculty or staff member with a class 12 or 13 alcohol server permit who supervises as provided in (d) of this subsection and all other requirements of this subsection (12) are met; and

(g) The permit fee for the special permit provided for in this subsection (12) must be waived by the board;

(13) Where the application is for a special permit by a distillery or craft distillery for an event not open to the general public to be held or conducted at a specific place, including at the licensed premise of the applying distillery or craft distillery, upon a specific date for the purpose of tasting and selling spirits of its

own production. The distillery or craft distillery must obtain a permit for a fee of $10 per event. An application for the permit must be submitted for private banquet permits prior to the event and, once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No licensee may receive more than 12 permits under this subsection (13) each year;

(14) Where the application is for a special permit by a manufacturer of wine for an event not open to the general public to be held or conducted at a specific place upon a specific date for the purpose of tasting and selling wine of its own production. The winery must obtain a permit for a fee of $10 per event. An application for the permit must be submitted at least ten days before the event and once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No more than 12 events per year may be held by a single manufacturer under this subsection;

(15) Where the application is for a special permit by a manufacturer of beer for an event not open to the general public to be held or conducted at a specific place upon a specific date for the purpose of tasting and selling beer of its own production. The brewery or microbrewery must obtain a permit for a fee of $10 per event. An application for the permit must be submitted at least 10 days before the event and, once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No more than 12 events per year may be held by a single manufacturer under this subsection;

(16) Where the application is for a special permit by an individual or business to sell a private collection of wine or spirits to an individual or business. The seller must obtain a permit at least five business days before the sale, for a fee of $25 per sale. The seller must provide an inventory of products sold and the agreed price on a form provided by the board. The seller shall submit the report and taxes due to the board no later than 20 calendar days after the sale. A permit may be issued under this section to allow the sale of a private collection to licensees, but may not be issued to a licensee to sell to a private individual or business which is not otherwise authorized under the license held by the seller. If the liquor is purchased by a licensee, all sales are subject to taxes assessed as on liquor acquired from any other source. The board may adopt rules to implement this section;

(17)(a) A special permit, where the application is for a special permit by a nonprofit organization to sell wine through an auction, not open to the public, to be conducted at a specific place, upon a specific date, and to allow wine tastings at the auction of the wine to be auctioned.

(b) A permit holder under this subsection (17) may at the specified event:

(i) Sell wine by auction for off-premises consumption; and

(ii) Allow tastings of samples of the wine to be auctioned at the event.

(c) An application is required for a permit under this subsection (17). The application must be submitted prior to the event and once issued must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use.

(d) Wine from more than one winery may be sold at the auction; however, each winery selling wine at the auction must be listed on the permit application. Only a single application form may be required for each auction, regardless of

the number of wineries that are selling wine at the auction. The total fee per event for a permit issued under this subsection (17) is $25 multiplied by the number of wineries that are selling wine at the auction.

(e) For the purposes of this subsection (17), "nonprofit organization" means an entity incorporated as a nonprofit organization under Washington state law.

(f) The board may adopt rules to implement this section; ((~~and~~))

(18) An annual special permit to allow a short-term rental operator to provide one complimentary bottle of wine to rental guests who are age 21 or over. The annual special permit fee is $75. A single permit applies to all rental properties owned or operated by the short-term rental operator and identified in the permit application. One complimentary bottle of wine per booking may be provided, regardless of the total number of rental guests. The provision of the complimentary bottle of wine may occur only after an operator or staff person of the short-term rental, who is present at the short-term rental property, verifies that each rental guest who will consume the complimentary bottle of wine is age 21 or over by checking a valid form of identification of each such rental guest at the time rental guests arrive. The rental guests must be informed the rental guests are being offered one complimentary bottle of wine and that opening or consuming the bottle of wine in a public place is illegal pursuant to RCW 66.44.100. The rental guests must not have notified the operator that the rental guests decline the complimentary bottle of wine. The complimentary bottle of wine may be consumed on the premises of the rental property or removed and consumed off the premises of the rental property. A permit holder may purchase wine from wine distributors in accordance with RCW 66.24.200, and from retailers and other suppliers of wine authorized under this title to sell wine at retail to consumers for off-premises consumption. For purposes of this subsection, the terms "short-term rental," "operator," and "guest" have the same meanings as in RCW 64.37.010; and

(19) Where the application is for an emergency liquor permit by a licensed manufacturer to authorize the sale, service, and consumption of liquor on the premises of another liquor licensee with retail sales privileges when an emergency or disaster as defined in RCW 38.52.010 has made the premises of the applicant inaccessible and unable to operate due to an emergency or road closure, except that the fee must be waived if there is a proclamation of a state of emergency issued by the governor or by the city, town, or county where the applicant is located. The permit shall be valid for 30 days and may be continually renewed for periods of 30 days if the emergency or disaster continues. Employees or agents of the emergency permit holder or the licensed premises may serve liquor provided by the permit holder. The permit holder may store no more than a 30-day supply of liquor at the licensed premises in segregated storage. No more than a total of three emergency permit holders may sell at the same licensed premises under an emergency permit.

Passed by the House February 12, 2024.

Passed by the Senate March 1, 2024.

Approved by the Governor March 14, 2024.

Filed in Office of Secretary of State March 14, 2024.

CHAPTER 92

[Substitute House Bill 2230]

ECONOMIC SECURITY FOR ALL GRANT PROGRAM

AN ACT Relating to promoting economic inclusion by creating the economic security for all grant program; adding a new chapter to Title 43 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature declares that economic inclusion shall be a top priority for Washington state. The legislature recognizes that for communities to thrive and remain vibrant, the state's economy needs to be inclusive of people who are furthest away from opportunity and disproportionally more likely to experience economic hardship. The legislature acknowledges that stand-alone human service programs meet a pressing need but can be difficult to access for those lacking the resources to do so. The legislature recognizes that barriers to access can delay reentry into the workforce and career development. The legislature finds that leveraging or supporting the integration of existing benefits and services whenever possible will help people access the benefits they need to help them move out of poverty, without creating another duplicative system. The legislature finds that incorporating people with lived experience deeply and meaningfully into systems development and program implementation can help improve meaningful access to state programs. The legislature, therefore, intends to help facilitate an inclusive economy by creating the economic security for all grant program to provide greater access to resources for those in need.

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

(1) "Business services" means services by local workforce development councils to increase employer engagement in an effort to support industry growth, increase quality employment opportunities for job seekers, and enable persons served by economic security for all grants to access careers with wages that allow them to achieve self-sufficiency.

(2) "Department" means the employment security department.

(3) "People experiencing poverty" means people with a household income that is at or below 200 percent of the federal poverty level.

(4) "People who demonstrate financial need" means people with a household income that is above 200 percent of the federal poverty level but below self-sufficiency who need employment-related services to achieve self-sufficiency.

(5) "Rural counties" has the same meaning as provided in RCW 82.14.370.

(6) "Self-sufficiency" means a level of household income that is equal to or greater than the self-sufficiency standard for a household as determined by the University of Washington's self-sufficiency calculator.

(7) "Steering committee" means the poverty reduction work group steering committee created in response to a directive of the governor, dated November 6, 2017.

(8) "Workforce development council" means a local workforce development board as established in P.L. 113-128 Sec. 107.

NEW SECTION. **Sec. 3.** (1) The economic security for all grant program is created in the department. The purpose of the program is to empower and incentivize communities to coordinate existing poverty reduction resources and benefits to make them easier to access, get them to the people who need them, and work as a coordinated system to help more people move out of poverty and be included in Washington's economic success.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department, in consultation with the department of social and health services, the department of commerce, the department of children, youth, and families, the health care authority, the workforce training and education coordinating board, the steering committee, and other stakeholders as determined by the department, shall make and oversee the implementation of economic security for all grants. Grants awarded under this section must be made available to local communities to promote equity, economic inclusion, and a stable financial foundation for people experiencing poverty and people who demonstrate financial need, with a particular focus on people of color and people in rural counties including tribal nations, primarily through better coordination of existing programs, resources, and provision of business services.

(3) Economic security for all grants awarded under this section shall be made available in communities throughout all regions of the state, including rural counties and urban communities for the purposes described in this section, distributed utilizing a funding allocation model.

(4) Recipients of economic security for all grants shall:

(a) Coordinate with existing local providers to make benefits easier to access and work as a coordinated system to help more people move out of poverty and be included in Washington's economic success;

(b) Provide input to inform the work described in section 5 of this act, by identifying examples of federal regulations that prevent better local coordination and identifying other needs for additional state or federal funding for continuous improvement of the poverty reduction system in future years;

(c) Utilize the existing local workforce development councils to develop economic security for all grant partnerships that must include people experiencing poverty, people of color, homelessness programs, and representatives of the health care authority, community service offices, accountable communities of health, and associate development organizations, and may include other members;

(d) Coordinate leadership among the local workforce development council, associate development council, and other organizations, and utilize the local workforce development council as the fiscal agent;

(e) Work with people experiencing poverty and people who demonstrate financial need to ensure they have access to multiple benefits to help them meet their basic needs, in alignment with local care coordination efforts, and when ready, to develop individualized career plans that will lead to a self-sufficiency wage, which must be the level established by the University of Washington self-sufficiency standard;

(f) Provide streamlined access to local partners who can pay for education or training elements of a person experiencing poverty or person with financial need's individualized career plan using federal Pell grants, the Washington college grant, or other resources;

(g) Provide streamlined access to local partners who can make monthly payments to people experiencing poverty and people who demonstrate financial need while in training, using existing resources such as incentive payments, work study payments, work experience payments, needs-related payments, or other financial aid or workforce development resources, as identified locally and in consultation with technical assistance provided by the department. Such payments must work to maximize the total benefits available to the individual;

(h) Through the local workforce development councils, develop an economic security for all grant coordination team that works to facilitate easier access to all state and local government services. The team may utilize and build upon, rather than duplicate, existing coordinators and navigators that are already in place in the community. The team must provide convenient one-stop access to benefits available to people experiencing poverty and people who demonstrate financial need. At a minimum, the team must encourage people served by the economic security for all grants to apply for and, if eligible, receive supplemental nutritional assistance program benefits, temporary assistance for needy families benefits, medicaid benefits, workforce innovation and opportunity act supportive services, or other financial and health benefits, as appropriate for each person;

(i) Provide equitable access to state and local government services for people with disabilities, which may include equipment and technology purchases;

(j) Identify where federal barriers hinder efforts to coordinate benefits for customers and elevate those issues to the department;

(k) Provide options for career development, English language learning, and other services for both parents in two-parent families, including child care if desired by the family; and

(l) When available, use the local and state teams already in place for similar efforts, expanding the partners on those teams as needed to meet the requirements of this section.

NEW SECTION. **Sec. 4.** Members of the steering committee must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060, as well as child care and other expenses as needed for each day a steering committee member attends meetings to provide consultative assistance to the agencies managing the economic security for all grants as provided in sections 3 and 5 of this act, for up to 12 meetings per calendar year.

NEW SECTION. **Sec. 5.** (1) The department, in consultation with the department of social and health services, the department of commerce, the department of children, youth, and families, the health care authority, the workforce training and education coordinating board, the steering committee, and other stakeholders as identified by the department:

(a) Shall identify federal reforms that would help persons served by economic security for all grants access the federal benefits they need more efficiently, avoid sudden benefit cuts as their earned income increases, and move from poverty to self-sufficiency more effectively; and

(b) May apply for federal waivers and propose federal law changes to make the authorizing environment better support coordinated service delivery across programs.

(2) The department of social and health services, in consultation with the department, the department of commerce, the department of children, youth, and families, the health care authority, the workforce training and education coordinating board, the steering committee, the legislative-executive WorkFirst poverty reduction oversight task force, and other stakeholders as determined by the department, shall further develop measures and indicators of yearly progress toward poverty reduction, reducing income inequality, and achieving an equitable and inclusive economy, using the University of Washington self-sufficiency standard as a primary measure, as well as other measures already underway in the department of social and health services technical advisory group on inclusive economic recovery, and apply those measures as needed to help promote a statewide economy that is inclusive of rural areas, racially equitable, and fully inclusive of people experiencing poverty, people of color, people with disabilities, unhoused people, and other key demographics that have historically been left behind by the state economy.

NEW SECTION. **Sec. 6.** By December 1, 2024, and annually thereafter, and in compliance with RCW 43.01.036, the department shall report to the governor, the appropriate committees of the legislature, the workforce training and education coordinating board, and the legislative-executive WorkFirst poverty reduction oversight task force on the economic security for all grant program. The annual report must include an analysis of the program, a detailed summary of the quarterly data collected, demographics and geography of people served, services delivered, average length of participation, number of persons served by the grants maintaining self-sufficiency in the years following program exit, and associated recommendations for program delivery. The report must include an analysis of customer feedback and actions taken to respond, based upon a standardized customer feedback mechanism. The report shall be publicized and easily accessible to the public.

NEW SECTION. **Sec. 7.** The department may adopt rules as necessary to implement this chapter.

NEW SECTION. **Sec. 8.** Sections 2 through 7 of this act constitute a new chapter in Title 43 RCW.

Passed by the House February 13, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 93

[Engrossed Substitute House Bill 2306]

MAIN STREET PROGRAMS—USE OF REMAINING MAIN STREET TAX CREDITS

AN ACT Relating to allowing main street programs to use remaining main street tax credits after a certain date; and amending RCW 82.73.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.73.030 and 2023 c 96 s 1 are each amended to read as follows:

(1) Subject to the limitations in this chapter, a credit is allowed against the tax imposed by chapters 82.04 and 82.16 RCW for approved contributions that are made by a person to a program or the main street trust fund.

(2)(a) Except as provided in (b) of this subsection, the credit allowed under this section is limited to an amount equal to:

(i) Seventy-five percent of the approved contribution made by a person to a program; or

(ii) Fifty percent of the approved contribution made by a person to the main street trust fund.

(b) Beginning with contributions made in calendar year 2021, an additional credit is allowed equal to 25 percent of the approved contribution made by a person to the main street trust fund.

(3) The department may not approve credit with respect to a program in a city or town with a population of 190,000 persons or more at the time of designation under RCW 43.360.030.

(4) The department must keep a running total of all credits approved under this chapter for each calendar year. The department may not approve any credits under this section that would cause the total amount of approved credits statewide to exceed $5,000,000 in any calendar year.

(5)(a)(i) The total credits allowed under this chapter for contributions made to each program may not exceed $160,000 in a calendar year, except as provided in (a)(iii) of this subsection.

(ii) Between 8:00 a.m., Pacific standard time, on the second Monday in January and 8:00 a.m., Pacific daylight time, on April 1st of the same calendar year, the department must evenly allocate the amount of statewide credits allowed under subsection (4) of this section based on the total number of programs and the main street trust fund as of January 1st in the same calendar year. The department may not approve contributions for a program or the main street trust fund that would cause the total amount of approved credits for a program or the main street trust fund to exceed the allocated amount.

(iii) Between 8:00 a.m., Pacific standard time, on October 1st and 8:00 a.m., Pacific standard time, on December 31st of the same calendar year, the department must allow individual programs to use any remaining credits allowed under subsection (4) of this section. The total credits allowed under this chapter for each program under (a)(i) of this subsection and this subsection (a)(iii) may not exceed $250,000 in a calendar year.

(b) The total credits allowed under this chapter for a person may not exceed $250,000 in a calendar year.

(6) Except as provided in subsection (8) of this section, the credit may be claimed against any tax due under chapters 82.04 and 82.16 RCW only in the calendar year immediately following the calendar year in which the credit was approved by the department and the contribution was made to the program or the main street trust fund. Credits may not be carried over to subsequent years. No refunds may be granted for credits under this chapter.

(7) The total amount of the credit claimed in any calendar year by a person may not exceed the lesser amount of:

(a) The approved credit; or

(b) Seventy-five percent of the amount of the contribution that is made by the person to a program and 75 percent of the amount of the contribution that is made by the person to the main street trust fund, in the prior calendar year.

(8) Any credits provided in accordance with this chapter for approved contributions made in calendar year 2020 may be carried over for an additional two years and must be used by December 31, 2023.

(9) No credit is allowed or may be claimed under this section on or after January 1, 2032.

Passed by the House February 15, 2024.

Passed by the Senate February 29, 2024.

Approved by the Governor March 14, 2024.

Filed in Office of Secretary of State March 14, 2024.

CHAPTER 94

[Substitute House Bill 2355]

MAGNETIC RESONANCE IMAGING TECHNOLOGISTS—CERTIFICATION

AN ACT Relating to establishing a primary certification process for magnetic resonance imaging technologists; amending RCW 18.84.080, 18.84.030, and 18.84.130; and reenacting and amending RCW 18.84.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.84.020 and 2010 c 92 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) "Approved cardiovascular invasive specialist program" or "approved radiologist assistant program" means a school approved by the secretary. The secretary may recognize other organizations that establish standards for radiologist assistant programs or cardiovascular invasive specialist programs and designate schools that meet the organization's standards as approved.

(2) "Approved school of radiologic technology" means a school of radiologic technology, cardiovascular invasive specialist program, or radiologist assistant program approved by the secretary or a school found to maintain the equivalent of such a course of study as determined by the department. Such school may be operated by a medical or educational institution, and for the purpose of providing any requisite clinical experience, shall be affiliated with one or more general hospitals.

(3) "Cardiac or vascular catheterization" means all anatomic or physiological studies of intervention in which the heart, coronary arteries, or vascular system are entered via a systemic vein or artery using a catheter that is manipulated under fluoroscopic visualization.

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

(5) "Licensed practitioner" means any licensed health care practitioner performing services within the person's authorized scope of practice.

(6) <u>"Nonionizing radiation" includes radiation such as radiofrequency or microwaves, visible, infrared, or ultraviolet light or ultrasound.</u>

(7) "Radiologic technologist" means an individual certified under this chapter, other than a licensed practitioner, who practices radiologic technology as a:

(a) Diagnostic radiologic technologist, who is a person who actually handles X-ray equipment in the process of applying radiation on a human being for diagnostic purposes at the direction of a licensed practitioner, this includes parenteral procedures related to radiologic technology when performed under the direct supervision of a physician licensed under chapter 18.71 or 18.57 RCW;

(b) Therapeutic radiologic technologist, who is a person who uses radiation-generating equipment for therapeutic purposes on human subjects at the direction of a licensed practitioner, this includes parenteral procedures related to radiologic technology when performed under the direct supervision of a physician licensed under chapter 18.71 or 18.57 RCW;

(c) Magnetic resonance imaging technologist, who is a person who uses a nonionizing radiation process on a human being by which certain nuclei, when placed in a magnetic field, absorb and release energy in the form of radio waves that are analyzed by a computer thereby producing an image of human anatomy and physiological information at the direction of a licensed practitioner, this includes parenteral procedures related to radiologic technology when performed under the direct supervision of a physician licensed under chapter 18.71 or 18.57 RCW;

(d) Nuclear medicine technologist, who is a person who prepares radiopharmaceuticals and administers them to human beings for diagnostic and therapeutic purposes and who performs in vivo and in vitro detection and measurement of radioactivity for medical purposes at the direction of a licensed practitioner;

(((~~(d)~~))) (e) Radiologist assistant, who is an advanced-level certified diagnostic radiologic technologist who assists radiologists by performing advanced diagnostic imaging procedures as determined by rule under levels of supervision defined by the secretary, this includes but is not limited to enteral and parenteral procedures when performed under the direction of the supervising radiologist, and that these procedures may include injecting diagnostic agents to sites other than intravenous, performing diagnostic aspirations and localizations, and assisting radiologists with other invasive procedures; or

(((~~(e)~~))) (f) Cardiovascular invasive specialist, who is a person who assists in cardiac or vascular catheterization procedures under the personal supervision of a physician licensed under chapter 18.71 or 18.57 RCW. This includes parenteral procedures related to cardiac or vascular catheterization including, but not limited to, parenteral procedures involving arteries and veins.

(((~~(7)~~))) (8) "Radiologic technology" means the use of ionizing or nonionizing radiation upon a human being for diagnostic or therapeutic purposes.

(((~~(8)~~))) (9) "Radiologist" means a physician certified by the American board of radiology or the American osteopathic board of radiology.

(((~~(9)~~))) (10) "Registered X-ray technician" means a person who is registered with the department, and who applies ionizing radiation at the direction of a licensed practitioner and who does not perform parenteral procedures.

(((~~(10)~~))) (11) "Secretary" means the secretary of health.

Sec. 2. RCW 18.84.080 and 2010 c 92 s 2 are each amended to read as follows:

(1) The secretary shall issue a certificate to any applicant who demonstrates to the secretary's satisfaction, that the following requirements have been met to practice as:

(a) A diagnostic radiologic technologist, therapeutic radiologic technologist, magnetic resonance imaging technologist, or nuclear medicine technologist:

(i) Graduation from an approved school or successful completion of alternate training that meets the criteria established by the secretary;

(ii) Satisfactory completion of a radiologic ((~~technologist~~)) technology examination approved by the secretary; and

(iii) Good moral character;

(b) A radiologist assistant:

(i) Satisfactory completion of an approved radiologist assistant program;

(ii) Satisfactory completion of a radiologist assistant examination approved by the secretary; and

(iii) Good moral character; or

(c) A cardiovascular invasive specialist:

(i) Satisfactory completion of a cardiovascular invasive specialist program or alternate training approved by the secretary. The secretary may only approve a cardiovascular invasive specialist program that includes training in the following subjects: Cardiovascular anatomy and physiology, pharmacology, radiation physics and safety, radiation imaging and positioning, medical recordkeeping, and multicultural health as required by RCW 43.70.615(3);

(ii) Satisfactory completion of a cardiovascular invasive specialist examination approved by the secretary. For purposes of this subsection (1)(c)(ii), the secretary may approve an examination administered by a national credentialing organization for cardiovascular invasive specialists; and

(iii) Good moral character.

(2) Applicants shall be subject to the grounds for denial or issuance of a conditional license under chapter 18.130 RCW.

(3) The secretary shall establish by rule what constitutes adequate proof of meeting the requirements for certification and for designation of certification in a particular field of radiologic technology.

Sec. 3. RCW 18.84.030 and 2008 c 246 s 3 are each amended to read as follows:

No person may practice radiologic technology without being registered or certified under this chapter, unless that person is a licensed practitioner as defined in RCW 18.84.020((~~(3)~~)) (5). A person represents himself or herself to the public as a certified radiologic technologist when that person adopts or uses a title or description of services that incorporates one or more of the following items or designations:

(1) Certified radiologic technologist or CRT, for persons so certified under this chapter;

(2) Certified radiologic therapy technologist, CRTT, or CRT, for persons certified in the therapeutic field;

(3) Certified radiologic diagnostic technologist, CRDT, or CRT, for persons certified in the diagnostic field;

(4) Certified nuclear medicine technologist, CNMT, or CRT, for persons certified as nuclear medicine technologists; ((~~or~~))

(5) Certified magnetic resonance imaging technologist, CMRIT, or CRT, for persons certified as magnetic resonance imaging technologists; or

(6) Certified radiologist assistant or CRA for persons certified as radiologist assistants.

Sec. 4. RCW 18.84.130 and 1991 c 222 s 5 are each amended to read as follows:

The secretary may provide educational materials and training to registered X-ray technicians, certified radiologic technologists, licensed practitioners and the public concerning, but not limited to, health risks associated with ionizing and nonionizing radiation, proper radiographic techniques, and X-ray and other imaging equipment maintenance. The secretary may charge fees to recover the cost of providing educational materials and training.

Passed by the House February 9, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 95

[Substitute House Bill 2428]

SALES AND USE TAX REVENUE—CITY AGREEMENTS TO SHARE

AN ACT Relating to allowing cities to voluntarily share certain sales and use tax revenue; adding a new section to chapter 39.34 RCW; and adding a new section to chapter 82.14 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 39.34 RCW to read as follows:

(1) Cities and towns may enter into an agreement under this chapter to share a portion of general purpose sales and use tax revenue collected under RCW 82.14.030.

(2) Any agreement to share such revenue must specify, in addition to the conditions required to be included under RCW 39.34.030, the following:

(a) If the agreement applies only to sales and use tax revenue collected in a certain area or areas, then the area or areas in which it is applicable, and how the parties to the agreement will calculate the revenue collected in those areas;

(b) The amount or proportion of the sales and use tax revenue that is to be shared; and

(c) The precise mechanism or method that will be used by the parties to the agreement to share the revenue.

(3) This section shall not be construed to diminish or reduce the authority of local governments to enter into agreements under this chapter or as otherwise allowed by law.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.14 RCW to read as follows:

Revenue from a sales and use tax imposed by a city under RCW 82.14.030 (1) and (2) may be shared with another city as part of an agreement entered into pursuant to section 1 of the act.

Passed by the House February 8, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 96

[Substitute Senate Bill 5829]

CONGENITAL CYTOMEGALOVIRUS—NEWBORN SCREENING

AN ACT Relating to screening newborn infants for congenital cytomegalovirus; adding a new section to chapter 43.70 RCW; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The state board of health shall consider whether or not to add congenital cytomegalovirus screening to the mandatory screening panel as required by RCW 70.83.020. The state board of health shall submit to the governor and relevant committees of the legislature a report no later than December 31, 2025, and include a summary of the evaluation conducted in this section and the findings and recommendations on the addition of congenital cytomegalovirus screening to the mandatory newborn screening panel.

(2) This section expires July 30, 2026.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.70 RCW to read as follows:

Subject to amounts appropriated specifically for this purpose, the department shall develop and make available educational resources for pregnant individuals about the nature and consequences of in utero exposure to cytomegalovirus and strategies to reduce the transmission of cytomegalovirus. The educational resources may include, but are not limited to, courses delivered in-person or electronically, pamphlets printed on paper and distributed through the watch me grow program, social media content, or made available on the department's website. The department shall also provide educational materials and outreach for providers regarding the strategies to reduce transmission of cytomegalovirus. The educational materials are intended to lower cytomegalovirus infection rates among pregnant individuals to save lives and prevent disability in their unborn children.

Passed by the Senate February 13, 2024.
Passed by the House February 28, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 97

[Engrossed Senate Bill 5997]

PLUMBER TRAINEES—SUPERVISION AND HOURS REPORTING

AN ACT Relating to making technical corrections to plumbing supervision and trainee hours reporting; amending RCW 18.106.070; and reenacting and amending RCW 18.106.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.106.010 and 2021 c 65 s 15 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) "Advisory board" means the state advisory board of plumbers.

(2) "Department" means the department of labor and industries.

(3) "Director" means the director of department of labor and industries.

(4) "Journey level plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter.

(5) "Like-in-kind" means having similar characteristics such as plumbing size, type, and function, and being in the same location.

(6) "Medical gas piping" means oxygen, nitrous oxide, high pressure nitrogen, medical compressed air, and other medical gas or equipment, including but not limited to medical vacuum systems.

(7) "Medical gas piping installer" means a journey level plumber who has been issued a medical gas piping installer endorsement.

(8) "Plumber trainee" or "trainee" means any person who has been issued a plumbing training certificate under this chapter but has not been issued an appropriate certificate of competency for work being performed. A trainee may perform plumbing work if that person is under the appropriate level of supervision.

(9) "Plumbing" means that craft involved in installing, altering, repairing and renovating potable water systems, liquid waste systems, and medical gas piping systems within a building as defined by the plumbing code as adopted and amended by the state building code council, and includes all piping, fixtures, pumps, and plumbing appurtenances that are used for rainwater catchment and reclaimed water systems within a building.

(10) "Plumbing contractor" means any person, corporate or otherwise, who engages in, or offers or advertises to engage in, any plumbing work covered by the provisions of this chapter by way of trade or business, or any person, corporate or otherwise, who employs anyone, or offers or advertises to employ anyone, to engage in any plumbing work as defined in this section. The plumbing contractor is responsible for ensuring the plumbing business is operated in accordance with rules adopted under this chapter.

(11) "Residential service plumber" means anyone who has been issued a certificate of competency limited to performing residential service plumbing in an existing residential structure.

(a) In single-family dwellings and duplexes only, a residential service plumber may service, repair, or replace previously existing fixtures, piping, and fittings that are outside the interior wall or above the floor, often, but not necessarily in a like-in-kind manner. In any residential structure, a residential service plumber may perform plumbing work as needed to perform drain cleaning and may perform leak repairs on any pipe, fitting, or fixture from the leak to the next serviceable connection.

(b) A residential service plumber may directly supervise plumber trainees provided the trainees have been supervised by an appropriate journey level or specialty plumber for the trainees' first two thousand hours of training.

(c) A residential service plumber may not perform plumbing for new construction of any kind.

(12) "Residential structures" means single-family dwellings, duplexes, and multiunit buildings that do not exceed three stories.

(13) "((~~Service~~)) Residential service plumbing" means plumbing work in ((~~which~~)) residential structures where previously existing fixtures, fittings, and piping ((~~is~~)) that are outside the interior walls or above the floor are repaired or replaced often, but not necessarily((~~,~~)) in a like-in-kind manner, or plumbing work being performed as necessary for drain cleaning.

(14) "Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to:

(a) Installation, maintenance, and repair of the plumbing of single-family dwellings, duplexes, and apartment buildings that do not exceed three stories;

(b) Maintenance and repair of backflow prevention assemblies; or

(c) A domestic water pumping system consisting of the installation, maintenance, and repair of the pressurization, treatment, and filtration components of a domestic water system consisting of: One or more pumps; pressure, storage, and other tanks; filtration and treatment equipment; if appropriate, a pitless adapter; along with valves, transducers, and other plumbing components that:

(i) Are used to acquire, treat, store, or move water suitable for either drinking or other domestic purposes, including irrigation, to: (A) A single-family dwelling, duplex, or other similar place of residence; (B) a public water system, as defined in RCW 70A.120.020 and as limited under RCW 70A.120.040; or (C) a farm owned and operated by a person whose primary residence is located within thirty miles of any part of the farm;

(ii) Are located within the interior space, including but not limited to an attic, basement, crawl space, or garage, of a residential structure, which space is separated from the living area of the residence by a lockable entrance and fixed walls, ceiling, or floor;

(iii) If located within the interior space of a residential structure, are connected to a plumbing distribution system supplied and installed into the interior space by either: (A) A person who, pursuant to RCW 18.106.070 or 18.106.090, possesses a valid temporary permit or certificate of competency as a journey level plumber, specialty plumber, or trainee, as defined in this chapter; or (B) a person exempt from the requirement to obtain a certified plumber to do such plumbing work under RCW 18.106.150.

(15) "Unsatisfied final judgment" means a judgment or final tax warrant that has not been satisfied either through payment, court-approved settlement, discharge in bankruptcy, or assignment under RCW 19.72.070.

Sec. 2. RCW 18.106.070 and 2020 c 153 s 10 are each amended to read as follows:

(1) The department shall issue a certificate of competency to all applicants who have passed the examination and have paid the fee for the certificate. The certificate may include a photograph of the holder. The certificate shall bear the date of issuance, and be renewed every three years, upon application, on or before the birthdate of the holder. The department shall renew a certificate of competency if the applicant: (a) Pays the renewal fee assessed by the department; and (b) during the past three years has completed twenty-four hours

of continuing education approved by the department with the advice of the advisory board, including four hours related to electrical safety. For holders of the specialty plumber certificate under RCW 18.106.010(14)(c), the continuing education may comprise both electrical and plumbing education with a minimum of twelve of the required twenty-four hours of continuing education in plumbing. If a person fails to renew the certificate by the renewal date, he or she must pay a doubled fee. If the person does not renew the certificate within ninety days of the renewal date, he or she must retake the examination and pay the examination fee.

The journey level plumber, specialty plumber, and residential service plumber certificates of competency, the medical gas piping installer endorsement, and the temporary permit provided for in this chapter grant the holder the right to engage in the work of plumbing as a journey level plumber, specialty plumber, residential service plumber, or medical gas piping installer, in accordance with their provisions throughout the state and within any of its political subdivisions on any job or any employment without additional proof of competency or any other license or permit or fee to engage in the work. This section does not preclude employees from adhering to a union security clause in any employment where such a requirement exists.

(2) A person who is indentured to an apprenticeship program approved under chapter 49.04 RCW for the plumbing construction trade or who is learning the plumbing construction trade may work in the plumbing construction trade if supervised by a certified journey level plumber or a certified specialty plumber in that plumber's specialty. All apprentices and individuals learning the plumbing construction trade shall obtain a plumbing training certificate from the department. The certificate shall authorize the holder to learn the plumbing construction trade while under the direct supervision of a journey level plumber or a specialty plumber working in his or her specialty. The certificate may include a photograph of the holder. The holder of the plumbing training certificate shall renew the certificate annually. At the time of renewal, the holder shall provide the department with an accurate list of the holder's employers in the plumbing construction industry for the previous year and the number of hours worked for each employer. ((~~Failure to provide plumbing hours worked for each employer is a violation of this chapter, subject to an infraction under RCW 18.106.320, and must result in nonrenewal of the trainee certificate.~~)) A fee shall be charged for the issuance or renewal of the certificate. The department shall set the fee by rule. The fee shall cover but not exceed the cost of administering and enforcing the trainee certification and supervision requirements of this chapter.

(3)(a) Trainee supervision shall consist of a trainee ((~~being on the same jobsite and~~)) under the control of either a journey level plumber, residential service plumber, or an appropriate specialty plumber who has an applicable certificate of competency issued under this chapter. ((~~Either~~)) Subject to the ratio of trainees in subsection (4) of this section, either a journey level plumber, residential service plumber, or an appropriate specialty plumber shall be:

(i) On the same jobsite as the trainee for a minimum of seventy-five percent of each working day unless otherwise provided in this chapter((~~.~~)); or

(ii) Available via mobile phone or similar device in a manner that allows both audio and visual direction to the trainee from the supervising plumber.

Remote trainee supervision using these types of technology is only permitted in cases that meet the following criteria:

(A) The trainee has more than two thousand hours of training;

(B) The supervising plumber is no more than forty miles from the jobsite; and

(C) The scope of work on the trainee's jobsite is residential service plumbing in a residential structure and limited to the scope of the residential service plumber.

(b) An individual who has a current training certificate and who has successfully completed or is currently enrolled in an approved apprenticeship program or in a technical school program in the plumbing construction trade in a school approved by the workforce training and education coordinating board, may work without direct on-site supervision during the last six months of meeting the practical experience requirements of this chapter.

(4)(a) Until December 31, ((~~2025~~)) 2028, the ratio of trainees to certified journey level, residential service, or specialty plumbers working on a jobsite must be:

(i) Not more than three trainees, each working on ((~~any one~~)) a separate residential structure jobsite performing residential service plumbing only in a like-in-kind manner for every certified specialty plumber or journey level plumber working as a specialty plumber;

(ii) Not more than one trainee working on any one jobsite for every certified journey level plumber working as a journey level plumber; ((~~and~~))

(iii) Not more than one trainee working on any one jobsite for every certified residential service plumber; and

(iv) Not more than three trainees working on a residential construction jobsite performing plumbing installation for every certified specialty plumber or journey level plumber working as a specialty plumber.

(b) After December 31, ((~~2025~~)) 2028, not more than two trainees may work on any residential structure jobsite for every certified specialty plumber or journey level plumber working as a specialty plumber.

(5) An individual who has a current training certificate and who has successfully completed or is currently enrolled in a medical gas piping installer training course approved by the department may work on medical gas piping systems if the individual is under the direct supervision of a certified medical gas piping installer who holds a medical gas piping installer endorsement one hundred percent of a working day on a one-to-one ratio.

(6) The training to become a certified plumber must include not less than sixteen hours of classroom training established by the director with the advice of the advisory board. The classroom training must include, but not be limited to, electrical wiring safety, grounding, bonding, and other related items plumbers need to know to work under this chapter.

(7) All persons who are certified plumbers before January 1, 2003, are deemed to have received the classroom training required in subsection (6) of this section.

(8)(a) The department shall instruct the advisory board of plumbers to convene a subgroup that includes the statewide association representing plumbing, heating, and cooling contractors; the union representing plumbers and pipefitters; the association representing plumbing contractors who employ union

plumbers and pipefitters; and other directly affected stakeholders after the completion of the 2023 legislative session, the ((~~2024~~)) 2027 legislative session, and every three years thereafter.

(b) The work group shall evaluate the effects that the trainee ratio changes have had on the industry, including public safety and industry response to public demand for plumbing services. The work group shall determine a sustainable plan for maintaining sufficient numbers of plumbers and trainees within the plumbing workforce to safely meet the needs of the public. The report is due to the standing labor committees of the legislature before December 1st of each year that the work group convenes. The work group shall conclude on receipt of the report by the legislature. Within current funding appropriated to the department, the department must reimburse each member of the work group in accordance with the provisions of RCW 43.03.050 and 43.03.060 for each day in which the member is actually engaged in attendance of meetings of the advisory board.

Passed by the Senate February 9, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 98

[Substitute Senate Bill 6060]

PUBLIC EMPLOYMENT RELATIONS COMMISSION—ORGANIZING PETITIONS—ELECTRONIC SIGNATURES

AN ACT Relating to the acceptance of electronic signatures by the public employment relations commission for new organizing petitions; amending RCW 41.56.060; and adding a new section to chapter 41.58 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.58 RCW to read as follows:

(1) For any new organizing petition to form a new bargaining unit of currently unrepresented workers or to add unrepresented workers to an existing bargaining unit, regardless of whether the election is by mail ballot or cross-check, the public employment relations commission must accept electronic signatures, subject to the requirements set forth in this section and by rules adopted by the commission.

(2) At a minimum, electronic signature submissions must include:

(a) The name of the signer;

(b) The phone number, email address, or social media account of the signer;

(c) The exact authorization language to which the signer assents;

(d) The date of submission of the electronic signature; and

(e) The name of the signer's employer.

(3) The petitioning party must provide a declaration that:

(a) Identifies the technology used to obtain and verify the signature;

(b) Provides the methods used to ensure the authenticity of the signature; and

(c) Confirms the information transmitted to the signer was the same information to which the signer assented.

(4) The public employment relations commission must adopt rules to implement this section.

Sec. 2. RCW 41.56.060 and 2019 c 230 s 7 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; or (b) ((~~comparison of signatures on organization bargaining authorization cards, as provided under RCW 41.56.095; or (c)~~)) conducting an election ((~~specifically therefor~~)) as provided under RCW 41.56.070 or 41.56.095.

(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.

Passed by the Senate February 6, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 99

[Senate Bill 6079]

JUVENILE DETENTION RECORDS—ACCESS BY HEALTH CARE ORGANIZATIONS

AN ACT Relating to making juvenile detention records available to managed health care systems; and reenacting and amending RCW 13.50.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 13.50.010 and 2019 c 470 s 22 and 2019 c 82 s 1 are each reenacted and amended to read as follows:

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

(a) "Detention facility" means:

(i) Any detention facility as defined under RCW 13.40.020; and

(ii) Any juvenile correctional facility under alternative administration operated by a consortium of counties under RCW 13.04.035;

(b) "Good faith effort to pay" means a juvenile offender has either (i) paid the principal amount in full; (ii) made at least ((~~eighty~~)) 80 percent of the value

of full monthly payments within the period from disposition or deferred disposition until the time the amount of restitution owed is under review; or (iii) can show good cause why he or she paid an amount less than ((~~eighty~~)) 80 percent of the value of full monthly payments;

(((~~(b)~~))) (c) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the oversight board for children, youth, and families, the office of the family and children's ombuds, the department of social and health services and its contracting agencies, the department of children, youth, and families and its contracting agencies, schools; persons or public or private agencies having children committed to their custody; and any placement oversight committee created under RCW 72.05.415;

(((~~(c)~~))) (d) "Managed care organization" and "behavioral health administrative services organization" have the same meanings as in RCW 71.24.025;

(e) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, notices of hearing or appearance, service documents, witness and exhibit lists, findings of the court and court orders, agreements, judgments, decrees, notices of appeal, as well as documents prepared by the clerk, including court minutes, letters, warrants, waivers, affidavits, declarations, invoices, and the index to clerk papers;

(((~~(d)~~))) (f) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

(((~~(e)~~))) (g) "Social file" means the juvenile court file containing the records and reports of the probation counselor.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services or the department of children, youth, and families relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to ((~~insure~~)) ensure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or

care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) The court shall release to the caseload forecast council the records needed for its research and data-gathering functions. Access to caseload forecast data may be permitted by the council for research purposes only if the anonymity of all persons mentioned in the records or information will be preserved.

(10) Juvenile detention facilities shall release records to the caseload forecast council upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

(11) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the oversight board for children, youth, and families or the office of the family and children's ombuds.

(12) For the purpose of research only, the administrative office of the courts shall maintain an electronic research copy of all records in the judicial information system related to juveniles. Access to the research copy is restricted to the administrative office of the courts for research purposes as authorized by the supreme court or by state statute. The administrative office of the courts shall maintain the confidentiality of all confidential records and shall preserve the anonymity of all persons identified in the research copy. Data contained in the research copy may be shared with other governmental agencies as authorized by state statute, pursuant to data-sharing and research agreements, and consistent with applicable security and confidentiality requirements. The research copy may not be subject to any records retention schedule and must include records destroyed or removed from the judicial information system pursuant to RCW 13.50.270 and 13.50.100(3).

(13) The court shall release to the Washington state office of public defense records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW 2.70.020. Access to the records used as a

basis for oversight, technical assistance, or other agency functions is restricted to the Washington state office of public defense. The Washington state office of public defense shall maintain the confidentiality of all confidential information included in the records.

(14) The court shall release to the Washington state office of civil legal aid records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW 2.53.045. Access to the records used as a basis for oversight, technical assistance, or other agency functions is restricted to the Washington state office of civil legal aid. The Washington state office of civil legal aid shall maintain the confidentiality of all confidential information included in the records, and shall, as soon as possible, destroy any retained notes or records obtained under this section that are not necessary for its functions related to RCW 2.53.045.

(15) For purposes of providing for the educational success of youth in foster care, the department of children, youth, and families may disclose only those confidential child welfare records that pertain to or may assist with meeting the educational needs of current and former foster youth to another state agency or state agency's contracted provider responsible under state law or contract for assisting current and former foster youth to attain educational success. The records retain their confidentiality pursuant to this chapter and federal law and cannot be further disclosed except as allowed under this chapter and federal law.

(16) For the purpose of ensuring the safety and welfare of the youth who are in foster care, the department of children, youth, and families may disclose to the department of commerce and its contracted providers responsible under state law or contract for providing services to youth, only those confidential child welfare records that pertain to ensuring the safety and welfare of the youth who are in foster care who are admitted to crisis residential centers or HOPE centers under contract with the office of homeless youth prevention and protection. Records disclosed under this subsection retain their confidentiality pursuant to this chapter and federal law and may not be further disclosed except as permitted by this chapter and federal law.

(17) For purposes of investigating and preventing child abuse and neglect, and providing for the health care coordination and the well-being of children in foster care, the department of children, youth, and families may disclose only those confidential child welfare records that pertain to or may assist with investigation and prevention of child abuse and neglect, or may assist with providing for the health and well-being of children in foster care to the department of social and health services, the health care authority, or their contracting agencies. For purposes of investigating and preventing child abuse and neglect, and to provide for the coordination of health care and the well-being of children in foster care, the department of social and health services and the health care authority may disclose only those confidential child welfare records that pertain to or may assist with investigation and prevention of child abuse and neglect, or may assist with providing for the health care coordination and the well-being of children in foster care to the department of children, youth, and families, or its contracting agencies. The records retain their confidentiality pursuant to this chapter and federal law and cannot be further disclosed except as allowed under this chapter and federal law.

(18) For the purpose of investigating child sexual abuse, online sexual exploitation and commercial sexual exploitation of minors, and child fatality, child physical abuse, and criminal neglect cases for the well-being of the child, the department of children, youth, and families may disclose only those confidential child welfare records that pertain to or may assist with such an investigation pursuant to RCW 26.44.180 and 26.44.175. The records retain their confidentiality pursuant to this chapter and federal law and cannot be further disclosed except as allowed under this chapter and federal law.

(19) The records of a person confined in a detention facility may be made available to managed care organizations and behavioral health administrative services organizations as defined in RCW 71.24.025 for the purpose of care coordination activities. The receiving organization must hold records in confidence and comply with all relevant state and federal statutes regarding privacy of disclosed records.

Passed by the Senate February 6, 2024.
Passed by the House February 28, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 100

[Engrossed Senate Bill 6095]

SECRETARY OF HEALTH—PRESCRIPTIONS AND STANDING ORDERS

AN ACT Relating to establishing clear authority for the secretary of health to issue standing orders; and adding a new section to chapter 43.70 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The secretary or the secretary's designee, who must be a department employee, may issue a prescription or standing order for any biological product, device, or drug for purposes of controlling and preventing the spread of, mitigating, or treating any infectious or noninfectious disease or threat to the public health. Any such prescription or standing order is issued for a legitimate medical purpose.

(2) To issue a prescription or standing order pursuant to this section, the secretary or secretary's designee must:

(a) Hold a valid, unexpired, unrevoked, and unsuspended license in this state that authorizes the issuance of the prescription or standing order; and

(b) Comply with applicable licensing requirements not in conflict with this section.

(3) The secretary or the secretary's designee has sole discretion and owes no duty to any person to issue a prescription or standing order pursuant to this section. This section 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 shall be liable for any civil or criminal damages or any professional disciplinary action related to the issuance of prescriptions or standing orders pursuant to this section, other than for acts or omissions constituting gross negligence or willful or wanton misconduct.

(4) The secretary or the secretary's designee may place limitations on the use of a prescription or standing order issued pursuant to this section and should include appropriate recommendations for follow-up care.

(5) Before issuing a standing order pursuant to this section, unless the secretary or the secretary's designee determines that doing so would result in a delay that is likely to endanger the public health, the secretary or the secretary's designee shall solicit and consider the recommendations of the local health officers for the geographic areas to which the standing order will apply and, in the discretion of the secretary or the secretary's designee, stakeholders and persons with relevant knowledge.

(6) The secretary, the secretary's designee, and department employees may acquire, possess, deliver, dispense, and administer a biological product, device, or drug pursuant to a prescription or standing order issued under this section provided that the individual holds a valid, unexpired, unrevoked, and unsuspended license in this state that authorizes such activity, as applicable, and complies with applicable licensing requirements not in conflict with this section. Other persons may acquire, possess, deliver, dispense, and administer a biological product, device, or drug pursuant to a prescription or standing order issued under this section as otherwise provided by law.

(7) For purposes of this section:

(a) "Administer" means to directly apply a biological product, device, or drug, whether by injection, inhalation, ingestion, or any other means, to the body of a patient.

(b) "Biological product" means any of the following, when applied to the prevention, treatment, or cure of a disease or condition of human beings:

(i) A virus;

(ii) A therapeutic serum;

(iii) A toxin;

(iv) An antitoxin;

(v) A vaccine;

(vi) Blood, blood component, or derivative;

(vii) An allergenic product;

(viii) A protein or an analogous product; or

(ix) Arsphenamine, a derivative of arsphenamine, or any trivalent organic arsenic compound.

(c) "Deliver" means to actually, constructively, or attempt to transfer from one person to another a biological product, device, or drug, whether or not there is an agency relationship.

(d) "Device" means any instrument, apparatus, or contrivance, including their components, parts, and accessories, intended:

(i) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals; or

(ii) To affect the structure or any function of the body of human beings or other animals.

(e) "Dispense" means the interpretation of a prescription or order for a biological product, device, or 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.

(f) "Drug" means:

(i) 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;

(ii) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals;

(iii) Substances, other than food, intended to affect the structure or any function of the body of human beings or animals; and

(iv) Substances intended for use as a component of any article specified in (f)(i), (ii), or (iii) of this subsection. It does not include devices or their components, parts, or accessories.

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

(8) The secretary may adopt rules to implement this section.

(9) Nothing in this section shall limit or modify the authority of a local health officer to issue a prescription or standing order under any other provision of law.

(10) Nothing in this section shall be construed to allow the secretary or the secretary's designee to issue a standing order to require a person to take a drug or biological product or withhold a drug or biological product from a person.

Passed by the Senate February 9, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 101

[Substitute Senate Bill 6108]

PRIVATE CONSTRUCTION PROJECT RETAINAGE—SUPPLIERS

AN ACT Relating to retainage on private construction projects; and amending RCW 60.30.010 and 60.30.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 60.30.010 and 2023 c 373 s 1 are each amended to read as follows:

(1) An owner, contractor, ((~~or~~)) subcontractor, or supplier may withhold as retainage an amount equal to not more than five percent of the contract price of the work completed for private construction projects. Partial payment allowed under this subsection is not acceptance or approval of some of the work or a waiver of defects in the work.

(2) The owner, contractor, ((~~or~~)) subcontractor, or supplier shall pay interest at the rate of one percent per month on the final payment due the contractor ((~~or~~)), subcontractor, or supplier. The interest shall commence 30 days after the contractor ((~~or~~)), subcontractor, or supplier has completed and the owner has accepted the work under the contract for construction for which the final payment is due. The interest shall run until the date when final payment is tendered to the contractor ((~~or~~)), subcontractor, or supplier.

(3) When the contractor ((~~or~~)), subcontractor, or supplier considers the work that the contractor ((~~or~~)), subcontractor, or supplier is contracted to perform to be complete, the contractor ((~~or~~)), subcontractor, or supplier shall notify the party to whom the contractor ((~~or~~)), subcontractor, or supplier is responsible for performing the construction work under the contract.

(4) The party shall, within 15 days after receiving the notice, either accept the work or notify the contractor ((~~or~~)), subcontractor, or supplier of work yet to be performed under the contract or subcontract. If the party does not accept the work or does not notify the contractor ((~~or~~)), subcontractor, or supplier of work yet to be performed within the time allowed, the interest required under this subsection shall commence 30 days after the end of the 15-day period. A contractor may provide notice under this subsection to an owner or upper-tier contractor for release of retainage due to a subcontractor or supplier whose work is complete. If an owner or upper-tier contractor does not accept the subcontractor's or supplier's work or does not notify the contractor of work yet to be performed by the subcontractor or supplier within 15 days after receiving the notice, the interest required under this section shall commence 30 days after the end of the 15-day period. A contractor's obligation to pay interest to a subcontractor or supplier under this section does not begin until the contractor has received payment for the subcontractor's or supplier's retainage provided that the contractor has submitted the subcontractor's or supplier's retainage request to the owner or upper-tier contractor within 30 days after receipt from the subcontractor or supplier.

(5) This section does not apply to single-family residential construction less than 12 units.

Sec. 2. RCW 60.30.020 and 2023 c 373 s 2 are each amended to read as follows:

(1) In lieu of retainage, a subcontractor, supplier, or contractor may tender, and a contractor or owner must accept, a retainage bond in an amount not to exceed five percent of the moneys earned by the subcontractor, supplier, or contractor.

(2) A subcontractor or contractor must provide a good and sufficient bond from an authorized surety company, conditioned that such person or persons must:

(a) Faithfully perform all the provisions of such contract;

(b) Pay all laborers, mechanics, and subcontractors and material suppliers, and all persons who supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work; and

(c) Pay the taxes, increases, and penalties incurred on the project.

(3) The contractor or owner may require that the authorized surety have a minimum A.M. Best financial strength rating so long as that minimum rating does not exceed A-. The contractor may withhold the subcontractor's or supplier's portion of the bond premium, to the extent the contractor provides a retainage bond to obtain a release of the subcontractor's or supplier's retainage.

(4) The contractor or owner must accept a bond meeting the requirements of this section. The subcontractor, supplier, or contractor's bond and any proceeds therefrom are subject to all claims and liens and in the same manner and priority as set forth for retained percentages in the contract and other applicable provisions.

(5) Whenever an owner accepts a bond in lieu of retained funds from a contractor, the contractor must accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor must then release the funds retained from the subcontractor or supplier to the subcontractor or supplier within 30 days of accepting the bond from the subcontractor or supplier.

(6) This section does not apply to single-family residential construction less than 12 units.

Passed by the Senate February 8, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 102

[Senate Bill 6178]

LICENSED MIDWIVES—PRESCRIPTIVE AUTHORITY—LEGEND DRUG ACT

AN ACT Relating to aligning the legend drug act to reflect the prescriptive authority for licensed midwives; and amending RCW 69.41.010 and 69.41.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 69.41.010 and 2023 c 460 s 21 are each 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 acupuncturist or acupuncture and Eastern medicine practitioner to the extent authorized under chapter 18.06 RCW and the rules adopted under RCW

18.06.010(1)(m), 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, 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, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW, ((~~or~~)) a licensed dental therapist to the extent authorized under chapter 18.265 RCW, or a licensed midwife to the extent authorized under chapter 18.50 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.

Sec. 2. RCW 69.41.030 and 2023 sp.s. c 1 s 4 are each amended to read as follows:

(1) It shall be unlawful for any person to sell or deliver any legend drug, or knowingly possess any legend drug, or knowingly use any legend drug in a public place, except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a licensed midwife to the extent authorized under chapter 18.50 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the board of nursing ((~~care quality assurance commission~~)), a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or 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 advanced registered nurse practitioner, a licensed physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within

the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter 69.48 RCW.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving knowing possession is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

(c) A violation of this section involving knowing use in a public place is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

(d) No person may be charged with both knowing possession and knowing use in a public place under this section relating to the same course of conduct.

(e) In lieu of jail booking and referral to the prosecutor for a violation of this section involving knowing possession, or knowing use in a public place, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(3) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

(4) For the purposes of this section, "use any legend drug" means to introduce the drug into the human body by injection, inhalation, ingestion, or any other means.

Passed by the Senate February 6, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 103

[Senate Bill 6222]

DISTRICT COURT JUDGES—NUMBER

AN ACT Relating to the number of district court judges; and amending RCW 3.34.010 and 3.34.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 3.34.010 and 2023 c 5 s 1 are each amended to read as follows:

The minimum number of district judges to be elected in each county shall be: Adams, two; Asotin, one; Benton, five; Chelan, two; Clallam, two; Clark, six; Columbia, one; Cowlitz, three; Douglas, one; Ferry, one; Franklin, one; Garfield, one; Grant, three; Grays Harbor, two; Island, one; Jefferson, one; King, twenty-three in 2009, twenty-five in 2010, and twenty-six in 2011; Kitsap, four; Kittitas, two; Klickitat, two; Lewis, two; Lincoln, one; Mason, one; Okanogan, two; Pacific, two; Pend Oreille, one; Pierce, eleven; San Juan, one; Skagit, three; Skamania, one; Snohomish, nine; Spokane, eight; Stevens, one; Thurston, three; Wahkiakum, one; Walla Walla, two; Whatcom, two; Whitman, one; Yakima, four. This number may be increased only as provided in RCW 3.34.020.

Sec. 2. RCW 3.34.020 and 2003 c 97 s 2 are each amended to read as follows:

(1) Any ((~~change~~)) increase in the number of full and part-time district judges after January 1, 1992, shall be determined by the ((~~legislature~~)) county legislative authority of the affected county after receiving a recommendation from the supreme court. The supreme court shall make its recommendations to the ((~~legislature~~)) county legislative authority based on an objective workload analysis that takes into account available judicial resources and the caseload activity of each court.

(2) The administrator for the courts, under the supervision of the supreme court, may consult with the board of judicial administration and the district and municipal court judges' association in developing the procedures and methods of applying the objective workload analysis.

(3) For each recommended change from the number of full and part-time district judges in any county as of January 1, 1992, the administrator for the courts, under the supervision of the supreme court, shall complete a judicial impact note detailing any local or state cost associated with such recommended change.

(4) If the ((~~legislature~~)) county legislative authority approves an increase in the base number of district judges in any county as of January 1, 1992, such increase in the base number of district judges and all related costs may be paid for by the county from moneys provided under RCW 82.14.310, and any such costs shall be deemed to be expended for criminal justice purposes as provided in RCW 82.14.315, and such expenses shall not constitute a supplanting of existing funding.

(5)(a) A county legislative authority that desires to ((~~change~~)) increase the number of full or part-time district judges from the base number on January 1, 1992, must first request the assistance of the supreme court. The administrator for the courts, under the supervision of the supreme court, shall conduct an objective workload analysis and make a recommendation of its findings to the ((~~legislature~~)) county legislative authority for consideration as provided in this section. Changes in the number of district court judges may only be made by the ((~~legislature~~)) county legislative authority in a year in which the quadrennial election for district court judges is not held.

(b) The legislative authority of any county may change a part-time district judge position to a full-time position.

Passed by the Senate February 13, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 104

[Senate Bill 6229]

GREEN TRANSPORTATION CAPITAL GRANT PROGRAM—MATCH REQUIREMENTS

AN ACT Relating to modifying match requirements for the green transportation capital grant program; and amending RCW 47.66.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 47.66.120 and 2023 c 472 s 717 are each amended to read as follows:

(1)(a) The department's public transportation division shall establish a green transportation capital grant program. The purpose of the grant program is to aid any transit authority in funding cost-effective capital projects to reduce the carbon intensity of the Washington transportation system, examples of which include: Electrification of vehicle fleets, including battery and fuel cell electric vehicles; modification or replacement of capital facilities in order to facilitate fleet electrification and/or hydrogen refueling; necessary upgrades to electrical transmission and distribution systems; and construction of charging and fueling stations. The department's public transportation division shall identify projects and shall submit a prioritized list of all projects requesting funding to the legislature by December 1st of each even-numbered year.

(b) The department's public transportation division shall select projects based on a competitive process that considers the following criteria:

(i) The cost-effectiveness of the reductions in carbon emissions provided by the project; and

(ii) The benefit provided to transitioning the entire state to a transportation system with lower carbon intensity.

(c) During the 2023-2025 fiscal biennium, the department must incorporate principles into the grant selection process with the goal of increasing the distribution of funding to communities based on addressing environmental harms and providing environmental benefits for overburdened communities, as defined in RCW 70A.02.010, and vulnerable populations.

(2) The department's public transportation division must establish an advisory committee to assist in identifying projects under subsection (1) of this section. The advisory committee must include representatives from the department of ecology, the department of commerce, the utilities and transportation commission, and at least one transit authority.

(3) In order to receive green transportation capital grant program funding for a project, a transit authority must provide matching funding ((~~for that project that is at least equal to 20 percent of the total cost of the project~~)) at the level deemed appropriate by the department.

(4) The department's public transportation division must report annually to the transportation committees of the legislature on the status of any grant projects funded by the program created under this section.

(5) For purposes of this section, "transit authority" means a city transit system under RCW 35.58.2721 or chapter 35.95A RCW, a county public transportation authority under chapter 36.57 RCW, a metropolitan municipal corporation transit system under chapter 36.56 RCW, a public transportation benefit area under chapter 36.57A RCW, an unincorporated transportation benefit area under RCW 36.57.100, a regional transit authority under chapter 81.112 RCW, or any special purpose district formed to operate a public transportation system.

(6) During the 2021-2023 fiscal biennium, the department may provide up to 20 percent of the total green transportation capital grant program funding for zero emissions capital transition planning projects. During the 2023-2025 fiscal biennium, the department may provide up to 10 percent of the total green transportation capital grant program funding for zero emissions capital transition planning projects.

Passed by the Senate February 13, 2024.
Passed by the House February 28, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 105

[Senate Bill 6234]

BRANCHED-CHAIN KETOACID DEHYDROGENASE KINASE DEFICIENCY—NEWBORN SCREENING

AN ACT Relating to screening newborn infants for branched-chain ketoacid dehydrogenase kinase deficiency; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that there is promising research that individuals with branched-chain ketoacid dehydrogenase kinase deficiency, which is linked to neurodevelopmental disorders including autism spectrum disorder, can potentially benefit significantly from early diagnosis and treatment. The legislature intends to engage the state board of health to conduct an evaluation of whether branched-chain ketoacid dehydrogenase kinase deficiency screening should be added to the newborn screening panel.

NEW SECTION. **Sec. 2.** (1) The state board of health shall consider whether or not to add the branched-chain ketoacid dehydrogenase kinase deficiency screening to the mandatory newborn screening panel as required in RCW 70.83.020. The state board of health shall submit to the governor and the appropriate committees of the legislature a report no later than June 30, 2025, that includes a summary of the evaluation conducted in this section and the findings and recommendations on the addition of the branched-chain ketoacid dehydrogenase kinase deficiency screening to the mandatory newborn screening panel.

(2) This section expires July 30, 2026.

Passed by the Senate February 7, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 106

[Senate Bill 6283]

SANDY WILLIAMS CONNECTING COMMUNITIES PROGRAM—EXPIRATION ELIMINATION

AN ACT Relating to eliminating the expiration date for the Sandy Williams connecting communities program; and amending RCW 47.04.380.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 47.04.380 and 2023 c 431 s 6 are each amended to read as follows:

(1) The legislature finds that many communities across Washington state have not equitably benefited from investments in the active transportation network. The legislature also finds that legacy state transportation facilities designed primarily for vehicle use caused disconnections in safe routes for people who walk, bike, and roll to work and to carry out other daily activities.

(2) To address these investment gaps, and to honor the legacy of community advocacy of Sandy Williams, the Sandy Williams connecting communities program is established within the department. The purpose of the program is to improve active transportation connectivity in communities by:

(a) Providing safe, continuous routes for pedestrians, bicyclists, and other nonvehicle users carrying out their daily activities;

(b) Mitigating for the health, safety, and access impacts of transportation infrastructure that bisects communities and creates obstacles in the local active transportation network;

(c) Investing in greenways providing protected routes for a wide variety of nonvehicular users; and

(d) Facilitating the planning, development, and implementation of projects and activities that will improve the connectivity and safety of the active transportation network.

(3) The department must select projects to propose to the legislature for funding. In selecting projects, the department must consider, at a minimum, the following criteria:

(a) Access to a transit facility, community facility, commercial center, or community-identified assets;

(b) The use of minority and women-owned businesses and community-based organizations in planning, community engagement, design, and construction of the project;

(c) Whether the project will serve:

(i) Overburdened communities as defined in RCW 70A.02.010 to mean a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020;

(ii) Vulnerable populations as defined in RCW 70A.02.010 to mean population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to adverse socioeconomic factors, such as unemployment, high housing, and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and sensitivity factors, such

as low birth weight and higher rates of hospitalization. Vulnerable populations include, but are not limited to: Racial or ethnic minorities, low-income populations, populations disproportionately impacted by environmental harms, and populations of workers experiencing environmental harms;

(iii) Household incomes at or below 200 percent of the federal poverty level; and

(iv) People with disabilities;

(d) Environmental health disparities, such as those indicated by the diesel pollution burden portion of the Washington environmental health disparities map developed by the department of health, or other similar indicators;

(e) Location on or adjacent to tribal lands or locations providing essential services to tribal members;

(f) Crash experience involving pedestrians and bicyclists; and

(g) Identified need by the community, for example in the state active transportation plan or a regional, county, or community plan.

(4) It is the intent of the legislature that the Sandy Williams connecting communities program comply with the requirements of chapter 314, Laws of 2021.

(5) The department shall submit a report to the transportation committees of the legislature by December 1, 2022, and each December 1st thereafter identifying the selected connecting communities projects for funding by the legislature. The report must also include the status of previously funded projects.

((~~(6) This section expires July 1, 2027.~~))

Passed by the Senate February 8, 2024.
Passed by the House February 28, 2024.
Approved by the Governor March 14, 2024.
Filed in Office of Secretary of State March 14, 2024.

CHAPTER 107

[Engrossed Substitute House Bill 1097]

SALE OF COSMETICS TESTED ON ANIMALS

AN ACT Relating to the sale of cosmetics tested on animals; adding a new chapter to Title 69 RCW; providing an effective date; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Cosmetic" means articles intended:

(i) To be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; or

(ii) For use as a component of any articles under (a)(i) of this subsection.

(b) "Cosmetic" does not include soap.

(2) "Cosmetic animal testing" means the internal or external application or exposure of any cosmetic product, or any cosmetic ingredient or nonfunctional constituent, to the skin, eyes, or any other body part of a live, nonhuman vertebrate.

(3) "Cosmetic ingredient" means any single chemical entity or mixture used as a component in the manufacture of a cosmetic product, as defined in 21 C.F.R. Sec. 700.3(e) on January 1, 2025.

(4) "Cosmetic product" means a finished cosmetic, the manufacture of which has been completed.

(5) "Manufacture" has the same meaning as "to manufacture" in RCW 82.04.120.

(6) "Manufacturer" means any entity required to specify conspicuously its name and place of business on the label of a cosmetic in package form under 21 C.F.R. Sec. 701.12 on January 1, 2025.

(7) "Nonfunctional constituent" means any incidental ingredient as defined in 21 C.F.R. Sec. 701.3(1) on January 1, 2025.

(8) "Supplier" means any entity that provides, whether directly or through a third party, any cosmetic ingredient used by a manufacturer in the formulation of a cosmetic product.

NEW SECTION. **Sec. 2.** Beginning January 1, 2025, it is unlawful for a manufacturer to sell or offer for sale in this state a cosmetic if the cosmetic was developed or manufactured using cosmetic animal testing that was conducted or contracted for by the manufacturer or any supplier of the manufacturer.

NEW SECTION. **Sec. 3.** Section 2 of this act does not apply with respect to cosmetic animal testing:

(1) Conducted outside of the United States in order to comply with a requirement of a foreign regulatory authority if no evidence derived from the testing was relied upon to substantiate the safety of the cosmetic ingredient or cosmetic product being sold by the manufacturer in Washington;

(2) Conducted for any cosmetic or cosmetic ingredient subject to regulation under 21 U.S.C. Sec. 351 et seq., of the federal food, drug, and cosmetic act;

(3) Conducted for a cosmetic ingredient intended to be used in a product that is not a cosmetic product and is conducted under a requirement of a federal, state, or foreign regulatory authority if no evidence derived from the testing was relied upon to substantiate the safety of a cosmetic sold in Washington by a cosmetics manufacturer, unless all of the following apply:

(a) There is documented evidence of the noncosmetic intent of the test; and

(b) There is a history of use of the ingredient outside of cosmetics at least 12 months before the reliance; or

(4) Requested, required, or conducted by a federal or state regulatory authority and each of the following apply:

(a) There is no nonanimal alternative method or strategy recognized by any federal or state agency or the organization for economic cooperation and development for the relevant safety endpoints for the cosmetic ingredient or nonfunctional constituent;

(b) The cosmetic ingredient or nonfunctional constituent poses a risk of causing a specific human health problem that is substantiated and the need to conduct cosmetic animal testing is justified and supported by a detailed research protocol proposed as the basis for the evaluation of the cosmetics ingredient or nonfunctional constituent; and

(c) That the cosmetic ingredient or nonfunctional constituent is in wide use and, in the case of a cosmetic ingredient, cannot be replaced by another cosmetic ingredient capable of performing a similar function.

NEW SECTION. **Sec. 4.** Section 2 of this act does not apply to:

(1) A cosmetic if the cosmetic in its final form was tested on animals before January 1, 2025, even if the cosmetic is manufactured on or after January 1, 2025, if no new animal testing in violation of this chapter occurs after January 1, 2025, by or on behalf of the manufacturer;

(2) An ingredient in a cosmetic if the ingredient was tested on animals before January 1, 2025, even if the ingredient is manufactured on or after January 1, 2025, if no new animal testing in violation of this chapter occurs after January 1, 2025, by or on behalf of the manufacturer; or

(3) A cosmetic manufacturer reviewing, assessing, or retaining evidence from a cosmetic animal test.

NEW SECTION. **Sec. 5.** No county or political subdivision of the state may establish or continue any prohibition on or relating to cosmetic animal testing that is not identical to the prohibitions set forth in this chapter.

NEW SECTION. **Sec. 6.** A manufacturer that sells or offers for sale a cosmetic in violation of this chapter commits a civil violation punishable by a fine of not more than $5,000 for each violation.

NEW SECTION. **Sec. 7.** This chapter may be known and cited as the cruelty free cosmetics act.

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.** This act takes effect January 1, 2025.

NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act constitute a new chapter in Title 69 RCW.

Passed by the House January 25, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 108

[House Bill 1752]

WATER RIGHTS HELD BY THE UNITED STATES BUREAU OF RECLAMATION—CHANGE APPLICATIONS

AN ACT Relating to modifying the application of the annual consumptive quantity calculation to change applications related to certain water rights held by the United States bureau of reclamation; and amending RCW 90.03.380.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 90.03.380 and 2011 c 112 s 3 are each amended to read as follows:

(1) The right to the use of water which has been applied to a beneficial use in the state shall be and remain appurtenant to the land or place upon which the

same is used: PROVIDED, HOWEVER, That the right may be transferred to another or to others and become appurtenant to any other land or place of use without loss of priority of right theretofore established if such change can be made without detriment or injury to existing rights. The point of diversion of water for beneficial use or the purpose of use may be changed, if such change can be made without detriment or injury to existing rights.

(a) A change in the place of use, point of diversion, and/or purpose of use of a water right to enable irrigation of additional acreage or the addition of new uses may be permitted if such change results in no increase in the annual consumptive quantity of water used under the water right.

(b) For water rights held by the United States bureau of reclamation for water use within the boundaries of the Columbia Basin project, the bureau of reclamation may apply for and obtain approval for a change in the number of acres that may be irrigated with such water rights, so long as such a change does not result in any increase in the instantaneous or annual out-of-stream authorized quantity of such rights and so long as the department determines that such a change would not result in an impairment of any other water rights. The provisions of (a) of this subsection do not apply to a change application filed pursuant to this subsection (1)(b).

(c) For purposes of this section, "annual consumptive quantity" means the estimated or actual annual amount of water diverted pursuant to the water right, reduced by the estimated annual amount of return flows, averaged over the two years of greatest use within the most recent five-year period of continuous beneficial use of the water right.

(d) Before any transfer of such right to use water or change of the point of diversion of water or change of purpose of use can be made, any person having an interest in the transfer or change, shall file a written application therefor with the department, and the application shall not be granted until notice of the application is published as provided in RCW 90.03.280. If it shall appear that such transfer or such change may be made without injury or detriment to existing rights, the department shall issue to the applicant a certificate in duplicate granting the right for such transfer or for such change of point of diversion or of use. The certificate so issued shall be filed and be made a record with the department and the duplicate certificate issued to the applicant may be filed with the county auditor in like manner and with the same effect as provided in the original certificate or permit to divert water.

(2) If an application for change proposes to transfer water rights from one irrigation district to another, the department shall, before publication of notice, receive concurrence from each of the irrigation districts that such transfer or change will not adversely affect the ability to deliver water to other landowners or impair the financial integrity of either of the districts.

(3) A change in place of use by an individual water user or users of water provided by an irrigation district need only receive approval for the change from the board of directors of the district if the use of water continues within the irrigation district, and when water is provided by an irrigation entity that is a member of a board of joint control created under chapter 87.80 RCW, approval need only be received from the board of joint control if the use of water continues within the area of jurisdiction of the joint board and the change can be made without detriment or injury to existing rights.

(4) This section shall not apply to trust water rights acquired by the state through the funding of water conservation projects under chapter 90.38 RCW or RCW 90.42.010 through 90.42.070.

(5)(a) Pending applications for new water rights are not entitled to protection from impairment, injury, or detriment when an application relating to an existing surface or ground water right is considered.

(b) Applications relating to existing surface or ground water rights may be processed and decisions on them rendered independently of processing and rendering decisions on pending applications for new water rights within the same source of supply without regard to the date of filing of the pending applications for new water rights.

(c) Notwithstanding any other existing authority to process applications, including but not limited to the authority to process applications under WAC 173-152-050 as it existed on January 1, 2001, an application relating to an existing surface or ground water right may be processed ahead of a previously filed application relating to an existing right when sufficient information for a decision on the previously filed application is not available and the applicant for the previously filed application is sent written notice that explains what information is not available and informs the applicant that processing of the next application will begin. The previously filed application does not lose its priority date and if the information is provided by the applicant within ((~~sixty~~)) 60 days, the previously filed application shall be processed at that time. This subsection (5)(c) does not affect any other existing authority to process applications.

(d) Nothing in this subsection (5) is intended to stop the processing of applications for new water rights.

(6) No applicant for a change, transfer, or amendment of a water right may be required to give up any part of the applicant's valid water right or claim to a state agency, the trust water rights program, or to other persons as a condition of processing the application.

(7) In revising the provisions of this section and adding provisions to this section by chapter 237, Laws of 2001, the legislature does not intend to imply legislative approval or disapproval of any existing administrative policy regarding, or any existing administrative or judicial interpretation of, the provisions of this section not expressly added or revised.

(8) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring a change or transfer of any existing water right to enable the holder of the right to store water governed by the right.

(9)(a) The department may only approve an application submitted after June 30, 2019, for an interbasin water rights transfer after providing notice electronically to the board of county commissioners in the county of origin upon receipt of an application.

(b) For the purposes of this subsection:

(i) "Interbasin water rights transfer" means a transfer of a water right for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.

(ii) "County of origin" means the county from which a water right is transferred or proposed to be transferred.

(c) This subsection applies to counties located east of the crest of the Cascade mountains.

Passed by the House February 8, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 109

[Substitute House Bill 1818]

FORESTLAND AND TIMBERLAND—SALE TO GOVERNMENTAL ENTITY—COMPENSATING TAX EXCLUSION

AN ACT Relating to exclusion of compensating tax when land is sold to a governmental entity intending to manage the land similarly to designated forestland or timberland; amending RCW 84.33.140 and 84.34.108; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.33.140 and 2017 3rd sp.s. c 37 s 1002 are each amended to read as follows:

(1) When land has been designated as forestland under RCW 84.33.130, a notation of the designation must be made each year upon the assessment and tax rolls. A copy of the notice of approval together with the legal description or assessor's parcel numbers for the land must, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded.

(2) In preparing the assessment roll as of January 1, 2002, for taxes payable in 2003 and each January 1st thereafter, the assessor must list each parcel of designated forestland at a value with respect to the grade and class provided in this subsection and adjusted as provided in subsection (3) of this section. The assessor must compute the assessed value of the land using the same assessment ratio applied generally in computing the assessed value of other property in the county. Values for the several grades of bare forestland are as follows:

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
	1	$234
1	2	229
	3	217
	4	157
	1	198
2	2	190
	3	183
	4	132
	1	154
3	2	149
	3	148

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
	4	113
	1	117
4	2	114
	3	113
	4	86
	1	85
5	2	78
	3	77
	4	52
	1	43
6	2	39
	3	39
	4	37
	1	21
7	2	21
	3	20
	4	20
8		1

(3) On or before December 31, 2001, the department must adjust by rule under chapter 34.05 RCW, the forestland values contained in subsection (2) of this section in accordance with this subsection, and must certify the adjusted values to the assessor who will use these values in preparing the assessment roll as of January 1, 2002. For the adjustment to be made on or before December 31, 2001, for use in the 2002 assessment year, the department must:

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1996, and June 30, 2001, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1995, and June 30, 2000, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(c) Adjust the forestland values contained in subsection (2) of this section by a percentage equal to one-half of the percentage change in the average values of harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

(4) For the adjustments to be made on or before December 31, 2002, and each succeeding year thereafter, the same procedure described in subsection (3) of this section must be followed using harvester excise tax returns filed under RCW 84.33.074. However, this adjustment must be made to the prior year's

adjusted value, and the five-year periods for calculating average harvested timber values must be successively one year more recent.

(5) Land graded, assessed, and valued as forestland must continue to be so graded, assessed, and valued until removal of designation by the assessor upon the occurrence of any of the following:

(a) Receipt of notice of request to withdraw land classified under RCW 84.34.020(3) within two years before the date of the merger under RCW 84.34.400. Land previously classified under chapter 84.34 RCW will be removed under the provisions of this chapter when two assessment years have passed following receipt of the notice as described in RCW 84.34.070(1);

(b) Receipt of notice from the owner to remove the designation;

(c) Sale or transfer to an ownership making the land exempt from ad valorem taxation;

(d) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of forestland designation continuance, except transfer to an owner who is an heir or devisee of a deceased owner or transfer by a transfer on death deed, does not, by itself, result in removal of designation. The signed notice of continuance must be attached to the real estate excise tax affidavit provided for in RCW 82.45.150. The notice of continuance must be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated under subsection (11) of this section are due and payable by the seller or transferor at time of sale. The auditor may not accept an instrument of conveyance regarding designated forestland for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (11) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(e) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that:

(i) The land is no longer primarily devoted to and used for growing and harvesting timber. However, land may not be removed from designation if a governmental agency, organization, or other recipient identified in subsection (13) or (14) of this section as exempt from the payment of compensating tax has manifested its intent in writing or by other official action to acquire a property interest in the designated forestland by means of a transaction that qualifies for an exemption under subsection (13) or (14) of this section. The governmental agency, organization, or recipient must annually provide the assessor of the county in which the land is located reasonable evidence in writing of the intent to acquire the designated land as long as the intent continues or within sixty days of a request by the assessor. The assessor may not request this evidence more than once in a calendar year;

(ii) The owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW or any applicable rules under Title 76 RCW; or

(iii) Restocking has not occurred to the extent or within the time specified in the application for designation of such land.

(6) Land may not be removed from designation if there is a governmental restriction that prohibits, in whole or in part, the owner from harvesting timber from the owner's designated forestland. If only a portion of the parcel is impacted by governmental restrictions of this nature, the restrictions cannot be used as a basis to remove the remainder of the forestland from designation under this chapter. For the purposes of this section, "governmental restrictions" includes: (a) Any law, regulation, rule, ordinance, program, or other action adopted or taken by a federal, state, county, city, or other governmental entity; or (b) the land's zoning or its presence within an urban growth area designated under RCW 36.70A.110.

(7) The assessor has the option of requiring an owner of forestland to file a timber management plan with the assessor upon the occurrence of one of the following:

(a) An application for designation as forestland is submitted;

(b) Designated forestland is sold or transferred and a notice of continuance, described in subsection (5)(d) of this section, is signed; or

(c) The assessor has reason to believe that forestland sized less than twenty acres is no longer primarily devoted to and used for growing and harvesting timber. The assessor may require a timber management plan to assist with determining continuing eligibility as designated forestland.

(8) If land is removed from designation because of any of the circumstances listed in subsection (5)(a) through (d) of this section, the removal applies only to the land affected. If land is removed from designation because of subsection (5)(e) of this section, the removal applies only to the actual area of land that is no longer primarily devoted to the growing and harvesting of timber, without regard to any other land that may have been included in the application and approved for designation, as long as the remaining designated forestland meets the definition of forestland contained in RCW 84.33.035.

(9) Within thirty days after the removal of designation as forestland, the assessor must notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038.

(10) Unless the removal is reversed on appeal a copy of the notice of removal with a notation of the action, if any, upon appeal, together with the legal description or assessor's parcel numbers for the land removed from designation must, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded and a notation of removal from designation must immediately be made upon the assessment and tax rolls. The assessor must revalue the land to be removed with reference to its true and fair value as of January 1st of the year of removal from designation. Both the assessed value before and after the removal of designation must be listed. Taxes based on the value of the land as forestland are assessed and payable up until the date of removal and taxes based on the true and fair value of the land are assessed and payable from the date of removal from designation.

(11) Except as provided otherwise in this section, a compensating tax is imposed on land removed from designation as forestland. The compensating tax is due and payable to the treasurer thirty days after the owner is notified of the

amount of this tax. As soon as possible after the land is removed from designation, the assessor must compute the amount of compensating tax, and the treasurer must mail a notice to the owner of the amount of compensating tax owed and the date on which payment of this tax is due. The amount of compensating tax is equal to the difference between the amount of tax last levied on the land as designated forestland and an amount equal to the new assessed value of the land multiplied by the dollar rate of the last levy extended against the land, multiplied by a number, in no event greater than nine, equal to the number of years for which the land was designated as forestland, plus compensating taxes on the land at forestland values up until the date of removal and the prorated taxes on the land at true and fair value from the date of removal to the end of the current tax year.

(12) Compensating tax, together with applicable interest thereon, becomes a lien on the land, which attaches at the time the land is removed from designation as forestland and has priority and must be fully paid and satisfied before any 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 as provided in RCW 84.64.050. Any compensating tax unpaid on its due date will thereupon become delinquent. From the date of delinquency until paid, interest is charged at the same rate applied by law to delinquent ad valorem property taxes.

(13) The compensating tax specified in subsection (11) of this section may not be imposed if the removal of designation under subsection (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forestland located within the state of Washington;

(b)(i) A taking through the exercise of the power of eminent domain, or (ii) a sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power based on official action taken by the entity and confirmed in writing;

(c) A donation of fee title, development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections, or the sale or transfer of fee title to a governmental entity or a nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW or approved for state natural resources conservation area purposes as defined in chapter 79.71 RCW, or for acquisition and management as a community forest trust as defined in chapter 79.155 RCW. At such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (11) of this section is imposed upon the current owner;

(d) The sale or transfer of fee title to the parks and recreation commission for park and recreation purposes;

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present use of the land;

(f) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(g) The creation, sale, or transfer of a conservation easement of private forestlands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040;

(h) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forestland, designated as forestland under this chapter, or classified under chapter 84.34 RCW continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (13)(h); ((~~or~~))

(i)(i) The discovery that the land was designated under this chapter in error through no fault of the owner. For purposes of this subsection (13)(i), "fault" means a knowingly false or misleading statement, or other act or omission not in good faith, that contributed to the approval of designation under this chapter or the failure of the assessor to remove the land from designation under this chapter.

(ii) For purposes of this subsection (13), the discovery that land was designated under this chapter in error through no fault of the owner is not the sole reason for removal of designation under subsection (5) of this section if an independent basis for removal exists. An example of an independent basis for removal includes the land no longer being devoted to and used for growing and harvesting timber; or

(j) The sale or transfer to a governmental entity if the governmental entity manages the land in the same manner as designated forestland under this chapter or property classified as timberland under chapter 84.34 RCW, and the governmental entity provides the county assessor with a timber management plan or a notice of intent to manage the land as required under this subsection (13)(j). The governmental entity must provide an updated timberland or forestland management plan to the county assessor at least once every revaluation cycle. The county is authorized to collect a fee from the governmental entity for the filing of the forestland or timberland management plan in accordance with the county's fee schedule. When the land is not managed as required under this subsection (13)(j), or when the governmental entity sells or transfers the land at any time, the compensating tax specified in subsection (11) of this section is due from the current government owner, unless the change in use of the land, sale or transfer, meets one of the other exceptions in this subsection (13) and subsections (14) and (15) of this section.

(14) In a county with a population of more than six hundred thousand inhabitants or in a county with a population of at least two hundred forty-five thousand inhabitants that borders Puget Sound as defined in RCW 90.71.010, the compensating tax specified in subsection (11) of this section may not be imposed if the removal of designation as forestland under subsection (5) of this section resulted solely from:

(a) An action described in subsection (13) of this section; or

(b) A transfer of a property interest to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, to protect or enhance public resources, or to preserve, maintain, improve, restore, limit the future use of, or otherwise to

conserve for public use or enjoyment, the property interest being transferred. At such time as the property interest is not used for the purposes enumerated, the compensating tax is imposed upon the current owner.

(15) Compensating tax authorized in this section may not be imposed on land removed from designation as forestland solely as a result of a natural disaster such as a flood, windstorm, earthquake, wildfire, or other such calamity rather than by virtue of the act of the landowner changing the use of the property.

Sec. 2. RCW 84.34.108 and 2017 3rd sp.s. c 37 s 1001 are each amended to read as follows:

(1) When land has once been classified under this chapter, a notation of the classification must be made each year upon the assessment and tax rolls and the land must be valued pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a portion of the classification by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove all or a portion of the classification;

(b) Sale or transfer to an ownership, except a transfer that resulted from a default in loan payments made to or secured by a governmental agency that intends to or is required by law or regulation to resell the property for the same use as before, making all or a portion of the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of classification continuance, except transfer to an owner who is an heir or devisee of a deceased owner or transfer by a transfer on death deed does not, by itself, result in removal of classification. The notice of continuance must be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes, applicable interest, and penalty calculated pursuant to subsection (4) of this section become due and payable by the seller or transferor at time of sale. The auditor may not accept an instrument of conveyance regarding classified land for filing or recording unless the new owner has signed the notice of continuance or the additional tax, applicable interest, and penalty has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (4) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d)(i) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of the land no longer meets the criteria for classification under this chapter. The criteria for classification pursuant to this chapter continue to apply after classification has been granted.

(ii) The granting authority, upon request of an assessor, must provide reasonable assistance to the assessor in making a determination whether the land continues to meet the qualifications of RCW 84.34.020 (1) or (3). The assistance must be provided within thirty days of receipt of the request.

(2) Land may not be removed from classification because of:

(a) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120; or

(b) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.

(3) Within thirty days after the removal of all or a portion of the land from current use classification under subsection (1) of this section, the assessor must notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038. The removal notice must explain the steps needed to appeal the removal decision, including when a notice of appeal must be filed, where the forms may be obtained, and how to contact the county board of equalization.

(4) Unless the removal is reversed on appeal, the assessor must revalue the affected land with reference to its true and fair value on January 1st of the year of removal from classification. Both the assessed valuation before and after the removal of classification must be listed and taxes must be allocated according to that part of the year to which each assessed valuation applies. Except as provided in subsection (6) of this section, an additional tax, applicable interest, and penalty must be imposed, which are due and payable to the treasurer thirty days after the owner is notified of the amount of the additional tax, applicable interest, and penalty. As soon as possible, the assessor must compute the amount of additional tax, applicable interest, and penalty and the treasurer must mail notice to the owner of the amount thereof and the date on which payment is due. The amount of the additional tax, applicable interest, and penalty must be determined as follows:

(a) The amount of additional tax is equal to the difference between the property tax paid as "open space land," "farm and agricultural land," or "timberland" and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified;

(b) The amount of applicable interest is equal to the interest upon the amounts of the additional tax paid 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 land had been assessed at a value without regard to this chapter;

(c) The amount of the penalty is as provided in RCW 84.34.080. The penalty may not be imposed if the removal satisfies the conditions of RCW 84.34.070.

(5) Additional tax, applicable interest, and penalty become a lien on the land. The lien attaches at the time the land is removed from classification under this chapter and has priority to and must be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. This 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 as provided in RCW 84.64.050. Any additional tax unpaid on the due date is delinquent as of the due date. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent ad valorem property taxes.

(6) The additional tax, applicable interest, and penalty specified in subsection (4) of this section may not be imposed if the removal of classification pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other land located within the state of Washington;

(b)(i) A taking through the exercise of the power of eminent domain, or (ii) sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power, said entity having manifested its intent in writing or by other official action;

(c) A natural disaster such as a flood, windstorm, earthquake, wildfire, or other such calamity rather than by virtue of the act of the landowner changing the use of the property;

(d) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of the land;

(e) Transfer of land to a church when the land would qualify for exemption pursuant to RCW 84.36.020;

(f) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections. At such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (4) of this section must be imposed;

(g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(f);

(h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;

(i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(j) The creation, sale, or transfer of a conservation easement of private forestlands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040;

(k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forestland, designated as forestland under chapter 84.33 RCW, or classified under this chapter continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (6)(k); ((~~or~~))

(l)(i) The discovery that the land was classified under this chapter in error through no fault of the owner. For purposes of this subsection (6)(l), "fault" means a knowingly false or misleading statement, or other act or omission not in good faith, that contributed to the approval of classification under this chapter or the failure of the assessor to remove the land from classification under this chapter.

(ii) For purposes of this subsection (6), the discovery that land was classified under this chapter in error through no fault of the owner is not the sole reason for removal of classification pursuant to subsection (1) of this section if an independent basis for removal exists. Examples of an independent basis for removal include the owner changing the use of the land or failing to meet any applicable income criteria required for classification under this chapter; or

(m) The sale or transfer to a governmental entity if the governmental entity manages the land in the same manner as designated forestland under chapter

84.33 RCW, or as property classified as timberland under this chapter, and the governmental entity provides the county assessor with a timber management plan or a notice of intent to manage the land as required under this subsection (6)(m). The governmental entity must provide an updated timberland or forestland management plan to the county assessor at least once every revaluation cycle. The county is authorized to collect a fee from the governmental entity for the filing of the forestland or timberland management plan in accordance with the county's fee schedule. When the land is not managed as required under this subsection (6)(m), or when the governmental entity sells or transfers the land at any time, the additional tax specified in subsection (4) of this section is due from the current government owner, unless the change in use of the land, sale or transfer, meets one of the other exceptions in this subsection (6).

NEW SECTION. **Sec. 3.** RCW 82.32.805 and 82.32.808 do not apply to this act.

Passed by the House January 17, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 110

[Substitute House Bill 1919]

ABANDONED VESSELS—SALE BY PRIVATE MOORAGE FACILITY—NOTICE

AN ACT Relating to modifying the process by which a private moorage facility may sell an abandoned vessel for failure to pay moorage fees; and amending RCW 88.26.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 88.26.020 and 2023 c 258 s 10 are each amended to read as follows:

(1)(a) Any private moorage facility operator may take reasonable measures, including the use of chains, ropes, and locks, or removal from the water, to secure vessels within the private moorage facility so that the vessels are in the possession and control of the operator and cannot be removed from the facility. These procedures may be used if an owner mooring or storing a vessel at the facility fails, after being notified that charges are owing and of the owner's right to commence legal proceedings to contest that such charges are owing, to pay charges owed or to commence legal proceedings. Notification shall be by two separate letters, one sent by first-class mail and one sent by registered mail to the owner and any lienholder of record at the last known address. In the case of a transient vessel, or where no address was furnished by the owner, the operator need not give notice prior to securing the vessel. At the time of securing the vessel, an operator shall attach to the vessel a readily visible notice. The notice shall be of a reasonable size and shall contain the following information:

(((~~(a)~~))) (i) The date and time the notice was attached;

(((~~(b)~~))) (ii) A statement that if the account is not paid in full within ((~~90~~)) 45 days from the time the notice is attached the vessel may be sold at public auction to satisfy the charges; and

(((~~(c)~~))) (iii) The address and telephone number where additional information may be obtained concerning release of the vessel.

(b) After a vessel is secured, the operator shall make a reasonable effort to notify the owner and any lienholder of record by registered mail in order to give the owner the information contained in the notice.

(2) A private moorage facility operator, at his or her discretion, may move moored vessels ashore for storage within properties under the operator's control or for storage with a private person under their control as bailees of the private moorage facility, if the vessel is, in the opinion of the operator, a nuisance, in danger of sinking or creating other damage, or is owing charges. The costs of any such procedure shall be paid by the vessel's owner.

(3) If a vessel is secured under subsection (1) of this section or moved ashore under subsection (2) of this section, the owner who is obligated to the private operator for charges may regain possession of the vessel by:

(a) Making arrangements satisfactory with the operator for the immediate removal of the vessel from the facility or for authorized moorage; and

(b) Making payment to the operator of all charges, or by posting with the operator a sufficient cash bond or other acceptable security, to be held in trust by the operator pending written agreement of the parties with respect to payment by the vessel owner of the amount owing, or pending resolution of the matter of the charges in a civil action in a court of competent jurisdiction. After entry of judgment, including any appeals, in a court of competent jurisdiction, or after the parties reach agreement with respect to payment, the trust shall terminate and the operator shall receive so much of the bond or other security as agreed, or as is necessary, to satisfy any judgment, costs, and interest as may be awarded to the operator. The balance shall be refunded immediately to the owner at the last known address.

(4) If a vessel has been secured by the operator under subsection (1) of this section and is not released to the owner under the bonding provisions of this section within ((~~90~~)) 45 days after notifying or attempting to notify the owner under subsection (1) of this section, the vessel is conclusively presumed to have been abandoned by the owner.

(5) If a vessel moored or stored at a private moorage facility is abandoned, the operator may authorize the public sale of the vessel by authorized personnel, consistent with this section, to the highest and best bidder for cash as follows:

(a) Before the vessel is sold, the vessel owner and any lienholder of record shall be given at least 20 days' notice of the sale in the manner set forth in subsection (1) of this section if the name and address of the owner is known. The notice shall contain the time and place of the sale, a reasonable description of the vessel to be sold, and the amount of charges owed with respect to the vessel. ((~~The notice of sale shall be published at least once, more than 10 but not more than 20 days before the sale, in a newspaper of general circulation in the county in which the facility is located. This notice shall include the name of the vessel, if any, the last known owner and address, and a reasonable description of the vessel to be sold.~~)) The operator may bid all or part of its charges at the sale and may become a purchaser at the sale.

(b) Before the vessel is sold, any person seeking to redeem an impounded vessel under this section may commence a lawsuit in the superior court for the county in which the vessel was impounded to contest the validity of the

impoundment or the amount of charges owing. This lawsuit must be commenced within ((~~60~~)) 40 days of the date the notification was provided under subsection (1) of this section, or the right to a hearing is deemed waived and the owner is liable for any charges owing the operator. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs.

(c) The proceeds of a sale under this section shall be applied first to the payment of any liens superior to the claim for charges, then to payment of the charges, then to satisfy any other liens on the vessel in the order of their priority. The balance, if any, shall be paid to the owner. If the owner cannot in the exercise of due diligence be located by the operator within one year of the date of the sale, the excess funds from the sale shall revert to the department of revenue under chapter 63.30 RCW. If the sale is for a sum less than the applicable charges, the operator is entitled to assert a claim for deficiency, however, the deficiency judgment shall not exceed the moorage fees owed for the previous six-month period.

(d) In the event no one purchases the vessel at a sale, or a vessel is not removed from the premises or other arrangements are not made within 10 days of sale, title to the vessel will revert to the operator.

(e) Either a minimum bid may be established or a letter of credit may be required from the buyer, or both, to discourage the future abandonment of the vessel.

(6) The rights granted to a private moorage facility operator under this section are in addition to any other legal rights an operator may have to hold and sell a vessel and in no manner does this section alter those rights, or affect the priority of other liens on a vessel.

Passed by the House February 13, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 111

[Substitute House Bill 1989]

GRAFFITI ABATEMENT AND REDUCTION PILOT PROGRAM

AN ACT Relating to a graffiti abatement and reduction program; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) Subject to funds appropriated for this purpose, the department of transportation must complete a graffiti abatement and reduction pilot program that includes, but is not limited to:

(a) Field testing spray drone technology for the purpose of more efficiently painting over existing graffiti;

(b) Investigate and test improvements to systems capable of identifying persons who damage property with graffiti;

(c) The department is directed to test these systems and additional graffiti prevention techniques prioritizing the Interstate 5 Puget Sound region from Tacoma to Seattle and the north Spokane corridor;

(d) The department is directed to report to the appropriate committees of the legislature on the graffiti abatement and reduction pilot program, including on the use of funding, the results of actions used to identify people who damage property with graffiti, as well as on the field testing of spray drone technology for painting over graffiti. The report is due by December 1, 2024.

(2) This section expires July 1, 2025.

Passed by the House February 10, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 112

[House Bill 1992]

WHATCOM COUNTY—ADDITIONAL SUPERIOR COURT JUDGE

AN ACT Relating to adding an additional superior court judge in Whatcom county; and amending RCW 2.08.063.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 2.08.063 and 2013 c 210 s 1 are each amended to read as follows:

There shall be in the county of Lincoln one judge of the superior court; in the county of Skagit, four judges of the superior court; in the county of Walla Walla, two judges of the superior court; in the county of Whitman, one judge of the superior court; in the county of Yakima, eight judges of the superior court; in the county of Adams, one judge of the superior court; in the county of Whatcom, ((~~four~~)) five judges of the superior court.

Passed by the House February 9, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 113

[Substitute House Bill 2012]

PROPERTY TAX—EXEMPTION FOR AFFORDABLE RENTAL HOUSING BUILT WITH CITY AND COUNTY FUNDS

AN ACT Relating to eligibility for a property tax exemption for nonprofits providing affordable rental housing built with city and county funds; amending RCW 84.36.560; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.36.560 and 2023 c 277 s 11 are each amended to read as follows:

(1) The real and personal property owned or used by a nonprofit entity in providing rental housing for qualifying households or used to provide space for the placement of a mobile home for a qualifying household within a mobile home park is exempt from taxation if:

(a) The benefit of the exemption inures to the nonprofit entity;

(b) At least ((~~seventy-five~~)) 75 percent of the occupied dwelling units in the rental housing or lots in a mobile home park are occupied by a qualifying household; and

(c) The rental housing or lots in a mobile home park were insured, financed, or assisted in whole or in part through one or more of the following sources:

(i) A federal or state housing program administered by the department of commerce;

(ii) A federal housing program administered by a city or county government;

(iii) An affordable housing levy authorized under RCW 84.52.105 or 84.55.050;

(iv) The surcharges authorized by RCW 36.22.250 and any of the surcharges authorized in chapter 43.185C RCW; ((~~or~~))

(v) The Washington state housing finance commission, provided that the financing is for a mobile home park cooperative or a manufactured housing cooperative, as defined in RCW 59.20.030, or a nonprofit entity; or

(vi) City or county funds designated for affordable housing.

(2) If less than ((~~seventy-five~~)) 75 percent of the occupied dwelling units within the rental housing or lots in the mobile home park are occupied by qualifying households, the rental housing or mobile home park is eligible for a partial exemption on the real property and a total exemption of the housing's or park's personal property as follows:

(a) A partial exemption is allowed for each dwelling unit in the rental housing or for each lot in a mobile home park occupied by a qualifying household.

(b) The amount of exemption must be calculated by multiplying the assessed value of the property reasonably necessary to provide the rental housing or to operate the mobile home park by a fraction. The numerator of the fraction is the number of dwelling units or lots occupied by qualifying households as of December 31st of the first assessment year in which the rental housing or mobile home park becomes operational or on January 1st of each subsequent assessment year for which the exemption is claimed. The denominator of the fraction is the total number of dwelling units or lots occupied as of December 31st of the first assessment year the rental housing or mobile home park becomes operational and January 1st of each subsequent assessment year for which exemption is claimed.

(3) If a currently exempt rental housing unit or mobile home lot in a mobile home park was occupied by a qualifying household at the time the exemption was granted and the income of the household subsequently rises above the threshold set in subsection (7)(e) of this section but remains at or below ((~~eighty~~)) 80 percent of the median income, the exemption will continue as long as the housing continues to meet the certification requirements listed in subsection (1) of this section. For purposes of this section, median income, as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located, shall be adjusted for family size. However, if a dwelling unit or a lot becomes vacant and is subsequently rerented, the income of the new household must be at or below the threshold set in subsection (7)(e) of this section to remain exempt from property tax.

(4) If at the time of initial application the property is unoccupied, or subsequent to the initial application the property is unoccupied because of renovations, and the property is not currently being used for the exempt purpose authorized by this section but will be used for the exempt purpose within two assessment years, the property shall be eligible for a property tax exemption for the assessment year in which the claim for exemption is submitted under the following conditions:

(a) A commitment for financing to acquire, construct, renovate, or otherwise convert the property to provide housing for qualifying households has been obtained, in whole or in part, by the nonprofit entity claiming the exemption from one or more of the sources listed in subsection (1)(c) of this section;

(b) The nonprofit entity has manifested its intent in writing to construct, remodel, or otherwise convert the property to housing for qualifying households; and

(c) Only the portion of property that will be used to provide housing or lots for qualifying households shall be exempt under this section.

(5) To be exempt under this section, the property must be used exclusively for the purposes for which the exemption is granted, except as provided in RCW 84.36.805.

(6) The nonprofit entity qualifying for a property tax exemption under this section may agree to make payments to the city, county, or other political subdivision for improvements, services, and facilities furnished by the city, county, or political subdivision for the benefit of the rental housing. However, these payments shall not exceed the amount last levied as the annual tax of the city, county, or political subdivision upon the property prior to exemption.

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

(a) "Group home" means a single-family dwelling financed, in whole or in part, by one or more of the sources listed in subsection (1)(c) of this section. The residents of a group home shall not be considered to jointly constitute a household, but each resident shall be considered to be a separate household occupying a separate dwelling unit. The individual incomes of the residents shall not be aggregated for purposes of this exemption;

(b) "Mobile home lot" or "mobile home park" means the same as these terms are defined in RCW 59.20.030;

(c) "Occupied dwelling unit" means a living unit that is occupied by an individual or household as of December 31st of the first assessment year the rental housing becomes operational or is occupied by an individual or household on January 1st of each subsequent assessment year in which the claim for exemption is submitted. If the housing facility is comprised of three or fewer dwelling units and there are any unoccupied units on January 1st, the department shall base the amount of the exemption upon the number of occupied dwelling units as of December 31st of the first assessment year the rental housing becomes operational and on May 1st of each subsequent assessment year in which the claim for exemption is submitted;

(d) "Rental housing" means a residential housing facility or group home that is occupied but not owned by qualifying households;

(e)(i) "Qualifying household" means a single person, family, or unrelated persons living together whose income is at or below ((~~fifty~~)) 50 percent of the

median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located and in effect as of January 1st of the year the application for exemption is submitted;

(ii) Beginning July 1, 2021, "qualifying household" means a single person, family, or unrelated persons living together whose income is at or below ((~~sixty~~)) 60 percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located and in effect as of January 1st of the year the application for exemption is submitted; and

(f) "Nonprofit entity" means a:

(i) Nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code;

(ii) Limited partnership where a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority created under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210(2)(a) is a general partner;

(iii) Limited liability company where a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority established under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210(2)(a) is a managing member; or

(iv) Mobile home park cooperative or a manufactured housing cooperative, as defined in RCW 59.20.030.

NEW SECTION. **Sec. 2.** RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. **Sec. 3.** This act applies to taxes levied for collection in 2025 and thereafter.

Passed by the House February 12, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 114

[House Bill 2044]

VOTER-APPROVED PROPERTY TAX LEVIES—LIMITATION ON SUPPLANTING EXISTING FUNDS

AN ACT Relating to standardizing limitations on voter-approved property tax levies; and amending RCW 84.55.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.55.050 and 2021 c 296 s 14 are each amended to read as follows:

(1) Subject to any otherwise applicable statutory dollar rate limitations, regular property taxes may be levied by or for a taxing district in an amount

exceeding the limitations provided for in this chapter if such levy is authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters. Any election held pursuant to this section shall be held not more than 12 months prior to the date on which the proposed levy is to be made, except as provided in subsection (2) of this section. The ballot of the proposition shall state the dollar rate proposed and shall clearly state the conditions, if any, which are applicable under subsection (4) of this section.

(2)(((~~(a)~~))) Subject to statutory dollar limitations, a proposition placed before the voters under this section may authorize annual increases in levies for multiple consecutive years, up to six consecutive years, during which period each year's authorized maximum legal levy shall be used as the base upon which an increased levy limit for the succeeding year is computed, but the ballot proposition must state the dollar rate proposed only for the first year of the consecutive years and must state the limit factor, or a specified index to be used for determining a limit factor, such as the consumer price index, which need not be the same for all years, by which the regular tax levy for the district may be increased in each of the subsequent consecutive years. Elections for this purpose must be held at a primary or general election. The title of each ballot measure must state the limited purposes for which the proposed annual increases during the specified period of up to six consecutive years shall be used.

(((~~(b)(i) Except as otherwise provided in this subsection (2)(b), funds raised by a levy under this subsection may not supplant existing funds used for the limited purpose specified in the ballot title. For purposes of this subsection, existing funds means the actual operating expenditures for the calendar year in which the ballot measure is approved by voters. Actual operating expenditures excludes lost federal funds, lost or expired state grants or loans, extraordinary events not likely to reoccur, changes in contract provisions beyond the control of the taxing district receiving the services, and major nonrecurring capital expenditures.~~

~~(ii) The supplanting limitations in (b)(i) of this subsection do not apply to levies approved by the voters in calendar years 2009, 2010, 2011, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022, in any county with a population of 1,500,000 or more. This subsection (2)(b)(ii) only applies to levies approved by the voters after July 26, 2009.~~

~~(iii) The supplanting limitations in (b)(i) of this subsection do not apply to levies approved by the voters in calendar year 2009 and thereafter in any county with a population less than 1,500,000. This subsection (2)(b)(iii) only applies to levies approved by the voters after July 26, 2009.~~))

(3) After a levy authorized pursuant to this section is made, the dollar amount of such levy may not be used for the purpose of computing the limitations for subsequent levies provided for in this chapter, unless the ballot proposition expressly states that the levy made under this section will be used for this purpose.

(4) If expressly stated, a proposition placed before the voters under subsection (1) or (2) of this section may:

(a) Use the dollar amount of a levy under subsection (1) of this section, or the dollar amount of the final levy under subsection (2) of this section, for the purpose of computing the limitations for subsequent levies provided for in this chapter;

(b) Limit the period for which the increased levy is to be made under (a) of this subsection;

(c) Limit the purpose for which the increased levy is to be made under (a) of this subsection, but if the limited purpose includes making redemption payments on bonds;

(i) For the county in which the state capitol is located, the period for which the increased levies are made may not exceed 25 years; and

(ii) For districts other than a district under (c)(i) of this subsection, the period for which the increased levies are made may not exceed nine years;

(d) Set the levy or levies at a rate less than the maximum rate allowed for the district;

(e) Provide that the exemption authorized by RCW 84.36.381 will apply to the levy of any additional regular property taxes authorized by voters; or

(f) Include any combination of the conditions in this subsection.

(5) Except as otherwise expressly stated in an approved ballot measure under this section, subsequent levies shall be computed as if:

(a) The proposition under this section had not been approved; and

(b) The taxing district had made levies at the maximum rates which would otherwise have been allowed under this chapter during the years levies were made under the proposition.

Passed by the House February 12, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 115

[Engrossed House Bill 2199]

CLIMATE COMMITMENT ACT—BUSINESS AND OCCUPATION AND PUBLIC UTILITY TAX EXEMPTIONS

AN ACT Relating to creating business and occupation and public utility tax exemptions for certain amounts received as the result of receipt, generation, purchase, sale, transfer, or retirement of allowances, offset credits, or price ceiling units under the climate commitment act; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; creating a new section; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to amounts received by a covered entity, opt-in entity, or entity that receives no-cost allowances, as defined in chapter 70A.65 RCW, from the receipt, generation, purchase, sale, transfer, or retirement of allowances, offset credits, or price ceiling units under chapter 70A.65 RCW.

(2) The provisions of RCW 82.32.805 and 82.32.808 do not apply to subsection (1) of this section.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.16 RCW to read as follows:

(1) This chapter does not apply to amounts received by a covered entity, opt-in entity, or entity that receives no-cost allowances, as defined in chapter 70A.65 RCW, from the receipt, generation, purchase, sale, transfer, or retirement of allowances, offset credits, or price ceiling units under chapter 70A.65 RCW.

(2) The provisions of RCW 82.32.805 and 82.32.808 do not apply to subsection (1) of this section.

NEW SECTION. **Sec. 3.** This act applies both retrospectively and prospectively.

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 April 1, 2024.

Passed by the House February 9, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 116

[Second Substitute House Bill 2214]

WASHINGTON COLLEGE GRANT—ELIGIBILITY—BENEFICIARIES OF PUBLIC ASSISTANCE PROGRAMS

AN ACT Relating to permitting beneficiaries of public assistance programs to automatically qualify as income-eligible for the purpose of receiving the Washington college grant; amending RCW 28B.92.200, 28B.92.225, and 28B.92.230; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.92.200 and 2022 c 214 s 5 are each amended to read as follows:

(1) The Washington college grant program is created to provide a statewide free college program for eligible participants and greater access to postsecondary education for Washington residents. The Washington college grant program is intended to increase the number of high school graduates and adults that can attain a postsecondary credential and provide them with the qualifications needed to compete for job opportunities in Washington.

(2) The office shall implement and administer the Washington college grant program and is authorized to establish rules necessary for implementation of the program.

(3) The legislature shall appropriate funding for the Washington college grant program. Allocations must be made on the basis of estimated eligible participants enrolled in eligible institutions of higher education or apprenticeship programs. All eligible students are entitled to a Washington college grant beginning in academic year 2020-21.

(4) The office shall award Washington college grants to all eligible students beginning in academic year 2020-21.

(5) To be eligible for the Washington college grant, students must meet the following requirements:

(a)(i) Demonstrate financial need under RCW 28B.92.205;

(ii) Receive one or more of the following types of public assistance:

(A) Aged, blind, or disabled assistance benefits under chapter 74.62 RCW;

(B) Essential needs and housing support program benefits under RCW 43.185C.220; or

(C) Pregnant women assistance program financial grants under RCW 74.62.030; or

(iii) Be a Washington high school student in the 10th, 11th, or 12th grade whose parent or legal guardian is receiving one or more of the types of public assistance listed in (a)(ii) of this subsection and have received a certificate confirming eligibility from the office in accordance with RCW 28B.92.225; or

(iv) Beginning in the 2025-26 academic year, be a Washington high school student in the 10th, 11th, or 12th grade who is a member of an assistance unit receiving benefits under the Washington basic food program in chapter 74.04 RCW or the Washington food assistance program established under RCW 74.08A.120;

(b)(i) Be enrolled or accepted for enrollment for at least three quarter credits or the equivalent semester credits at an institution of higher education in Washington as defined in RCW 28B.92.030; or

(ii) Be enrolled in a registered apprenticeship program approved under chapter 49.04 RCW;

(c) Be a resident student as defined in RCW 28B.15.012(2) (a) through (e);

(d) File an annual application for financial aid as approved by the office; and

(e) Must not have earned a baccalaureate degree or higher from a postsecondary institution.

(6) Washington college grant eligibility may not extend beyond five years or one hundred twenty-five percent of the published length of the program in which the student is enrolled or the credit or clock-hour equivalent.

(7) Institutional aid administrators shall determine whether a student eligible for the Washington college grant in a given academic year may remain eligible for the ensuing year if the student's family income increases by no more than three percent.

(8) Qualifications for receipt and renewal include maintaining satisfactory academic progress toward completion of an eligible program as determined by the office and established in rule.

(9) Should a 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 of higher education according to the institution of higher education's policy for issuing refunds, except as provided in RCW 28B.92.070.

(10) An eligible student enrolled on a part-time basis shall receive a prorated portion of the Washington college grant for any academic period in which he or she is enrolled on a part-time basis.

(11) The Washington college grant is intended to be used to meet the costs of postsecondary education for students with financial need. The student shall be

awarded all need-based financial aid for which the student qualifies as determined by the institution.

(12) Students and participating institutions of higher education shall comply with all the rules adopted by the council for the administration of this chapter.

Sec. 2. RCW 28B.92.225 and 2022 c 214 s 6 are each amended to read as follows:

(1) The office shall enter into a data-sharing agreement with the department of social and health services to facilitate the sharing of individual-level data. ((~~The~~)) To the extent allowable under state and federal law, the department of social and health services shall send the office a list of all individuals receiving benefits under the public assistance programs listed under RCW 28B.92.200(5) on at least an annual basis. The office shall use the list to confirm students' eligibility for the Washington college grant program, without requiring the student to fill out a separate financial aid form. The office may also use the information to conduct outreach promoting the Washington college grant.

(2) For high school students ((~~in 10th, 11th, and 12th grades whose families are receiving benefits under one of the public assistance programs listed under RCW 28B.92.200(5)~~)) identified in RCW 28B.92.200(5)(a) (iii) or (iv), the office shall issue a certificate to the student that validates the student's financial need eligibility for the Washington college grant program. The certificate is good for one year after high school graduation and may be used upon enrollment in an eligible institution of higher education, provided the student meets the other Washington college grant eligibility requirements. The office shall track and maintain records of students who were issued certificates under this section in order to confirm a student's financial need eligibility with an institution of higher education. A student does not need to produce the certificate to receive the Washington college grant.

(3) The office shall notify students whose eligibility for the Washington college grant is established under RCW 28B.92.200(5)(a)(iv) about the importance of submitting a free application for federal student aid or a Washington application for state financial aid after their first quarter or semester, and each year thereafter.

(4) By December 1, 2026, and each year thereafter, the office shall submit a report to the appropriate committees of the legislature pursuant to RCW 43.01.036 detailing Washington college grant participation by students whose eligibility for the grant is established under RCW 28B.92.200(5)(a)(iv).

Sec. 3. RCW 28B.92.230 and 2022 c 214 s 7 are each amended to read as follows:

The office shall collaborate with the department of social and health services to ((~~facilitate~~)):

(1) Facilitate individual-level outreach to individuals receiving benefits under the public assistance programs listed under RCW 28B.92.200(5), temporary assistance for needy families under chapter 74.08 RCW, the state family assistance program provided for in rule, and the basic food program to inform these individuals of their eligibility for the Washington college grant program; and

(2) Notify individuals whose financial need for purposes of Washington college grant eligibility has been demonstrated under RCW 28B.92.200(5)(a)(iv)

that they may establish eligibility for additional state and federal aid by submitting a free application for federal student aid or a Washington application for state financial aid.

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, 2024, in the omnibus appropriations act, this act is null and void.

Passed by the House February 9, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 117

[Substitute House Bill 2217]

JUVENILE COURT—JURISDICTION

AN ACT Relating to authority over individuals found guilty of or accused of criminal offenses that occurred when the individual was under age 18; amending RCW 13.40.300, 13.40.110, 13.04.030, and 13.40.020; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 13.40.300 and 2019 c 322 s 3 are each amended to read as follows:

(1) Except as provided in (a) through (c) of this 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 rehabilitation facility beyond the juvenile offender's ((~~twenty-first~~)) 21st birthday.

((~~(2)~~)) (a) A juvenile offender 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~~)) 12 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 rehabilitation facility up to the juvenile offender's ((~~twenty-fifth~~)) 25th 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)~~)) (b) A juvenile offender adjudicated of a murder in the first or second degree offense committed at age 14 or older or a juvenile offender adjudicated of a rape in the first degree offense committed at age 15 or older may be committed by the juvenile court to the department for placement in a juvenile rehabilitation facility up to the juvenile offender's 23rd birthday, but not beyond.

(c) A juvenile offender who is 18 or older at the time of the adjudication may be committed by the juvenile court to the department for placement in a juvenile rehabilitation facility up to the juvenile offender's 23rd birthday, but not beyond, in order to serve a standard range disposition.

(2)(a) The juvenile court has jurisdiction over, and may place an individual under the authority of the department in the following circumstances:

(i) Except as provided under RCW 13.04.030 and 13.40.110, when the individual is under the age of 21 at the time of the filing of the information and is accused of committing a criminal offense that occurred when the individual was under the age of 18; or

(ii) If proceedings are pending in a case in which jurisdiction is vested in the adult criminal court pursuant to RCW 13.04.030 and an automatic extension is required because either:

(A) The individual is found not guilty of the charge for which he or she was transferred, or is convicted in the adult criminal court of an offense that is not also an offense listed in RCW 13.04.030(1)(e)(v), and the matter is transferred to juvenile court pursuant to RCW 13.04.030(1)(e)(v)(C)(II); or

(B) The parties agree to juvenile court jurisdiction with the court's approval pursuant to RCW 13.04.030(1)(e)(v)(C)(III).

(b) Upon a finding of guilt in juvenile court, the juvenile court maintains jurisdiction to allow for imposition, execution, and enforcement of the court's order of disposition, subject to the limitations in this section.

(3) If an order of disposition imposes a commitment to the department for a juvenile offender ((~~adjudicated~~)):

(a) Adjudicated of an A++ juvenile disposition category offense listed in RCW 13.40.0357, adjudicated of a murder in the first or second degree offense committed at age 14 or older, or found to be armed with a firearm and sentenced to an additional ((~~twelve~~)) 12 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~~)) 24 months of parole, in no case extending beyond the offender's ((~~twenty-fifth~~)) 25th birthday; or

(b) Adjudicated of a rape in the first degree offense committed at age 15 or older, then jurisdiction for parole is automatically extended to include a period

of no less than 24 months and no more than 36 months of parole, in no case extending beyond the offender's 25th 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 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)~~)) (4) 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~~)) 21st birthday for the purpose of enforcing an order of restitution or penalty assessment.

(((~~(4)~~))) (5) 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~~)) 21st birthday.

(((~~(5)~~))) (6) 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~~)) 18 years of age or older.

Sec. 2. RCW 13.40.110 and 2019 c 322 s 10 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~~)) was, at the time of ((~~proceedings~~)) the alleged offense, at least ((~~fifteen~~)) 15 years of age or older and is charged with a serious violent offense as defined in RCW 9.94A.030;

(b) The respondent ((~~is~~)) was, at the time of ((~~proceedings~~)) the alleged offense, ((~~fourteen~~)) 14 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~~)) 21.

(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~~)) 21.

(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.

Sec. 3. RCW 13.04.030 and 2022 c 243 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~~)) 16 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~~)) 16 or ((~~seventeen~~)) 17 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~~)) 13th 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 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~~)) 25 if the juvenile has turned ((~~eighteen~~)) 18 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)~~))) (2)(a)(ii).

(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 divertee has attained ((~~eighteen~~)) 18 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; and

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042.

(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 or probate court over minor guardianship proceedings under chapter 11.130 RCW and parenting plans or residential schedules under chapter 26.09, 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. 4. RCW 13.40.020 and 2023 c 449 s 15 are each amended to read as follows:

For the purposes of this chapter:

(1) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse, or co-occurring mental health and

substance abuse disorders, and recommendations for treatment. "Assessment" includes, but is not limited to, drug and alcohol evaluations, psychological and psychiatric evaluations, records review, clinical interview, and administration of a formal test or instrument;

(2) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services including, when appropriate, restorative justice programs; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(3) "Community-based sanctions" may include community restitution not to exceed 150 hours of community restitution;

(4) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(5) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(e) Residential treatment, where substance abuse, mental health, and/or co-occurring disorders have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, co-occurring disorder specialist, or substance use disorder professional and a funded bed is available. If a child agrees to voluntary placement in a state-funded long-term evaluation and treatment facility, the case must follow the existing placement procedure including consideration of less restrictive treatment options and medical necessity.

(i) A court may order residential treatment after consideration and findings regarding whether:

(A) The referral is necessary to rehabilitate the child;

(B) The referral is necessary to protect the public or the child;

(C) The referral is in the child's best interest;

(D) The child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and

(E) Inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than 60 days after the youth begins inpatient treatment, and every 30 days thereafter, as long as the youth is in inpatient treatment;

(6) "Community transition services" means a therapeutic and supportive community-based custody option in which:

(a) A person serves a portion of their term of confinement residing in the community, outside of department institutions and community facilities;

(b) The department supervises the person in part through the use of technology that is capable of determining or identifying the monitored person's presence or absence at a particular location;

(c) The department provides access to developmentally appropriate, trauma-informed, racial equity-based, and culturally relevant programs to promote successful reentry; and

(d) The department prioritizes the delivery of available programming from individuals who share characteristics with the individual being served related to: Race, ethnicity, sexual identity, and gender identity;

(7) "Confinement" means physical custody by the department of children, youth, and families in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than 31 days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(8) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(9) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(10) "Custodial interrogation" means express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody;

(11) "Department" means the department of children, youth, and families;

(12) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or

an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(13) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(14) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(15) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(16) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(17) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of 18 years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(18) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person 18 years of age or older over whom ((~~jurisdiction has been extended~~)) the juvenile court has jurisdiction under RCW 13.40.300;

(19) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(20) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; or (c) 0-150 hours of community restitution;

(21) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(22) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-

ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(23) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(24) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(25) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(26) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

(27) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(28) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(29) "Restorative justice" means practices, policies, and programs informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members;

(30) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

(31) "Risk assessment tool" means the statistically valid tool used by the department to inform release or placement decisions related to security level, release within the sentencing range, community facility eligibility, community transition services eligibility, and parole. The "risk assessment tool" is used by the department to predict the likelihood of successful reentry and future criminal behavior;

(32) "Screening" means a process that is designed to identify a child who is at risk of having mental health, substance abuse, or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment. A screening may be undertaken with or without the administration of a formal instrument;

(33) "Secretary" means the secretary of the department;

(34) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(35) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(36) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of the respondent's sexual gratification;

(37) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

(38) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

(39) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

(40) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

(41) "Youth court" means a diversion unit under the supervision of the juvenile court.

NEW SECTION. **Sec. 5.** (1) The amendments in RCW 13.40.300 (1)(c) in this act apply to all charges that are filed on or after the effective date of this section regardless of whether the charges are based on conduct that occurred before or after the effective date of this section.

(2) The amendments in RCW 13.40.300(2) and 13.40.110 in this act apply to all cases in which charges are pending on the effective date of this section and to all cases in which charges are filed on or after the effective date of this section, regardless of whether the charges are based on conduct that occurred before or after the effective date of this section.

Passed by the House February 9, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 118

[Engrossed Substitute House Bill 2303]
CONDITIONS OF COMMUNITY CUSTODY—MODIFICATION

AN ACT Relating to modification of conditions of community custody; amending RCW 9.94A.704, 9.94A.703, 9.94A.709, 9.94A.730, 9.95.420, 9.95.435, and 10.73.100; reenacting and amending RCW 10.95.030; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.94A.704 and 2022 c 29 s 9 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~~)) as provided for in this section, 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; and

(d) Disclose the fact of supervision to any mental health, 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~~)) Within 10 business days of 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~~)) if the reviewing officer finds that it is ((~~not~~)) reasonably related to ((~~the~~)) at least one of the following: 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 crime of conviction, risk of reoffense, or 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 or modify conditions in addition to court-ordered conditions. The board may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court-imposed 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. Regardless of the offender's date of sentencing, additional conditions imposed or modified by the board may be based upon the offender's crime of conviction, risk of reoffense, or risk to community safety. The additional conditions of community custody need not be crime-related if the conditions reasonably relate to either the risk of reoffense or risk to community safety.

(c) ((~~By the close of the next business day, after~~)) Within 10 business days of 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~~)) if the hearing examiner finds that it is ((~~not~~)) reasonably related to ((~~any~~)) at least one of the following:

(i) The crime of conviction;

(ii) The offender's risk of reoffending;

(iii) The safety of the community; or

(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.

(e) The board shall notify the offender in writing of any additional or modified conditions.

(11) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

Sec. 2. RCW 9.94A.703 and 2022 c 29 s 8 are each amended to read as follows:

When a court sentences a person to a term of community custody, the court shall impose conditions of community custody as provided in this section.

(1) **Mandatory conditions.** As part of any term of community custody, the court shall:

(a) Require the offender to inform the department of court-ordered treatment upon request by the department;

(b) Require the offender to comply with any conditions imposed by the department under RCW 9.94A.704;

(c) If the offender was sentenced under RCW 9.94A.507 for an offense listed in RCW 9.94A.507(1)(a), and the victim of the offense was under 18 years of age at the time of the offense, prohibit the offender from residing in a community protection zone;

(d) If the offender was sentenced under RCW 9A.36.120, prohibit the offender from serving in any paid or volunteer capacity where he or she has control or supervision of minors under the age of 13.

(2) **Waivable conditions.** Unless waived by the court, as part of any term of community custody, the court shall order an offender to:

(a) Report to and be available for contact with the assigned community corrections officer as directed;

(b) Work at department-approved education, employment, or community restitution, or any combination thereof;

(c) Refrain from possessing or consuming controlled substances except pursuant to lawfully issued prescriptions; and

(d) Obtain prior approval of the department for the offender's residence location and living arrangements.

(3) **Discretionary conditions.** As part of any term of community custody, the court may order an offender to:

(a) Remain within, or outside of, a specified geographical boundary;

(b) Refrain from direct or indirect contact with the victim of the crime or a specified class of individuals;

(c) Participate in crime-related treatment or counseling services;

(d) Participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community;

(e) Refrain from possessing or consuming alcohol; or

(f) Comply with any crime-related prohibitions.

(4) **Special conditions.**

(a) In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may order the offender to participate in a domestic violence perpetrator program approved under RCW 43.20A.735.

(b)(i) In sentencing an offender convicted of an alcohol or drug-related traffic offense, the court shall require the offender to complete a diagnostic evaluation by a substance use disorder treatment program approved by the department of social and health services or a qualified probation department, defined under RCW 46.61.516, that has been approved by the department of social and health services. If the offense was pursuant to chapter 46.61 RCW, the report shall be forwarded to the department of licensing. If the offender is found to have an alcohol or drug problem that requires treatment, the offender shall complete treatment in an approved substance use disorder treatment program as defined in chapter 71.24 RCW. If the offender is found not to have an alcohol or drug problem that requires treatment, the offender shall complete a course in an alcohol and drug information school licensed or certified by the department of health under chapter 70.96A RCW. The offender shall pay all costs for any evaluation, education, or treatment required by this section, unless the offender is eligible for an existing program offered or approved by the department of social and health services.

(ii) For purposes of this section, "alcohol or drug-related traffic offense" means the following: Driving while under the influence as defined by RCW 46.61.502, actual physical control while under the influence as defined by RCW 46.61.504, vehicular homicide as defined by RCW 46.61.520(1)(a), vehicular assault as defined by RCW 46.61.522(1)(b), homicide by watercraft as defined by RCW 79A.60.050, or assault by watercraft as defined by RCW 79A.60.060.

(iii) This subsection (4)(b) does not require the department of social and health services to add new treatment or assessment facilities nor affect its use of existing programs and facilities authorized by law.

(5)(a) On the motion of the offender, following the offender's release from total confinement, the court may amend the substantive conditions of community custody imposed by the court.

(b) The offender shall have the burden of proving by a preponderance of the evidence that there has been a substantial change in circumstances such that the condition of community custody is no longer necessary for community safety. In determining whether there has been a substantial change in circumstances, the court may not base its determination solely on the fact that time has passed without a violation.

(c) An offender may file a motion to modify substantive conditions of community custody imposed by the court no more than once in every 12-month period that the order is in effect, starting from the date of the order.

(d) The time limit for collateral attacks established under RCW 10.73.090 does not apply to any motion filed pursuant to this subsection.

(e) A motion under this subsection may not reopen the offender's conviction to challenges that would otherwise be barred by RCW 10.73.090, 10.73.100, 10.73.140, or other procedural barriers.

Sec. 3. RCW 9.94A.709 and 2008 c 231 s 14 are each amended to read as follows:

(1) At any time prior to the completion or termination of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions of community custody for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody.

(2)(a) On the motion of the offender, following the offender's release from total confinement, the court may amend the substantive conditions of community custody imposed by the court.

(b) The offender shall have the burden of proving by a preponderance of the evidence that there has been a substantial change in circumstances such that the condition of community custody is no longer necessary for community safety. In determining whether there has been a substantial change in circumstances, the court may not base its determination solely on the fact that time has passed without a violation.

(c) An offender may file a motion to modify substantive conditions of community custody imposed by the court no more than once in every 12-month period that the order is in effect, starting from the date of the order.

(d) The time limit for collateral attacks established under RCW 10.73.090 does not apply to any motion filed pursuant to this subsection.

(e) A motion under this subsection may not reopen the offender's conviction to challenges that would otherwise be barred by RCW 10.73.090, 10.73.100, 10.73.140, or other procedural barriers.

(3) If a violation of a condition extended under this section occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.631 and may be punishable as contempt of court as provided for in RCW 7.21.040.

((~~(3)~~)) (4) If the court extends a condition beyond the expiration of the term of community custody, the department is not responsible for supervision of the offender's compliance with the condition.

Sec. 4. RCW 9.94A.730 and 2015 c 134 s 6 are each amended to read as follows:

(1) Notwithstanding any other provision of this chapter, any person convicted of one or more crimes committed prior to the person's ((~~eighteenth~~)) 18th birthday may petition the indeterminate sentence review board for early release after serving no less than ((~~twenty~~)) 20 years of total confinement, provided the person has not been convicted for any crime committed subsequent to the person's ((~~eighteenth~~)) 18th birthday, the person has not committed a disqualifying serious infraction as defined by the department in the ((~~twelve~~)) 12 months prior to filing the petition for early release, and the current sentence was not imposed under RCW 10.95.030 or 9.94A.507.

(2) No later than five years prior to the date the offender will be eligible to petition for release, the department shall conduct an assessment of the offender

and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(3) No later than ((~~one hundred eighty~~)) 180 days from receipt of the petition for early release, the department shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the board. The board may consider a person's failure to participate in an evaluation under this subsection in determining whether to release the person. The board shall order the person released under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released. The board shall give public safety considerations the highest priority when making all discretionary decisions regarding the ability for release and conditions of release.

(4) In a hearing conducted under subsection (3) of this section, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be provided by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(5) Any person released by the board pursuant to this section shall comply with conditions imposed or modified pursuant to RCW 9.94A.704(10), in addition to court-imposed conditions.

(6) An offender released by the board is subject to the supervision of the department for a period of time to be determined by the board, up to the length of the court-imposed term of incarceration. The department shall monitor the offender's compliance with conditions of community custody imposed by the court or board and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(((~~(6)~~))) (7) An offender whose petition for release is denied may file a new petition for release five years from the date of denial or at an earlier date as may be set by the board.

(((~~(7)~~))) (8) An offender released under the provisions of this section may be returned to the institution at the discretion of the board if the offender is found to have violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. If the board finds that the offender has committed a new violation, the board may return the offender to the institution for up to the remainder of the court-imposed term of incarceration. The offender may file a new petition for release five years from the date of return to the institution or at an earlier date as may be set by the board.

Sec. 5. RCW 9.95.420 and 2009 c 138 s 3 are each amended to read as follows:

(1)(a) Except as provided in (c) of this subsection, before the expiration of the minimum term, as part of the end of sentence review process under RCW 72.09.340, 72.09.345, and where appropriate, 72.09.370, the department shall conduct, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(b) The board may contract for an additional, independent examination, subject to the standards in this section.

(c) If at the time the sentence is imposed by the superior court the offender's minimum term has expired or will expire within ((~~one hundred twenty~~)) 120 days of the sentencing hearing, the department shall conduct, within ((~~ninety~~)) 90 days of the offender's arrival at a department of corrections facility, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(2) The board shall impose the conditions and instructions provided for in RCW 9.94A.704. The board shall consider the department's recommendations and may impose conditions in addition to those recommended by the department. The board may impose or modify conditions of community custody following notice to the offender. The additional conditions may be based upon the crime of conviction, risk of reoffense, or risk to community safety. The additional conditions of community custody need not be crime-related if the conditions reasonably relate to either the risk of reoffense or risk to community safety.

(3)(a) Except as provided in (b) of this subsection, no later than ninety days before expiration of the minimum term, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term as provided in RCW 9.95.011.

(b) If at the time the offender's minimum term has expired or will expire within ((~~one hundred twenty~~)) 120 days of the offender's arrival at a department of correction's facility, then no later than ((~~one hundred twenty~~)) 120 days after the offender's arrival at a department of corrections facility, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is

more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term as provided in RCW 9.95.011.

(4) In a hearing conducted under subsection (3) of this section, the board shall provide opportunities for the victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim input shall be developed by rule. To facilitate victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record are forwarded as part of the judgment and sentence.

Sec. 6. RCW 9.95.435 and 2014 c 130 s 7 are each amended to read as follows:

(1) If an offender released by the board under RCW 9.95.420, 10.95.030((~~(3)~~)) (2), or 9.94A.730 violates any condition or requirement of community custody, the board may transfer the offender to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation and subject to the limitations of subsection (2) of this section.

(2) Following the hearing specified in subsection (3) of this section, the board may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community, or may suspend the release and sanction up to sixty days' confinement in a local correctional facility for each violation, or revoke the release to community custody whenever an offender released by the board under RCW 9.95.420, 10.95.030((~~(3)~~)) (2), or 9.94A.730 violates any condition or requirement of community custody.

(3) If an offender released by the board under RCW 9.95.420, 10.95.030((~~(3)~~)) (2), or 9.94A.730 is accused of violating any condition or requirement of community custody, he or she is entitled to a hearing before the board or a designee of the board prior to the imposition of sanctions. The hearing shall be considered as offender disciplinary proceedings and shall not be subject to chapter 34.05 RCW. The board shall develop hearing procedures and a structure of graduated sanctions consistent with the hearing procedures and graduated sanctions developed pursuant to RCW 9.94A.737. The board may suspend the offender's release to community custody and confine the offender in a correctional institution owned, operated by, or operated under contract with the state prior to the hearing unless the offender has been arrested and confined for a new criminal offense.

(4) The hearing procedures required under subsection (3) of this section shall be developed by rule and include the following:

(a) Hearings shall be conducted by members or designees of the board unless the board enters into an agreement with the department to use the hearing officers established under RCW 9.94A.737;

(b) The board shall provide the offender with findings and conclusions which include the evidence relied upon, and the reasons the particular sanction was imposed. The board shall notify the offender of the right to appeal the sanction and the right to file a personal restraint petition under court rules after the final decision of the board;

(c) The hearing shall be held unless waived by the offender, and shall be electronically recorded. For offenders not in total confinement, the hearing shall be held within ((~~thirty~~)) 30 days of service of notice of the violation, but not less than ((~~twenty-four~~)) 24 hours after notice of the violation. For offenders in total confinement, the hearing shall be held within ((~~thirty~~)) 30 days of service of notice of the violation, but not less than ((~~twenty-four~~)) 24 hours after notice of the violation. The board or its designee shall make a determination whether probable cause exists to believe the violation or violations occurred. The determination shall be made within ((~~forty-eight~~)) 48 hours of receipt of the allegation;

(d) The offender shall have the right to: (i) Be present at the hearing; (ii) have the assistance of a person qualified to assist the offender in the hearing, appointed by the presiding hearing officer if the offender has a language or communications barrier; (iii) testify or remain silent; (iv) call witnesses and present documentary evidence; (v) question witnesses who appear and testify; and (vi) be represented by counsel if revocation of the release to community custody upon a finding of violation is a probable sanction for the violation. The board may not revoke the release to community custody of any offender who was not represented by counsel at the hearing, unless the offender has waived the right to counsel; and

(e) The sanction shall take effect if affirmed by the presiding hearing officer.

(5) Within seven days after the presiding hearing officer's decision, the offender may appeal the decision to the full board or to a panel of three reviewing examiners designated by the chair of the board or by the chair's designee. The sanction shall be reversed or modified if a majority of the panel finds that the sanction was not reasonably related to ((~~any~~)) at least one of the following: (a) The crime of conviction; (b) the violation committed; (c) the offender's risk of reoffending; or (d) the safety of the community.

(6) For purposes of this section, no finding of a violation of conditions may be based on unconfirmed or unconfirmable allegations.

Sec. 7. RCW 10.95.030 and 2023 c 102 s 23 and 2023 c 102 s 20 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (2) of this section, any person convicted of the crime of aggravated first degree murder shall be sentenced to life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer and the indeterminate sentence review board or its successor may not parole such prisoner nor reduce the period of confinement in any manner whatsoever including but not limited to any sort of good-time calculation. The department of social and health services or its

successor or any executive official may not permit such prisoner to participate in any sort of release or furlough program.

(2)(a)(i) Any person convicted of the crime of aggravated first degree murder for an offense committed prior to the person's ((~~sixteenth~~)) 16th birthday shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of ((~~twenty-five~~)) 25 years.

(ii) Any person convicted of the crime of aggravated first degree murder for an offense committed when the person is at least ((~~sixteen~~)) 16 years old but less than ((~~eighteen~~)) 18 years old shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of no less than ((~~twenty-five~~)) 25 years.

(b) In setting a minimum term, the court must take into account mitigating factors that account for the diminished culpability of youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but not limited to, the age of the individual, the youth's childhood and life experience, the degree of responsibility the youth was capable of exercising, and the youth's chances of becoming rehabilitated.

(c) A person sentenced under this subsection shall serve the sentence in a facility or institution operated, or utilized under contract, by the state. During the minimum term of total confinement, the person shall not be eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave or absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (i) In the case of an offender in need of emergency medical treatment; or (ii) for an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c).

(d) Any person sentenced pursuant to this subsection shall be subject to community custody under the supervision of the department of corrections and the authority of the indeterminate sentence review board. As part of any sentence under this subsection, the court shall require the person to comply with any conditions imposed by the board.

(e) Any person sentenced pursuant to this subsection shall comply with conditions imposed or modified pursuant to RCW 9.94A.704(10), in addition to court-imposed conditions.

(f) No later than five years prior to the expiration of the person's minimum term, the department of corrections shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(((~~(f)~~))) (g) No later than ((~~one hundred eighty~~)) 180 days prior to the expiration of the person's minimum term, the department of corrections shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the board. The board may consider a person's failure to participate in an evaluation under this subsection in determining whether to release the person. The board shall order the person released, under such affirmative and other conditions as

the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released. If the board does not order the person released, the board shall set a new minimum term not to exceed five additional years. The board shall give public safety considerations the highest priority when making all discretionary decisions regarding the ability for release and conditions of release.

(((~~(g)~~))) (h) In a hearing conducted under (((~~(f)~~))) (g) of this subsection, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be provided by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(((~~(h)~~))) (i) An offender released by the board is subject to the supervision of the department of corrections for a period of time to be determined by the board. The department shall monitor the offender's compliance with conditions of community custody imposed by the court or board and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(((~~(i)~~))) (j) An offender released or discharged under this section may be returned to the institution at the discretion of the board if the offender is found to have violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. The board shall set a new minimum term of incarceration not to exceed five years.

Sec. 8. RCW 10.73.100 and 1989 c 395 s 2 are each amended to read as follows:

The time limit specified in RCW 10.73.090 does not apply to a petition or motion that is based solely on one or more of the following grounds:

(1) Newly discovered evidence, if the defendant acted with reasonable diligence in discovering the evidence and filing the petition or motion;

(2) The statute that the defendant was convicted of violating was unconstitutional on its face or as applied to the defendant's conduct;

(3) The conviction was barred by double jeopardy under Amendment V of the United States Constitution or Article I, section 9 of the state Constitution;

(4) The defendant ((~~pled~~)) pleaded not guilty and the evidence introduced at trial was insufficient to support the conviction;

(5) The sentence imposed was in excess of the court's jurisdiction; ((~~or~~))

(6) A motion for a modification of conditions of community custody pursuant to RCW 9.94A.703 and 9.94A.709; or

(7) There has been a significant change in the law, whether substantive or procedural, which is material to the conviction, sentence, or other order entered in a criminal or civil proceeding instituted by the state or local government, and either the legislature has expressly provided that the change in the law is to be applied retroactively, or a court, in interpreting a change in the law that lacks express legislative intent regarding retroactive application, determines that

sufficient reasons exist to require retroactive application of the changed legal standard.

NEW SECTION. **Sec. 9.** This act applies to all offenders sentenced to a term of community custody before, on, or after the effective date of this section.

NEW SECTION. **Sec. 10.** 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. 11.** 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.

Passed by the House February 13, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 119

[House Bill 2375]

SENIOR CITIZENS PROPERTY TAX EXEMPTION—ACCESSORY DWELLING UNITS

AN ACT Relating to including an accessory dwelling unit under property that qualifies for the senior citizens property tax exemption; amending RCW 84.36.383; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.36.383 and 2023 c 147 s 2 are each amended to read as follows:

As used in RCW 84.36.381 through 84.36.389, unless the context clearly requires otherwise:

(1) "Accessory dwelling unit" means a separate, autonomous residential dwelling unit that provides complete independent living facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

(2) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse or domestic partner, and the disposable income of each cotenant occupying the residence for the assessment year, less amounts paid by the person claiming the exemption or his or her spouse or domestic partner during the assessment year for:

(a) Drugs supplied by prescription of a medical practitioner authorized by the laws of this state or another jurisdiction to issue prescriptions;

(b) The treatment or care of either person received in the home or in a nursing home, assisted living facility, or adult family home;

(c) Health care insurance premiums for medicare under Title XVIII of the social security act;

(d) Costs related to medicare supplemental policies as defined in Title 42 U.S.C. Sec. 1395ss;

(e) Durable medical equipment, mobility enhancing equipment, medically prescribed oxygen, and prosthetic devices as defined in RCW 82.08.0283;

(f) Long-term care insurance as defined in RCW 48.84.020;

(g) Cost-sharing amounts as defined in RCW 48.43.005;

(h) Nebulizers as defined in RCW 82.08.803;

(i) Medicines of mineral, animal, and botanical origin prescribed, administered, dispensed, or used in the treatment of an individual by a person licensed under chapter 18.36A RCW;

(j) Ostomic items as defined in RCW 82.08.804;

(k) Insulin for human use;

(l) Kidney dialysis devices; and

(m) Disposable devices used to deliver drugs for human use as defined in RCW 82.08.935.

(((~~(2)~~))) (3) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence.

(((~~(3)~~))) (4) "County median household income" means the median household income estimates for the state of Washington by county of the legal address of the principal place of residence, as published by the office of financial management.

(((~~(4)~~))) (5) "Department" means the state department of revenue.

(((~~(5)~~))) (6) "Disability" has the same meaning as provided in 42 U.S.C. Sec. 423(d)(1)(A) as amended prior to January 1, 2005, or such subsequent date as the department may provide by rule consistent with the purpose of this section.

(((~~(6)~~))) (7) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

(a) Capital gains, other than gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;

(b) Amounts deducted for loss;

(c) Amounts deducted for depreciation;

(d) Pension and annuity receipts;

(e) Military pay and benefits other than attendant-care and medical-aid payments;

(f) Veterans benefits, other than:

(i) Attendant-care payments;

(ii) Medical-aid payments;

(iii) Disability compensation, as defined in Title 38, part 3, section 3.4 of the Code of Federal Regulations, as of January 1, 2008; and

(iv) Dependency and indemnity compensation, as defined in Title 38, part 3, section 3.5 of the Code of Federal Regulations, as of January 1, 2008;

(g) Federal social security act and railroad retirement benefits;

(h) Dividend receipts; and

(i) Interest received on state and municipal bonds.

(((~~(7)~~))) (8) "Income threshold 1" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to $30,000;

(b) For taxes levied for collection in calendar years 2020 through 2023, a combined disposable income equal to the greater of "income threshold 1" for the previous year or 45 percent of the county median household income; and

(c) For taxes levied for collection in calendar year 2024 and thereafter, a combined disposable income equal to the greater of "income threshold 1" for the previous year or 50 percent of the county median household income, adjusted every three years beginning August 1, 2023, as provided in RCW 84.36.385(8).

((~~(8)~~)) (9) "Income threshold 2" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to $35,000;

(b) For taxes levied for collection in calendar years 2020 through 2023, a combined disposable income equal to the greater of "income threshold 2" for the previous year or 55 percent of the county median household income; and

(c) For taxes levied for collection in calendar year 2024 and thereafter, a combined disposable income equal to the greater of "income threshold 2" for the previous year or 60 percent of the county median household income, adjusted every three years beginning August 1, 2023, as provided in RCW 84.36.385(8).

((~~(9)~~)) (10) "Income threshold 3" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to $40,000;

(b) For taxes levied for collection in calendar years 2020 through 2023, a combined disposable income equal to the greater of "income threshold 3" for the previous year or 65 percent of the county median household income; and

(c) For taxes levied for collection in calendar year 2024 and thereafter, a combined disposable income equal to the greater of "income threshold 3" for the previous year or 70 percent of the county median household income, adjusted every three years beginning August 1, 2023, as provided in RCW 84.36.385(8).

((~~(10)~~)) (11) "Principal place of residence" means a residence occupied for more than six months each calendar year by a person claiming an exemption under RCW 84.36.381.

((~~(11)~~)) (12) The term "real property" also includes a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities. A mobile home located on land leased by the owner of the mobile home is subject, for tax billing, payment, and collection purposes, only to the personal property provisions of chapter 84.56 RCW and RCW 84.60.040.

((~~(12)~~)) (13) The term "residence" means a single-family dwelling unit whether such unit be separate or part of a multiunit dwelling, ((~~including~~)) may include one accessory dwelling unit and includes the land on which such dwellings stand((~~s~~)) not to exceed one acre, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations. The term also includes a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term also includes a single-family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a residence is deemed real property.

NEW SECTION. **Sec. 2.** This act applies to taxes levied for collection in 2025 and thereafter.

NEW SECTION. **Sec. 3.** The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

Passed by the House February 13, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 120

[Substitute House Bill 2467]

LONG-TERM SERVICES AND SUPPORTS TRUST PROGRAM—OUT-OF-STATE PARTICIPATION AND DISCRIMINATION

AN ACT Relating to increasing access to the long-term services and supports trust program by allowing participants who move out-of-state the option of maintaining benefit eligibility or opting out, and by prohibiting discrimination including based upon race, gender, age, or preexisting condition; amending RCW 50B.04.010, 50B.04.020, 50B.04.060, 50B.04.070, and 50B.04.100; reenacting and amending RCW 50B.04.050; adding new sections to chapter 50B.04 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The purpose of this act is to preserve and strengthen Washington's long-term care program by giving participants who move out-of-state the option of maintaining benefit eligibility or opting out, and prohibiting discrimination based upon race, gender, age, or preexisting condition.

Extending coverage to Washington workers when they move out-of-state will protect employees' investments in the state's long-term care program, ensuring that eligible beneficiaries can receive long-term care benefits when they need them, even if they move out-of-state, while preserving the right for out-of-state participants to opt out. The extension of the program will increase the state's investment in long-term care services. The prohibition in this act against discrimination will ensure that the program is implemented uniformly and that all program participants are equally protected from discrimination regardless of the laws in their home state.

NEW SECTION. **Sec. 2.** A new section is added to chapter 50B.04 RCW to read as follows:

(1) Beginning July 1, 2026, an employee or self-employed person, who has elected coverage under RCW 50B.04.090, who relocates outside of Washington may elect to continue participation in the program if:

(a) The employee or self-employed person has been assessed premiums by the employment security department for at least three years in which the employee or self-employed person has worked at least 500 hours in each of those years in Washington; and

(b) The employee or self-employed person notifies the employment security department within one year of establishing a primary residence outside of Washington that the employee or self-employed person is no longer a resident of Washington and elects to continue participation in the program.

(2) Out-of-state participants under subsection (1) of this section must report their wages or self-employment earnings to the employment security department according to standards for manner and timing of reporting and documentation submission, as adopted by rule by the employment security department. An out-of-state participant must submit documentation to the employment security department whether or not the out-of-state participant earned wages or self-employment earnings, as applicable, during the applicable reporting period. When an out-of-state participant reaches the age of 67, the participant is no longer required to provide the documentation of their wages or self-employment earnings, but if the participant earns wages or self-employment earnings, the participant must submit reports of those wages or self-employment earnings and remit the required premiums.

(3) Out-of-state participants under subsection (1) of this section must provide documentation of wages and self-employment earnings earned at the time that they report their wages or self-employment earnings to the employment security department.

(4) The employment security department may cancel elective coverage if the out-of-state participant fails to make required payments or submit reports. The employment security department may collect due and unpaid premiums and may levy an additional premium for the remainder of the period of coverage. The cancellation must be effective no later than 30 days from the date of the notice in writing advising the out-of-state participant of the cancellation.

(5) The employment security department shall:

(a) Adopt standards by rule for the manner and timing of reporting and documentation submission for out-of-state participants. The employment security department must consider user experience with the wage and self-employment earnings reporting process and the document submission process and regularly update the standards to minimize the procedural burden on out-of-state participants and support the accurate reporting of wages and self-employment earnings at the time of the payment of premiums;

(b) Collect premiums from out-of-state participants as provided in RCW 50B.04.080 and 50B.04.090, as relevant to out-of-state participants; and

(c) Verify the wages or self-employment earnings as reported by an out-of-state participant.

(6) For the purposes of this section, "wages" includes remuneration for services performed within or without or both within and without this state.

(7) Entities providing services to an eligible beneficiary outside Washington are subject to section 9 of this act and may not discriminate based upon race, gender, age, or preexisting condition.

(8) An employee or self-employed person who has elected coverage under RCW 50B.04.090 who relocates outside of Washington may elect to opt out of coverage by no longer reporting wages to the department, rather than become an out-of-state participant in the program.

(9) By extending the premium base to out-of-state participants under subsection (1) of this section, this act will increase the state's investment in long-term care services.

Sec. 3. RCW 50B.04.010 and 2021 c 113 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) "Account" means the long-term services and supports trust account created in RCW 50B.04.100.

(2) "Approved service" means long-term services and supports including, but not limited to:

(a) Adult day services;

(b) Care transition coordination;

(c) Memory care;

(d) Adaptive equipment and technology;

(e) Environmental modification;

(f) Personal emergency response system;

(g) Home safety evaluation;

(h) Respite for family caregivers;

(i) Home delivered meals;

(j) Transportation;

(k) Dementia supports;

(l) Education and consultation;

(m) Eligible relative care;

(n) Professional services;

(o) Services that assist paid and unpaid family members caring for eligible individuals, including training for individuals providing care who are not otherwise employed as long-term care workers under RCW 74.39A.074;

(p) In-home personal care;

(q) Assisted living services;

(r) Adult family home services; and

(s) Nursing home services.

(3) "Benefit unit" means up to ((~~one hundred dollars~~)) $100 paid by the department of social and health services to a long-term services and supports provider as reimbursement for approved services provided to an eligible beneficiary on a specific date. The benefit unit must be adjusted annually at a rate no greater than the Washington state consumer price index, as determined solely by the council. Any changes adopted by the council shall be subject to revision by the legislature.

(4) "Commission" means the long-term services and supports trust commission established in RCW 50B.04.030.

(5) "Council" means the long-term services and supports trust council established in RCW 50B.04.040.

(6) "Eligible beneficiary" means a qualified individual who is age ((~~eighteen~~)) 18 or older, ((~~residing in the state of Washington,~~)) has been determined to meet the minimum level of assistance with activities of daily living necessary to receive benefits through the trust program, as established in this chapter, and has not exhausted the lifetime limit of benefit units.

(7) "Employee" has the meaning provided in RCW 50A.05.010.

(8) "Employer" has the meaning provided in RCW 50A.05.010.

(9) "Employment" has the meaning provided in RCW 50A.05.010.

(10) "Exempt employee" means a person who has been granted a premium assessment exemption by the employment security department.

(11) "Long-term services and supports provider" means:

(a) For entities providing services to an eligible beneficiary in Washington, an entity that meets the qualifications applicable in law to the approved service they provide, including a qualified or certified home care aide, licensed assisted living facility, licensed adult family home, licensed nursing home, licensed in-home services agency, adult day services program, vendor, instructor, qualified family member, or other entities as registered by the department of social and health services; and

(b) For entities providing services to an eligible beneficiary outside Washington, an entity that meets minimum standards for care provision and program administration, as established by the department of social and health services, and that is appropriately credentialed in the jurisdiction in which the services are being provided as established by the department of social and health services.

(12) "Premium" or "premiums" means the payments required by RCW 50B.04.080 and paid to the employment security department for deposit in the account created in RCW 50B.04.100.

(13) "Program" means the long-term services and supports trust program established in this chapter.

(14) "Qualified family member" means a relative of an eligible beneficiary qualified to meet requirements established in state law for the approved service they provide that would be required of any other long-term services and supports provider to receive payments from the state.

(15) "Qualified individual" means an individual who meets the duration of payment requirements, as established in this chapter.

(16) "State actuary" means the office of the state actuary created in RCW 44.44.010.

(17) "Wage or wages" means all remuneration paid by an employer to an employee. Remuneration has the meaning provided in RCW 50A.05.010. All wages are subject to a premium assessment and not limited by the commissioner of the employment security department, as provided under RCW 50A.10.030(4).

Sec. 4. RCW 50B.04.020 and 2022 c 1 s 1 are each amended to read as follows:

(1) The health care authority, the department of social and health services, the office of the state actuary, and the employment security department each have distinct responsibilities in the implementation and administration of the program. In the performance of their activities, they shall actively collaborate to realize program efficiencies and provide persons served by the program with a well-coordinated experience.

(2) The health care authority shall:

(a) Track the use of lifetime benefit units to verify the individual's status as an eligible beneficiary as determined by the department of social and health services;

(b) Ensure approved services are provided through audits or service verification processes within the service provider payment system for registered long-term services and supports providers and recoup any inappropriate payments;

(c) Establish criteria for the payment of benefits to registered long-term services and supports providers under RCW 50B.04.070;

(d) Establish rules and procedures for benefit coordination when the eligible beneficiary is also funded for medicaid and other long-term services and supports, including medicare, coverage through the department of labor and industries, and private long-term care coverage; and

(e) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(3) The department of social and health services shall:

(a) Make determinations regarding an individual's status as an eligible beneficiary under RCW 50B.04.060;

(b) Approve long-term services and supports eligible for payment as approved services under the program, as informed by the commission;

(c) Register long-term services and supports providers that meet minimum qualifications;

(d) Discontinue the registration of long-term services and supports providers that: (i) Fail to meet the minimum qualifications applicable in law to the approved service that they provide; or (ii) violate the operational standards of the program;

(e) Disburse payments of benefits to registered long-term services and supports providers, utilizing and leveraging existing payment systems for the provision of approved services to eligible beneficiaries under RCW 50B.04.070;

(f) Prepare and distribute written or electronic materials to qualified individuals, eligible beneficiaries, and the public as deemed necessary by the commission to inform them of program design and updates;

(g) Provide customer service and address questions and complaints, including referring individuals to other appropriate agencies;

(h) Provide administrative and operational support to the commission;

(i) Track data useful in monitoring and informing the program, as identified by the commission; ((~~and~~))

(j) Develop criteria to deem a family member as qualified when providing approved services outside of Washington; and

(k) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(4) The employment security department shall:

(a) Collect and assess employee premiums as provided in RCW 50B.04.080 and 50B.04.090 and section 2 of this act;

(b) Assist the commission, council, and state actuary in monitoring the solvency and financial status of the program;

(c) Perform investigations to determine the compliance of premium payments in RCW 50B.04.080 and 50B.04.090 and section 2 of this act in coordination with the same activities conducted under the family and medical leave act, Title 50A RCW, to the extent possible;

(d) Make determinations regarding an individual's status as a qualified individual under RCW 50B.04.050, including criteria to determine the status of persons receiving partial benefit units under RCW 50B.04.050(2) and out-of-state participants under section 2 of this act; and

(e) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(5) The office of the state actuary shall:

(a) Beginning July 1, 2025, and biennially thereafter, perform an actuarial audit and valuation of the long-term services and supports trust fund. Additional or more frequent actuarial audits and valuations may be performed at the request of the council;

(b) Make recommendations to the council and the legislature on actions necessary to maintain trust solvency. The recommendations must include options to redesign or reduce benefit units, approved services, or both, to prevent or eliminate any unfunded actuarially accrued liability in the trust or to maintain solvency; and

(c) Select and contract for such actuarial, research, technical, and other consultants as the actuary deems necessary to perform its duties under chapter 363, Laws of 2019.

(6) By October 1, 2021, the employment security department and the department of social and health services shall jointly conduct outreach to provide employers with educational materials to ensure employees are aware of the program and that the premium assessments will begin on July 1, 2023. In conducting the outreach, the employment security department and the department of social and health services shall provide on a public website information that explains the program and premium assessment in an easy to understand format. Outreach information must be available in English and other primary languages as defined in RCW 74.04.025.

Sec. 5. RCW 50B.04.050 and 2022 c 2 s 3 and 2022 c 1 s 3 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (2) of this section, the employment security department shall deem a person to be a qualified individual as provided in this chapter if the person has paid the long-term services and supports premiums required by RCW 50B.04.080 for the equivalent of either:

(a) A total of ten years without interruption of five or more consecutive years; or

(b) Three years within the last six years from the date of application for benefits.

(2) A person born before January 1, 1968, who has not met the duration requirements under subsection (1)(a) of this section may become a qualified individual with fewer than the number of years identified in subsection (1)(a) of this section if the person has paid the long-term services and supports premiums required by RCW 50B.04.080 for at least one year. A person becoming a qualified individual pursuant to this subsection (2) may receive one-tenth of the maximum number of benefit units available under RCW 50B.04.060(3)(b) for each year of premium payments. In accordance with RCW 50B.04.060, benefits for eligible beneficiaries in Washington will not be available until July 1, 2026, and benefits for out-of-state participants who become eligible beneficiaries will not be available until July 1, 2030, and nothing in this section requires the department of social and health services to accept applications for determining an individual's status as an eligible beneficiary prior to July 1, 2026. Nothing in this subsection (2) prohibits a person born before January 1, 1968, who meets the conditions of subsection (1)(b) of this section from receiving the maximum number of benefit units available under RCW 50B.04.060(3)(b).

(3) When deeming a person to be a qualified individual, the employment security department shall require that the person have worked at least ((~~five~~

~~hundred~~)) 500 hours during each of the ten years in subsection (1)(a) of this section, each of the three years in subsection (1)(b) of this section, or each of the years identified in subsection (2) of this section.

(4) An exempt employee may never be deemed to be a qualified individual, unless the employee's exemption was discontinued under RCW 50B.04.055.

Sec. 6. RCW 50B.04.060 and 2022 c 1 s 4 are each amended to read as follows:

(1) Beginning July 1, 2026, approved services must be available and benefits payable to a registered long-term services and supports provider on behalf of an eligible beneficiary under this section.

(2) ((~~Beginning~~)) (a)(i) Except for qualified individuals residing outside of Washington as provided in (a)(ii) of this subsection, beginning July 1, 2026, a qualified individual may become an eligible beneficiary by filing an application with the department of social and health services and undergoing an eligibility determination which includes an evaluation that the individual requires assistance with at least three activities of daily living.

(ii) For a qualified individual residing outside of Washington, beginning January 1, 2030, the out-of-state qualified individual may become an eligible beneficiary by filing an application with the department of social and health services and undergoing an eligibility determination. The eligibility determination must include an evaluation that the individual either (A) is unable to perform, without substantial assistance from another individual, at least two of the following activities of daily living for a period of at least 90 days due to a loss of functional capacity: Eating, toileting, transferring, bathing, dressing, or continence, or (B) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairments.

(b) The department of social and health services must engage sufficient qualified assessor capacity, including via contract, so that the determination may be made within 45 days from receipt of a request by a beneficiary to use a benefit.

(3)(a) An eligible beneficiary may receive approved services and benefits through the program in the form of a benefit unit payable to a registered long-term services and supports provider.

(b) Except as limited in RCW 50B.04.050(2), an eligible beneficiary may not receive more than the dollar equivalent of 365 benefit units over the course of the eligible beneficiary's lifetime.

(i) If the department of social and health services reimburses a long-term services and supports provider for approved services provided to an eligible beneficiary and the payment is less than the benefit unit, only the portion of the benefit unit that is used shall be taken into consideration when calculating the person's remaining lifetime limit on receipt of benefits.

(ii) Eligible beneficiaries may combine benefit units to receive more approved services per day as long as the total number of lifetime benefit units has not been exceeded.

Sec. 7. RCW 50B.04.070 and 2019 c 363 s 8 are each amended to read as follows:

(1) Benefits provided under this chapter shall be paid periodically and promptly to ((~~registered~~)) long-term services and supports providers((~~.~~

~~(2)~~))) who provide approved services to:

(a) Eligible beneficiaries in Washington if the long-term services and supports provider is registered with the department of social and health services; and

(b) Eligible beneficiaries outside Washington if the long-term services and supports providers meet minimum standards established by the department.

(2) Qualified family members may be paid for approved personal care services in the same way as individual providers, through a licensed home care agency, or through a third option if recommended by the commission and adopted by the department of social and health services.

Sec. 8. RCW 50B.04.100 and 2019 c 363 s 11 are each amended to read as follows:

(1) The long-term services and supports trust account is created in the custody of the state treasurer. All receipts from employers under RCW 50B.04.080 and from out-of-state participants under section 2 of this act must be deposited in the account. Expenditures from the account may be used for the administrative activities of the department of social and health services, the health care authority, and the employment security department. Benefits associated with the program must be disbursed from the account by the department of social and health services. Only the secretary of the department of social and health services or the secretary's designee may authorize disbursements from the account. The account is subject to the allotment procedures under chapter 43.88 RCW. An appropriation is required for administrative expenses, but not for benefit payments. The account must provide reimbursement of any amounts from other sources that may have been used for the initial establishment of the program.

(2) The revenue generated pursuant to this chapter shall be utilized to expand long-term care in the state. These funds may not be used either in whole or in part to supplant existing state or county funds for programs that meet the definition of approved services.

(3) The moneys deposited in the account must remain in the account until expended in accordance with the requirements of this chapter. If moneys are appropriated for any purpose other than supporting the long-term services and supports program, the legislature shall notify each qualified individual by mail that the person's premiums have been appropriated for an alternate use, describe the alternate use, and state its plan for restoring the funds so that premiums are not increased and benefits are not reduced.

NEW SECTION. **Sec. 9.** A new section is added to chapter 50B.04 RCW to read as follows:

(1) In carrying out this chapter, discrimination against any person based upon race, gender, age, or preexisting condition is prohibited.

(2) The department of social and health services shall adopt rules to prohibit discrimination pursuant to this section, which shall govern all state agencies and all persons and entities involved in implementing this chapter, including but not limited to long-term services and supports providers.

(3) The prohibition against discrimination adopted in this section shall equally protect in state participants and out-of-state participants under section 2 of this act.

(4) The prohibition against discrimination will ensure that the program is implemented uniformly and that all program participants are treated fairly and protected from discrimination regardless of the laws in their home state.

(5) The prohibitions provided in this section are additional and supplemental to existing protections against discrimination under federal, state, and local laws, including chapter 49.60 RCW, as may be applicable.

NEW SECTION. **Sec. 10.** 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. 11.** This act takes effect July 1, 2025.

Passed by the House February 12, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 121

[Engrossed Substitute Senate Bill 5271]

HEALTH CARE FACILITIES—REGULATION ENFORCEMENT

AN ACT Relating to protecting patients in facilities regulated by the department of health by establishing uniform enforcement tools; amending RCW 18.46.010, 18.46.050, 18.46.130, 70.42.010, 70.42.130, 70.42.180, 70.127.010, 70.127.170, 70.127.213, 70.230.010, 70.230.070, 71.12.710, 71.12.500, 70.38.025, 70.38.111, 70.38.260, 71.24.037, 70.170.020, 18.64.005, 18.64.011, 18.64.047, 18.64.165, 18.64A.020, 18.64A.060, 69.45.080, 69.43.100, 69.43.140, 69.50.302, 69.50.303, 69.50.304, 69.50.310, 69.50.320, and 69.41.080; reenacting and amending RCW 71.12.455 and 71.24.025; adding a new section to chapter 18.46 RCW; adding new sections to chapter 70.42 RCW; adding new sections to chapter 70.127 RCW; adding a new section to chapter 70.230 RCW; adding a new section to chapter 71.12 RCW; adding a new section to chapter 71.24 RCW; adding new sections to chapter 18.64 RCW; adding a new section to chapter 69.38 RCW; adding a new section to chapter 69.45 RCW; repealing RCW 18.64.200, 18.64.390, and 69.50.305; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.46.010 and 2000 c 93 s 30 are each amended to read as follows:

(1) "Birthing center" or "childbirth center" means any health facility, not part of a hospital or in a hospital, that provides facilities and staff to support a birth service to low-risk maternity clients: PROVIDED, HOWEVER, That this chapter shall not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association, or its successor.

(2) "Department" means the state department of health.

(3) "Immediate jeopardy" means a situation in which the birthing center's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

(4) "Low-risk" means normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal uncomplicated birth as defined by reasonable and generally accepted criteria of maternal and fetal health.

(((~~(4)~~))) (5) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

Sec. 2. RCW 18.46.050 and 1997 c 58 s 823 are each amended to read as follows:

(1) ((~~The department may deny, suspend, or revoke a license in any case in which it finds that there has been failure or refusal to comply with the requirements established under this chapter or the rules adopted under it.~~

~~(2) The department shall 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 or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.~~

~~RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding but shall not apply to actions taken under subsection (2) of this section~~)) In any case in which the department finds that a birthing center has failed or refused to comply with the requirements of this chapter, the standards or rules adopted under this chapter, or other applicable state or federal statutes or rules regulating birthing centers, the department may take one or more of the actions identified in this section, except as otherwise limited in this section.

(a) When the department determines the birthing center 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 any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the birthing center failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the birthing center cannot demonstrate to the department that it has access to sufficient internal expertise. If the department determines that the violations constitute immediate jeopardy, the conditions may be imposed immediately in accordance with subsection (2) of this section.

(b) In accordance with the authority the department has under RCW 43.70.095, the department may assess a civil fine of up to $3,000 per violation on a birthing center licensed under this chapter when the department determines the birthing center 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 any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the birthing center failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(i) Proceeds from these fines may only be used by the department to offset costs associated with licensing and enforcement of birthing centers.

(ii) The department shall adopt in rules under this chapter specific fine amounts in relation to the severity of the noncompliance and at an adequate level to be a deterrent to future noncompliance.

(iii) If a birthing center is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(c) The department may suspend a specific category or categories of services or care or birthing rooms within the birthing center as related to the violation by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop service, the department shall provide a birthing center written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The birthing center shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop service.

(ii) When the department imposes a limited stop service, the birthing center may not provide the services in the category or categories subject to the limited stop service to any new or existing patients, unless otherwise allowed by the department, until the limited stop service is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the birthing center if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(iv) The limited stop service shall be terminated when:

(A) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the birthing center has taken intermediate action to address the immediate jeopardy; and

(B) The birthing center establishes the ability to maintain correction of the violation previously found deficient.

(d) The department may suspend new admissions to the birthing center by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of patients or a specific area of the birthing center.

(i) Prior to imposing a stop placement, the department shall provide a birthing center written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The birthing center shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the stop placement.

(ii) When the department imposes a stop placement, the birthing center may not admit any new patients until the stop placement is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the birthing center if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(iv) The stop placement shall be terminated when:

(A) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the birthing center has taken intermediate action to address the immediate jeopardy; and

(B) The birthing center establishes the ability to maintain correction of the violation previously found deficient.

(e) The department may deny an application for a license or suspend, revoke, or refuse to renew a license.

(2) Except as otherwise provided, RCW 43.70.115 governs notice of actions taken by the department under subsection (1) of this section and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the department's notice, be served on and received by the department within 28 days of the birthing center's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(3) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop service, stopplacement, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(a) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate suspension or imposition of conditions.

(c) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(d) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

(4) When the department determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the department's investigation of such an alleged violation, the department may

impose an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension.

(a) When the department imposes an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate. At the show cause hearing the department has the burden of demonstrating that more probably than not the alleged violation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate action for failure to cooperate.

(c) If the presiding officer determines the alleged violation, if true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the department's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(d) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.46 RCW to read as follows:

(1) The department may give written notice to cease and desist to any person whom the department has reason to believe is engaged in the unlicensed operation of a birthing center.

(2)(a) Except as otherwise provided in this section, the requirement to cease and desist unlicensed operation is effective 20 days after the person receives the notice.

(b) The department may make the date the action is effective sooner than 20 days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice to cease and desist.

(3) The person to whom the notice to cease and desist is issued may request an adjudicative proceeding to contest the notice. The adjudicative proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request for an adjudicative proceeding must be in writing, state the basis for contesting

the notice, include a copy of the notice, and be served on and received by the department within 20 days from the date the person receives the notice to cease and desist.

(4)(a) If the department gives a person 20 days' notice to cease and desist and the person requests an adjudicative proceeding before its effective date, the department shall not implement the notice until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the notice while the proceedings are pending if the respondent causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than 20 days' notice to cease and desist and the respondent timely files a request for an adjudicative proceeding, the department may implement the cease and desist on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

(5) The department may assess a civil fine not exceeding $5,000 for each day a person operates a birthing center without a valid license.

(a) The department shall give written notice to the person against whom it assesses a civil fine.

(b) Except as otherwise provided in (c) and (d) of this subsection, the civil fine is due and payable 20 days after receipt.

(c) The person against whom the department assesses a civil fine has the right to request an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request must be in writing, state the basis for contesting the fine, include a copy of the notice, be served on and received by the department within 20 days of the person receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(d) If the person files a timely and sufficient request for adjudicative proceeding, the department shall not implement the fine until the final order has been served.

(6) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so operating a birthing center without a license from criminal prosecution, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. A final notice to cease and desist is conclusive proof of unlicensed operation and may be enforced under RCW 7.21.060. This method of enforcement of the final notice to cease and desist or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

Sec. 4. RCW 18.46.130 and 2000 c 93 s 39 are each amended to read as follows:

(1) Notwithstanding the existence or use of any other remedy, the department may in the manner provided by law, upon the advice of the attorney general who shall represent the department in all proceedings, maintain an action in the name of the state for an injunction or other process against any person to restrain or prevent the advertisement, operation ((~~or~~)), maintenance, management, or opening of a birthing center not licensed under this chapter.

(2) The injunction shall not relieve the person operating a birth center without a license from criminal prosecution, or the imposition of a civil fine under section 3 of this act, but the remedy by injunction shall be in addition to any criminal liability or civil fine. A person that violates an injunction issued under this chapter shall pay a civil penalty, as determined by the court, of not more than $25,000, which shall be deposited in the department's local fee account. For the purpose of this section, the superior court issuing any injunction shall retain jurisdiction and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties. All fines, forfeitures, and penalties collected or assessed by a court because of a violation of RCW 18.46.020 shall be deposited in the department's local fee account.

Sec. 5. RCW 70.42.010 and 1989 c 386 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) "Department" means the department of health ((~~if enacted, otherwise the department of social and health services~~)).

(2) "Designated test site supervisor" means the available individual who is responsible for the technical functions of the test site and who meets the department's qualifications set out in rule by the department.

(3) "Immediate jeopardy" means a situation in which the medical test site's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

(4) "Person" means any individual, or any public or private organization, agent, agency, corporation, firm, association, partnership, or business.

((~~(4)~~)) (5) "Proficiency testing program" means an external service approved by the department which provides samples to evaluate the accuracy, reliability and performance of the tests at each test site.

((~~(5)~~)) (6) "Quality assurance" means a comprehensive set of policies, procedures, and practices to assure that a test site's results are accurate and reliable. Quality assurance means a total program of internal and external quality control, equipment preventative maintenance, calibration, recordkeeping, and proficiency testing evaluation, including a written quality assurance plan.

((~~(6)~~)) (7) "Quality control" means internal written procedures and day-to-day analysis of laboratory reference materials at each test site to insure precision and accuracy of test methodology, equipment, and results.

((~~(7)~~)) (8) "Test" means any examination or procedure conducted on a sample taken from the human body, including screening.

((~~(8)~~)) (9) "Test site" means any facility or site, public or private, which analyzes materials derived from the human body for the purposes of health care, treatment, or screening. A test site does not mean a facility or site, including a residence, where a test approved for home use by the federal food and drug administration is used by an individual to test himself or herself without direct supervision or guidance by another and where this test is not part of a commercial transaction.

Sec. 6. RCW 70.42.130 and 1989 c 386 s 14 are each amended to read as follows:

Under this chapter, and chapter 34.05 RCW, the department may place conditions on a license which limit or cancel a test site's authority to conduct any of the tests or groups of tests of any licensee who:

(1) Fails or refuses to comply with the requirements of this chapter ((~~or~~)), the rules or standards adopted under this chapter, or other applicable state or federal statutes or rules regulating medical test sites;

(2) Has knowingly or with reason to know made a false statement of a material fact in the application for a license or in any data attached thereto or in any record required by the department;

(3) Refuses to allow representatives of the department to examine any book, record, or file required by this chapter to be maintained;

(4) Willfully prevented, interfered with, or attempted to impede in any way the work of a representative of the department;

(5) Willfully prevented or interfered with preservation of evidence of a known violation of this chapter or the rules adopted under this chapter; or

(6) Misrepresented, or was fraudulent in, any aspect of the licensee's business.

NEW SECTION. **Sec. 7.** A new section is added to chapter 70.42 RCW to read as follows:

(1) The department may prohibit a specific category or categories of services within the medical test site as related to noncompliance with the requirements of this chapter or the standards or rules adopted under this chapter by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(2) Prior to imposing a limited stop service, the department shall provide the medical test site a written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The medical test site shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop service.

(3) When the department imposes a limited stop service, the medical test site may not perform any new testing in the category or categories subject to the limited stop service until the limited stop service is terminated.

(4) The department shall conduct a follow-up inspection within five business days or within the time period requested by the medical test site if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(5) The limited stop service shall be terminated when:

(a) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the medical test site has taken intermediate action to address the immediate jeopardy; and

(b) The medical test site establishes the ability to maintain correction of the violation previously found deficient.

(6) Except as otherwise provided, RCW 43.70.115 governs notice of actions taken by the department under subsection (1) of this section and provides the

right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the department's notice, be served on and received by the department within 28 days of the medical test site's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(7) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop service, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(a) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate suspension or imposition of conditions.

(c) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(d) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

(8) When the department determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the department's investigation of such an alleged violation, the department may impose an immediate limited stop service, immediate suspension, or immediate imposition of conditions.

(a) When the department imposes an immediate limited stop service, immediate suspension, or immediate imposition of conditions for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate limited stop service, immediate suspension, or immediate imposition of conditions for failure to cooperate. At the show cause hearing the department has the burden of demonstrating that more probably than not the alleged violation, if true, would

constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate limited stop service, immediate suspension, or immediate imposition of conditions for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate action for failure to cooperate.

(c) If the presiding officer determines the alleged violation, if true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the department's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(d) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

NEW SECTION. **Sec. 8.** A new section is added to chapter 70.42 RCW to read as follows:

(1) The department may give written notice to cease and desist to any person whom the department has reason to believe is engaged in the unlicensed operation of a medical test site.

(2)(a) Except as otherwise provided in this section, the requirement to cease and desist unlicensed operation is effective 20 days after the person receives the notice.

(b) The department may make the date the action is effective sooner than 20 days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice to cease and desist.

(3) The person to whom the notice to cease and desist is issued may request an adjudicative proceeding to contest the notice. The adjudicative proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request for an adjudicative proceeding must be in writing, state the basis for contesting the notice, include a copy of the notice, and be served on and received by the department within 20 days from the date the person receives the notice to cease and desist.

(4)(a) If the department gives a person 20 days' notice to cease and desist and the person requests an adjudicative proceeding before its effective date, the department shall not implement the notice until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the notice while the proceedings are pending if the respondent causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than 20 days' notice to cease and desist and the respondent timely files a request for an adjudicative proceeding, the department may implement the cease and desist on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

(5) The department may assess a civil fine not exceeding $5,000 for each day a person operates a medical test site without a valid license.

(a) The department shall give written notice to the person against whom it assesses a civil fine.

(b) Except as otherwise provided in (c) and (d) of this subsection, the civil fine is due and payable 20 days after receipt.

(c) The person against whom the department assesses a civil fine has the right to request an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request must be in writing, state the basis for contesting the fine, include a copy of the notice, be served on and received by the department within 20 days of the person receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(d) If the person files a timely and sufficient request for adjudicative proceeding, the department shall not implement the fine until the final order has been served.

(6) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so operating a medical test site without a license from criminal prosecution, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. A final notice to cease and desist is conclusive proof of unlicensed operation and may be enforced under RCW 7.21.060. This method of enforcement of the final notice to cease and desist or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

Sec. 9. RCW 70.42.180 and 1989 c 386 s 19 are each amended to read as follows:

(1) Notwithstanding the existence or use of any other remedy, the department may, in the manner provided by law and upon the advice of the attorney general, who shall represent the department in the proceedings, maintain an action in the name of the state for an injunction or other process against any person to restrain or prevent the advertising, operating, maintaining, managing, or opening of a test site without a license under this chapter. It is a misdemeanor to own, operate, or maintain a test site without a license.

(2) The injunction shall not relieve the person operating a medical test site without a license from criminal prosecution, or the imposition of a civil fine under section 8 of this act, but the remedy by injunction shall be in addition to any criminal liability or civil fine. A person that violates an injunction issued under this chapter shall pay a civil penalty, as determined by the court, of not more than $25,000, which shall be deposited in the department's local fee account. For the purpose of this section, the superior court issuing any injunction shall retain jurisdiction and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties. All fines, forfeitures, and penalties collected or assessed by a

court because of a violation of RCW 70.42.020 shall be deposited in the department's local fee account.

Sec. 10. RCW 70.127.010 and 2011 c 89 s 13 are each amended to read as follows:

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

(1) "Administrator" means an individual responsible for managing the operation of an agency.

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

(3) "Director of clinical services" means an individual responsible for nursing, therapy, nutritional, social, and related services that support the plan of care provided by in-home health and hospice agencies.

(4) "Family" means individuals who are important to, and designated by, the patient or client and who need not be relatives.

(5) "Home care agency" means a person administering or providing home care services directly or through a contract arrangement to individuals in places of temporary or permanent residence. A home care agency that provides delegated tasks of nursing under RCW 18.79.260(3)(e) is not considered a home health agency for the purposes of this chapter.

(6) "Home care services" means nonmedical services and assistance provided to ill, disabled, or vulnerable individuals that enable them to remain in their residences. Home care services include, but are not limited to: Personal care such as assistance with dressing, feeding, and personal hygiene to facilitate self-care; homemaker assistance with household tasks, such as housekeeping, shopping, meal planning and preparation, and transportation; respite care assistance and support provided to the family; or other nonmedical services or delegated tasks of nursing under RCW 18.79.260(3)(e).

(7) "Home health agency" means a person administering or providing two or more home health services directly or through a contract arrangement to individuals in places of temporary or permanent residence. A person administering or providing nursing services only may elect to be designated a home health agency for purposes of licensure.

(8) "Home health services" means services provided to ill, disabled, or vulnerable individuals. These services include but are not limited to nursing services, home health aide services, physical therapy services, occupational therapy services, speech therapy services, respiratory therapy services, nutritional services, medical social services, and home medical supplies or equipment services.

(9) "Home health aide services" means services provided by a home health agency or a hospice agency under the supervision of a registered nurse, physical therapist, occupational therapist, or speech therapist who is employed by or under contract to a home health or hospice agency. Such care includes ambulation and exercise, assistance with self-administered medications, reporting changes in patients' conditions and needs, completing appropriate records, and personal care or homemaker services.

(10) "Home medical supplies" or "equipment services" means diagnostic, treatment, and monitoring equipment and supplies provided for the direct care of individuals within a plan of care.

(11) "Hospice agency" means a person administering or providing hospice services directly or through a contract arrangement to individuals in places of temporary or permanent residence under the direction of an interdisciplinary team composed of at least a nurse, social worker, physician, spiritual counselor, and a volunteer.

(12) "Hospice care center" means a homelike, noninstitutional facility where hospice services are provided, and that meets the requirements for operation under RCW 70.127.280.

(13) "Hospice services" means symptom and pain management provided to a terminally ill individual, and emotional, spiritual, and bereavement support for the individual and family in a place of temporary or permanent residence, and may include the provision of home health and home care services for the terminally ill individual.

(14) "Immediate jeopardy" means a situation in which the in-home services agency's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

(15) "In-home services agency" means a person licensed to administer or provide home health, home care, hospice services, or hospice care center services directly or through a contract arrangement to individuals in a place of temporary or permanent residence.

((~~(15)~~)) (16) "Person" means any individual, business, firm, partnership, corporation, company, association, joint stock association, public or private agency or organization, or the legal successor thereof that employs or contracts with two or more individuals.

((~~(16)~~)) (17) "Plan of care" means a written document based on assessment of individual needs that identifies services to meet these needs.

((~~(17)~~)) (18) "Quality improvement" means reviewing and evaluating appropriateness and effectiveness of services provided under this chapter.

((~~(18)~~)) (19) "Service area" means the geographic area in which the department has given prior approval to a licensee to provide home health, hospice, or home care services.

((~~(19)~~)) (20) "Social worker" means a person with a degree from a social work educational program accredited and approved as provided in RCW 18.320.010 or who meets qualifications provided in 42 C.F.R. Sec. 418.114 as it existed on January 1, 2012.

((~~(20)~~)) (21) "Survey" means an inspection conducted by the department to evaluate and monitor an agency's compliance with this chapter.

Sec. 11. RCW 70.127.170 and 2003 c 140 s 10 are each amended to read as follows:

((~~Pursuant to chapter 34.05 RCW and RCW 70.127.180(3), the department may deny, restrict, condition, modify, suspend, or revoke a license under this chapter or, in lieu thereof or in addition thereto, assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, or require a refund of any amounts billed to, and collected from, the consumer or third-party payor in any case in which it finds that the licensee, or any applicant, officer, director, partner, managing employee, or owner of ten percent or more of the applicant's or licensee's assets~~)) The department is authorized to take any of the actions

identified in section 12 of this act against an in-home services agency's license in any case in which it finds that the licensee:

(1) Failed or refused to comply with the requirements of this chapter ((~~or the~~)), standards or rules adopted under this chapter, or other applicable state or federal statutes or rules regulating the facility or agency;

(2) Was the holder of a license issued pursuant to this chapter that was revoked for cause and never reissued by the department, or that was suspended for cause and the terms of the suspension have not been fulfilled and the licensee has continued to operate;

(3) Has knowingly or with reason to know made a misrepresentation of, false statement of, or failed to disclose, a material fact to the department in an application for the license or any data attached thereto or in any record required by this chapter or matter under investigation by the department, or during a survey, or concerning information requested by the department;

(4) Refused to allow representatives of the department to inspect any book, record, or file required by this chapter to be maintained or any portion of the licensee's premises;

(5) Willfully prevented, interfered with, or attempted to impede in any way the work of any representative of the department and the lawful enforcement of any provision of this chapter. This includes but is not limited to: Willful misrepresentation of facts during a survey, investigation, or administrative proceeding or any other legal action; or use of threats or harassment against any patient, client, or witness, or use of financial inducements to any patient, client, or witness to prevent or attempt to prevent him or her from providing evidence during a survey or investigation, in an administrative proceeding, or any other legal action involving the department;

(6) Willfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of this chapter or the rules adopted under this chapter;

(7) Failed to pay any civil monetary penalty assessed by the department pursuant to this chapter within ((~~ten~~)) 10 days after the assessment becomes final;

(8) Used advertising that is false, fraudulent, or misleading;

(9) Has repeated incidents of personnel performing services beyond their authorized scope of practice;

(10) Misrepresented or was fraudulent in any aspect of the conduct of the licensee's business;

(11) Within the last five years, has been found in a civil or criminal proceeding to have committed any act that reasonably relates to the person's fitness to establish, maintain, or administer an agency or to provide care in the home of another;

(12) Was the holder of a license to provide care or treatment to ill individuals, ((~~disabled, or~~)) vulnerable individuals, or individuals with disabilities that was denied, restricted, not renewed, surrendered, suspended, or revoked by a competent authority in any state, federal, or foreign jurisdiction. A certified copy of the order, stipulation, or agreement is conclusive evidence of the denial, restriction, nonrenewal, surrender, suspension, or revocation;

(13) ((~~Violated any state or federal statute, or administrative rule regulating the operation of the agency;~~

~~(14)~~)) Failed to comply with an order issued by the secretary or designee;

((~~(15)~~)) (14) Aided or abetted the unlicensed operation of an in-home services agency;

((~~(16)~~)) (15) Operated beyond the scope of the in-home services agency license;

((~~(17)~~)) (16) Failed to adequately supervise staff to the extent that the health or safety of a patient or client was at risk;

((~~(18)~~)) (17) Compromised the health or safety of a patient or client, including, but not limited to, the individual performing services beyond their authorized scope of practice;

((~~(19)~~)) (18) Continued to operate after license revocation, suspension, or expiration, or operating outside the parameters of a modified, conditioned, or restricted license;

((~~(20)~~)) (19) Failed or refused to comply with chapter 70.02 RCW;

((~~(21)~~)) (20) Abused, neglected, abandoned, or financially exploited a patient or client as these terms are defined in RCW 74.34.020;

((~~(22)~~)) (21) Misappropriated the property of an individual;

((~~(23)~~)) (22) Is unqualified or unable to operate or direct the operation of the agency according to this chapter and the rules adopted under this chapter;

((~~(24)~~)) (23) Obtained or attempted to obtain a license by fraudulent means or misrepresentation; or

((~~(25)~~)) (24) Failed to report abuse or neglect of a patient or client in violation of chapter 74.34 RCW.

NEW SECTION. **Sec. 12.** A new section is added to chapter 70.127 RCW to read as follows:

(1) When the department determines the in-home services agency 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 any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the in-home services agency failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the in-home services agency cannot demonstrate to the department that it has access to sufficient internal expertise. If the department determines that the violations constitute immediate jeopardy, the conditions may be imposed immediately in accordance with subsection (5) of this section.

(2)(a) In accordance with the authority the department has under RCW 43.70.095, the department may assess a civil fine of up to $3,000 per violation on an in-home services agency licensed under this chapter when the department determines the in-home services agency 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 any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the in-home services agency failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(b) Proceeds from these fines may only be used by the department to offset costs associated with licensing and enforcement of in-home services agencies.

(c) The department shall adopt in rules under this chapter specific fine amounts in relation to the severity of the noncompliance and at an adequate level to be a deterrent to future noncompliance.

(d) If a licensee is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(3) The department may suspend a specific category or categories of services or care that the in-home services agency provides as related to the violation by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(a) Prior to imposing a limited stop service, the department shall provide an in-home services agency written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The in-home services agency shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop service.

(b) When the department imposes a limited stop service, the in-home services agency may not provide the services in the category or categories subject to the limited stop service to any new or existing individuals until the limited stop service is terminated.

(c) The department shall conduct a follow-up inspection within five business days or within the time period requested by the in-home services agency if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(d) The limited stop service shall be terminated when:

(i) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the in-home services agency has taken intermediate action to address the immediate jeopardy; and

(ii) The in-home services agency establishes the ability to maintain correction of the violation previously found deficient.

(4) The department may suspend new admissions to an in-home services agency that qualifies as a hospice care center by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of services or care that the hospice care center provides.

(a) Prior to imposing a stop placement, the department shall provide an in-home services agency that qualifies as a hospice care center written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The hospice care center shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the stop placement.

(b) When the department imposes a stop placement, the hospice care center may not admit any new patients until the stop placement is terminated.

(c) The department shall conduct a follow-up inspection within five business days or within the time period requested by the hospice care center if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(d) The stop placement shall be terminated when:

(i) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the hospice care center has taken intermediate action to address the immediate jeopardy; and

(ii) The hospice care center establishes the ability to maintain correction of the violation previously found deficient.

(5) The department may deny an application for a license or suspend, revoke, or refuse to renew a license.

NEW SECTION. **Sec. 13.** A new section is added to chapter 70.127 RCW to read as follows:

(1) Except as otherwise provided, RCW 43.70.115 governs notice of the imposition of conditions on a license, a limited stop service, stop placement, or the suspension, revocation, or refusal to renew a license and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the department's notice, be served on and received by the department within 28 days of the licensee's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(2) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop service, stop placement, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(a) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is immediate jeopardy.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate suspension or imposition of conditions.

(c) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(d) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

(3) When the department determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the department's investigation of such an alleged violation, the department may impose an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension.

(a) When the department imposes an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate. At the show cause hearing the department has the burden of demonstrating that more probably than not the alleged violation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate action for failure to cooperate.

(c) If the presiding officer determines the alleged violation, if true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the department's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(d) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

Sec. 14. RCW 70.127.213 and 2000 c 175 s 19 are each amended to read as follows:

(1) The department may ((~~issue a notice of intention to issue a~~)) give written notice to cease and desist ((~~order~~)) to any person whom the department has reason to believe is engaged in the unlicensed operation of an in-home services agency. ((~~The person to whom the notice of intent is issued may request an adjudicative proceeding to contest the charges. The request for hearing must be filed within twenty days after service of the notice of intent to issue a cease and desist order. The failure to request a hearing constitutes a default, whereupon the~~

~~department may enter a permanent cease and desist order, which may include a civil fine. All proceedings shall be conducted in accordance with chapter 34.05 RCW.~~

~~(2) If the department makes a final determination that a person has engaged or is engaging in unlicensed operation of an in-home services agency, the department may issue a cease and desist order. In addition, the department may impose a civil fine in an amount not exceeding one thousand dollars for each day upon which the person engaged in unlicensed operation of an in-home services agency. The proceeds of such fines shall be deposited in the department's local fee account.~~

~~(3) If the department makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the department may issue a temporary cease and desist order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. The temporary cease and desist order shall remain in effect until further order of the department. The failure to request a prompt or regularly scheduled hearing constitutes a default, whereupon the department may enter a permanent cease and desist order, which may include a civil fine.~~

~~(4) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so operating an in-home services agency without a license from criminal prosecution, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed operation and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.~~))

(2)(a) Except as otherwise provided in this section, the requirement to cease and desist unlicensed operation is effective 20 days after the person receives the notice.

(b) The department may make the date the action is effective sooner than 20 days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice to cease and desist.

(3) The person to whom the notice to cease and desist is issued may request an adjudicative proceeding to contest the notice. The adjudicative proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request for an adjudicative proceeding must be in writing, state the basis for contesting the notice, include a copy of the notice, and be served on and received by the department within 20 days from the date the person receives the notice to cease and desist.

(4)(a) If the department gives a person 20 days' notice to cease and desist and the person requests an adjudicative proceeding before its effective date, the department shall not implement the notice until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the notice while the proceedings are pending if the respondent causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than 20 days' notice to cease and desist and the respondent timely files a request for an adjudicative proceeding,

the department may implement the cease and desist on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

(5) The department may assess a civil fine not exceeding $5,000 for each day a person operates an in-home services agency without a valid license.

(a) The department shall give written notice to the person against whom it assesses a civil fine.

(b) Except as otherwise provided in (c) and (d) of this subsection, the civil fine is due and payable 20 days after receipt.

(c) The person against whom the department assesses a civil fine has the right to request an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request must be in writing, state the basis for contesting the fine, include a copy of the notice, be served on and received by the department within 20 days of the person receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(d) If the person files a timely and sufficient request for adjudicative proceeding, the department shall not implement the fine until the final order has been served.

(6) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so operating an in-home services agency without a license from criminal prosecution, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. A final notice to cease and desist is conclusive proof of unlicensed operation and may be enforced under RCW 7.21.060. This method of enforcement of the final notice to cease and desist or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

Sec. 15. RCW 70.230.010 and 2011 c 76 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) "Ambulatory surgical facility" means any distinct entity that operates for the primary purpose of providing specialty or multispecialty outpatient surgical services in which patients are admitted to and discharged from the facility within ((~~twenty-four~~)) 24 hours and do not require inpatient hospitalization, whether or not the facility is certified under Title XVIII of the federal social security act. An ambulatory surgical facility includes one or more surgical suites that are adjacent to and within the same building as, but not in, the office of a practitioner in an individual or group practice, if the primary purpose of the one or more surgical suites is to provide specialty or multispecialty outpatient surgical services, irrespective of the type of anesthesia administered in the one or more surgical suites. An ambulatory surgical facility that is adjacent to and within the same building as the office of a practitioner in an individual or group practice may include a surgical suite that shares a reception area, restroom, waiting room, or wall with the office of the practitioner in an individual or group practice.

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

(3) "General anesthesia" means a state of unconsciousness intentionally produced by anesthetic agents, with absence of pain sensation over the entire

body, in which the patient is without protective reflexes and is unable to maintain an airway.

(4) "Immediate jeopardy" means a situation in which the ambulatory surgical facility's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

(5) "Person" means an individual, firm, partnership, corporation, company, association, joint stock association, and the legal successor thereof.

(((~~(5)~~))) (6) "Practitioner" means any physician or surgeon licensed under chapter 18.71 RCW, an osteopathic physician or surgeon licensed under chapter 18.57 RCW, or a podiatric physician or surgeon licensed under chapter 18.22 RCW.

(((~~(6)~~))) (7) "Secretary" means the secretary of health.

(((~~(7)~~))) (8) "Surgical services" means invasive medical procedures that:

(a) Utilize a knife, laser, cautery, cryogenics, or chemicals; and

(b) Remove, correct, or facilitate the diagnosis or cure of a disease, process, or injury through that branch of medicine that treats diseases, injuries, and deformities by manual or operative methods by a practitioner.

Sec. 16. RCW 70.230.070 and 2007 c 273 s 8 are each amended to read as follows:

(1) ((~~The secretary may deny, suspend, or revoke the license of any ambulatory surgical facility in any case in which he or she finds the applicant or registered entity knowingly made a false statement of material fact in the application for the license or any supporting data in any record required by this chapter or matter under investigation by the department.~~

~~(2) The secretary shall investigate complaints concerning operation of an ambulatory surgical facility without a license. The secretary may issue a notice of intention to issue a cease and desist order to any person whom the secretary has reason to believe is engaged in the unlicensed operation of an ambulatory surgical facility. If the secretary makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the secretary may issue a temporary cease and desist order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. The temporary cease and desist order shall remain in effect until further order of the secretary. Any person operating an ambulatory surgical facility under this chapter without a license is guilty of a misdemeanor, and each day of operation of an unlicensed ambulatory surgical facility constitutes a separate offense.~~

~~(3) The secretary is authorized to deny, suspend, revoke, or modify a license or provisional license in any case in which it finds that there has been a failure or refusal to comply with the requirements of this chapter or the standards or rules adopted under this chapter. RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.~~

~~(4) Pursuant to chapter 34.05 RCW, the secretary may assess monetary penalties of a civil nature not to exceed one thousand dollars per violation.~~)) The department is authorized to take any of the actions identified in this section against an ambulatory surgical facility's license or provisional license in any case in which it finds that there has been a failure or refusal to comply with the requirements of this chapter or the standards or rules adopted under this chapter.

(a) When the department determines the ambulatory surgical facility 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 any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the ambulatory surgical facility failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the ambulatory surgical facility cannot demonstrate to the department that it has access to sufficient internal expertise.

(b)(i) In accordance with the authority the department has under RCW 43.70.095, the department may assess a civil fine of up to $7,500 per violation on an ambulatory surgical facility licensed under this chapter when the department determines the ambulatory surgical facility 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 any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the ambulatory surgical facility failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(ii) Proceeds from these fines may only be used by the department to offset costs associated with licensing and enforcement of ambulatory surgical facilities.

(iii) If a licensee is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(iv) The department shall adopt in rules under this chapter specific fine amounts in relation to:

(A) The severity of the noncompliance and at an adequate level to be a deterrent to future noncompliance; and

(B) The number of surgical procedures performed by an ambulatory surgical facility on an annual basis as identified by the facility at the time of licensure or renewal in the following categories:

(I) Performs 1,000 or fewer surgical procedures;

(II) Performs between 1,001 and 5,000 surgical procedures; and

(III) Performs more than 5,000 surgical procedures.

(c) The department may suspend a specific category or categories of services or care or operating rooms or recovery rooms within the ambulatory surgical facility as related to the violation by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop service, the department shall provide an ambulatory surgical facility written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The ambulatory surgical facility shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop service.

(ii) When the department imposes a limited stop service, the ambulatory surgical facility may not provide the services in the category or categories subject to the limited stop service to any new or existing individuals, unless otherwise allowed by the department, until the limited stop service is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the ambulatory surgical facility if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(iv) The limited stop service shall be terminated when:

(A) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the ambulatory surgical facility has taken intermediate action to address the immediate jeopardy; and

(B) The ambulatory surgical facility establishes the ability to maintain correction of the violation previously found deficient.

(d) The department may suspend new admissions to the ambulatory surgical facility by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of patients or a specific area of the ambulatory surgical facility.

(i) Prior to imposing a stop placement, the department shall provide an ambulatory surgical facility written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The ambulatory surgical facility shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the stop placement.

(ii) When the department imposes a stop placement, the ambulatory surgical facility may not admit any new patients until the stop placement is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the ambulatory surgical facility if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(iv) The stop placement shall be terminated when:

(A) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the ambulatory surgical facility has taken intermediate action to address the immediate jeopardy; and

(B) The ambulatory surgical facility establishes the ability to maintain correction of the violation previously found deficient.

(e) The department may deny an application for a license or suspend, revoke, or refuse to renew a license.

(2) The secretary may deny, suspend, or revoke the license of any ambulatory surgical facility in any case in which he or she finds the applicant or registered entity knowingly made a false statement of material fact in the application for the license or any supporting data in any record required by this chapter or matter under investigation by the department.

(3) Except as otherwise provided, RCW 43.70.115 governs notice of actions taken by the department under this section and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the department's notice, be served on and received by the department within 28 days of the licensee's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(a) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop service, stop placement, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(b) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(c) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate suspension or imposition of conditions.

(d) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(e) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(f) If the presiding officer sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

(4) When the department determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the department's investigation of such an alleged violation, the department may impose an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension.

(a) When the department imposes an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate.

(b) At the show cause hearing the department has the burden of demonstrating that more probably than not the alleged violation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation.

(c) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate action for failure to cooperate.

(d) If the presiding officer determines the alleged violation, if true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the department's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(e) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(f) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

NEW SECTION. **Sec. 17.** A new section is added to chapter 70.230 RCW to read as follows:

(1) The department may give written notice to cease and desist to any person whom the department has reason to believe is engaged in the unlicensed operation of an ambulatory surgical facility.

(2)(a) Except as otherwise provided in this section, the requirement to cease and desist unlicensed operation is effective 20 days after the person receives the notice.

(b) The department may make the date the action is effective sooner than 20 days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice to cease and desist.

(3) The person to whom the notice to cease and desist is issued may request an adjudicative proceeding to contest the notice. The adjudicative proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request for an adjudicative proceeding must be in writing, state the basis for contesting the notice, include a copy of the notice, and be served on and received by the department within 20 days from the date the person receives the notice to cease and desist.

(4)(a) If the department gives a person 20 days' notice to cease and desist and the person requests an adjudicative proceeding before its effective date, the department shall not implement the notice until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the notice while the proceedings are pending if the respondent causes an

unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than 20 days' notice to cease and desist and the respondent timely files a request for an adjudicative proceeding, the department may implement the cease and desist on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

(5) The department may assess a civil fine not exceeding $5,000 for each day a person operates an ambulatory surgical facility without a valid license.

(a) The department shall give written notice to the person against whom it assesses a civil fine.

(b) Except as otherwise provided in (c) and (d) of this subsection, the civil fine is due and payable 20 days after receipt.

(c) The person against whom the department assesses a civil fine has the right to request an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request must be in writing, state the basis for contesting the fine, include a copy of the notice, be served on and received by the department within 20 days of the person receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(d) If the person files a timely and sufficient request for adjudicative proceeding, the department shall not implement the fine until the final order has been served.

(6) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so operating an ambulatory surgical facility without a license from criminal prosecution, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. A final notice to cease and desist is conclusive proof of unlicensed operation and may be enforced under RCW 7.21.060. This method of enforcement of the final notice to cease and desist or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

Sec. 18. RCW 71.12.710 and 2020 c 115 s 3 are each amended to read as follows:

(1) In any case in which the department finds that a ((~~licensed psychiatric hospital~~)) private establishment has failed or refused to comply with ((~~applicable state~~)) the requirements of this chapter, the standards or rules adopted under this chapter, or other applicable state or federal statutes or ((~~regulations~~)) rules, the department may take one or more of the actions identified in this section, except as otherwise limited in this section.

(a) When the department determines the ((~~psychiatric hospital~~)) private establishment 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 any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the ((~~psychiatric hospital~~)) private establishment failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved

consultant if the ((~~hospital~~)) private establishment cannot demonstrate to the department that it has access to sufficient internal expertise.

(b)(i) In accordance with the authority the department has under RCW 43.70.095, the department may assess a civil fine of up to ((~~ten thousand dollars~~)) $10,000 per violation, not to exceed a total fine of ((~~one million dollars~~)) $1,000,000, on a ((~~hospital~~)) private establishment licensed under this chapter when the department determines the ((~~psychiatric hospital~~)) private establishment 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 any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the ((~~psychiatric hospital~~)) private establishment failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(ii) Proceeds from these fines may only be used by the department to provide training or technical assistance to ((~~psychiatric hospitals and~~)) private establishments or to offset costs associated with licensing ((~~psychiatric hospitals~~)) private establishments.

(iii) The department shall adopt in rules under this chapter specific fine amounts in relation to the severity of the noncompliance.

(iv) If a licensee is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(c) ((~~In accordance with RCW 43.70.095, the department may impose civil fines of up to ten thousand dollars for each day a person operates a psychiatric hospital without a valid license. Proceeds from these fines may only be used by the department to provide training or technical assistance to psychiatric hospitals and to offset costs associated with licensing psychiatric hospitals.~~

~~(d)~~)) The department may suspend new admissions of a specific category or categories of patients as related to the violation by imposing a limited stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop placement, the department shall provide a ((~~psychiatric hospital~~)) private establishment written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and the ((~~psychiatric hospital~~)) private establishment shall have ((~~twenty-four~~)) 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same ((~~twenty-four~~)) 24-hour period, the department may issue the limited stop placement.

(ii) When the department imposes a limited stop placement, the ((~~psychiatric hospital~~)) private establishment may not ((~~admit any new patients~~)) accept any new admissions in the category or categories subject to the limited stop placement until the limited stop placement order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the ((~~psychiatric hospital~~)) private establishment if more than five business days is needed to verify the violation necessitating the limited stop placement has been corrected.

(iv) The limited stop placement shall be terminated when:

(A) The department verifies the violation necessitating the limited stop placement has been corrected or the department determines that the ((~~psychiatric hospital~~)) private establishment has taken intermediate action to address the immediate jeopardy; and

(B) The ((~~psychiatric hospital~~)) private establishment establishes the ability to maintain correction of the violation previously found deficient.

(((~~(e)~~))) (d) The department may suspend all new admissions to the ((~~psychiatric hospital~~)) private establishment by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of patients or a specific area of the ((~~psychiatric hospital~~)) private establishment.

(i) Prior to imposing a stop placement, the department shall provide a ((~~psychiatric hospital~~)) private establishment written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and the ((~~psychiatric hospital~~)) private establishment shall have ((~~twenty-four~~)) 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same ((~~twenty-four~~)) 24-hour period, the department may issue the stop placement.

(ii) When the department imposes a stop placement, the ((~~psychiatric hospital~~)) private establishment may not ((~~admit any new patients~~)) accept any new admissions until the stop placement order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the ((~~psychiatric hospital~~)) private establishment if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(iv) The stop placement order shall be terminated when:

(A) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the ((~~psychiatric hospital~~)) private establishment has taken intermediate action to address the immediate jeopardy; and

(B) The ((~~psychiatric hospital~~)) private establishment establishes the ability to maintain correction of the violation previously found deficient.

(((~~(f)~~))) (e) The department may suspend a specific category or categories of services within the private establishment as related to the violation by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop service, the department shall provide a private establishment written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The private establishment shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop service.

(ii) When the department imposes a limited stop service, the private establishment may not provide the services in the category or categories subject to the limited stop service to any new or existing individuals, unless otherwise allowed by the department, until the limited stop service is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the private establishment if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(iv) The limited stop service shall be terminated when:

(A) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the private establishment has taken intermediate action to address the immediate jeopardy; and

(B) The private establishment establishes the ability to maintain correction of the violation previously found deficient.

(f) The department may suspend, revoke, or refuse to renew a license.

(2)(a) Except as otherwise provided, RCW 43.70.115 governs notice of the imposition of conditions on a license, a limited stop placement, stop placement, limited stop service, or the suspension, revocation, or refusal to renew a license and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, including a copy of the department's notice, be served on and received by the department within ((~~twenty-eight~~)) 28 days of the licensee's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(b) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop placement, stop placement, limited stop service, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(i) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within ((~~fourteen~~)) 14 days of making the request. The licensee must request the show cause hearing within ((~~twenty-eight~~)) 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(ii) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and must provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department must provide the licensee with all documentation that supports the department's immediate suspension or immediate imposition of conditions.

(iii) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(iv) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(v) If the secretary sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within ((~~ninety~~)) 90 days of the licensee's request.

(3) When the department determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the department's investigation of such an alleged violation, the department may impose an immediate stop placement, immediate limited stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension.

(a) When the department imposes an immediate stop placement, immediate limited stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate stop placement, immediate limited stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate. At the show cause hearing the department has the burden of demonstrating that more probably than not the alleged violation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate stop placement, immediate limited stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate action for failure to cooperate.

(c) If the presiding officer determines the alleged violation, if true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the department's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(d) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

Sec. 19. RCW 71.12.455 and 2020 c 115 s 6 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) "Department" means the department of health.

(2) "Elopement" means any situation in which an admitted patient of a ((~~psychiatric hospital~~)) private establishment who is cognitively, physically, mentally, emotionally, and/or chemically impaired wanders, walks, runs away, escapes, or otherwise leaves a ((~~psychiatric hospital~~)) private establishment or the grounds of a ((~~psychiatric hospital~~)) private establishment prior to the patient's scheduled discharge unsupervised, unnoticed, and without the staff's knowledge.

(3) "((~~Establishment~~)) Private establishment," "establishment," and "institution" mean:

(a) Every private or county or municipal hospital, including public hospital districts, ((~~sanatoriums,~~)) homes, ((~~psychiatric~~)) behavioral health hospitals, residential treatment facilities, or other places receiving or caring for any person with ((~~mental illness, mentally incompetent person, or chemically dependent person~~)) a behavioral health or substance use disorder; and

(b) Beginning January 1, 2019, facilities providing pediatric transitional care services.

(4) "Immediate jeopardy" means a situation in which the ((~~psychiatric hospital's~~)) private establishment's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

(5) "Pediatric transitional care services" means short-term, temporary, health and comfort services for drug exposed infants according to the requirements of this chapter and provided in an establishment licensed by the department ((~~of health~~)).

(6) "((~~Psychiatric~~)) Behavioral health hospital" means an establishment caring for any person with mental illness or substance use disorder excluding acute care hospitals licensed under chapter 70.41 RCW, state psychiatric hospitals established under chapter 72.23 RCW, and residential treatment facilities as defined in this section.

(7) "Residential treatment facility" means an establishment in which ((~~twenty-four~~)) 24-hour on-site care is provided for the evaluation, stabilization, or treatment of residents for substance use, mental health, co-occurring disorders, or for drug exposed infants.

(8) "Secretary" means the secretary of the department of health.

(9) "Technical assistance" means the provision of information on the state laws and rules applicable to the regulation of ((~~psychiatric hospitals~~)) private establishments, the process to apply for a license, and methods and resources to avoid or address compliance problems. Technical assistance does not include assistance provided under chapter 43.05 RCW.

(10) "Trained caregiver" means a noncredentialed, unlicensed person trained by the establishment providing pediatric transitional care services to provide hands-on care to drug exposed infants. Caregivers may not provide medical care to infants and may only work under the supervision of an appropriate health care professional.

Sec. 20. RCW 71.12.500 and 2000 c 93 s 25 are each amended to read as follows:

The department ((~~of health~~)) may at any time examine ((~~and ascertain how far~~)) a licensed private establishment ((~~is conducted in compliance with this~~

~~chapter, the rules adopted under this chapter, and the requirements of the license therefor. If the interests of the patients of the establishment so demand, the department may, for just and reasonable cause, suspend, modify, or revoke any such license. RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.~~)) to determine whether it has failed or refused to comply with the requirements of this chapter, the standards or rules adopted under this chapter, or other applicable state or federal statutes or rules regulating private establishments.

NEW SECTION. **Sec. 21.** A new section is added to chapter 71.12 RCW to read as follows:

(1) The department may give written notice to cease and desist to any person whom the department has reason to believe is engaged in the unlicensed operation of a private establishment.

(2)(a) Except as otherwise provided in this section, the requirement to cease and desist unlicensed operation is effective 20 days after the person receives the notice.

(b) The department may make the date the action is effective sooner than 20 days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice to cease and desist.

(3) The person to whom the notice to cease and desist is issued may request an adjudicative proceeding to contest the notice. The adjudicative proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request for an adjudicative proceeding must be in writing, state the basis for contesting the notice, include a copy of the notice, and be served on and received by the department within 20 days from the date the person receives the notice to cease and desist.

(4)(a) If the department gives a person 20 days' notice to cease and desist and the person requests an adjudicative proceeding before its effective date, the department shall not implement the notice until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the notice while the proceedings are pending if the respondent causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than 20 days' notice to cease and desist and the respondent timely files a request for an adjudicative proceeding, the department may implement the cease and desist on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

(5) The department may assess a civil fine not exceeding $5,000 for each day a person operates a private establishment without a valid license.

(a) The department shall give written notice to the person against whom it assesses a civil fine.

(b) Except as otherwise provided in (c) and (d) of this subsection, the civil fine is due and payable 20 days after receipt.

(c) The person against whom the department assesses a civil fine has the right to request an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request must be in writing, state the basis for contesting the fine, include a copy of the notice, be served on and received by the department within 20 days of the person receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(d) If the person files a timely and sufficient request for adjudicative proceeding, the department shall not implement the fine until the final order has been served.

(6) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so operating a private establishment without a license from criminal prosecution, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. A final notice to cease and desist is conclusive proof of unlicensed operation and may be enforced under RCW 7.21.060. This method of enforcement of the final notice to cease and desist or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

Sec. 22. RCW 70.38.025 and 2000 c 175 s 22 are each amended to read as follows:

When used in this chapter, the terms defined in this section shall have the meanings indicated.

(1) "Board of health" means the state board of health created pursuant to chapter 43.20 RCW.

(2) "Capital expenditure" is an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a nursing home facility as its own contractor) which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. Where a person makes an acquisition under lease or comparable arrangement, or through donation, which would have required review if the acquisition had been made by purchase, such expenditure shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a nursing home facility which if acquired directly by such facility would be subject to certificate of need review under the provisions of this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to such review. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which such expenditure is made shall be included in determining the amount of the expenditure.

(3) "Continuing care retirement community" means an entity which provides shelter and services under continuing care contracts with its members and which sponsors or includes a health care facility or a health service. A "continuing care contract" means a contract to provide a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services, which is conditioned upon the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because

the contract is mutually terminable or because shelter and services are not provided at the same location.

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

(5) "Expenditure minimum" means, for the purposes of the certificate of need program, ((~~one million dollars~~)) $1,000,000 adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule.

(6) "Health care facility" means hospices, hospice care centers, hospitals, ((~~psychiatric~~)) behavioral health hospitals, nursing homes, kidney disease treatment centers, ambulatory surgical facilities, and home health agencies, and includes such facilities when owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations, but does not include any health facility or institution conducted by and for those who rely exclusively upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination, or any health facility or institution operated for the exclusive care of members of a convent as defined in RCW 84.36.800 or rectory, monastery, or other institution operated for the care of members of the clergy. In addition, the term does not include any nonprofit hospital: (a) Which is operated exclusively to provide health care services for children; (b) which does not charge fees for such services; and (c) if not contrary to federal law as necessary to the receipt of federal funds by the state.

(7) "Health maintenance organization" means a public or private organization, organized under the laws of the state, which:

(a) Is a qualified health maintenance organization under Title XIII, section 1310(d) of the Public Health ((~~Services [Service]~~)) Service Act; or

(b)(i) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, X-ray, emergency, and preventive services, and out-of-area coverage; (ii) is compensated (except for copayments) for the provision of the basic health care services listed in (b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and (iii) provides physicians' services primarily (A) directly through physicians who are either employees or partners of such organization, or (B) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

(8) "Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services and as defined in federal law.

(9) "Health service area" means a geographic region appropriate for effective health planning which includes a broad range of health services.

(10) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

(11) "Provider" generally means a health care professional or an organization, institution, or other entity providing health care but the precise definition for this term shall be established by rule of the department, consistent with federal law.

(12) "Public health" means the level of well-being of the general population; those actions in a community necessary to preserve, protect, and promote the health of the people for which government is responsible; and the governmental system developed to guarantee the preservation of the health of the people.

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

(14) "Tertiary health service" means a specialized service that meets complicated medical needs of people and requires sufficient patient volume to optimize provider effectiveness, quality of service, and improved outcomes of care.

(15) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020((~~(2)~~)) (8); or as a ((~~psychiatric~~)) behavioral health hospital under chapter 71.12 RCW.

Sec. 23. RCW 70.38.111 and 2021 c 277 s 1 are each amended to read as follows:

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

(a) A health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least ((~~fifty thousand~~)) 50,000 individuals, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least ((~~seventy five~~)) 75 percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination;

(b) A health care facility if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least ((~~fifty thousand~~)) 50,000 individuals, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iv) at least ((~~seventy five~~)) 75 percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination; or

(c) A health care facility (or portion thereof) if (i) the facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least ((~~fifty thousand~~)) 50,000 individuals and, on the date the application is submitted under subsection (2) of this section, at least ((~~fifteen~~)) 15 years remain in the term of the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least ((~~seventy five~~)) 75 percent of the patients who can reasonably be

expected to receive the tertiary health service will be individuals enrolled with such organization;

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

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

(a) It has submitted at least ((~~thirty~~)) 30 days prior to the offering of services reviewable under RCW 70.38.105(4)(d) an application for such exemption; and

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

(c) The department approves such application. The department shall approve or disapprove an application for exemption within ((~~thirty~~)) 30 days of receipt of a completed application. In the case of a proposed health care facility (or portion thereof) which has not begun to provide tertiary health services on the date an application is submitted under this subsection with respect to such facility (or portion), the facility (or portion) shall meet the applicable requirements of subsection (1) of this section when the facility first provides such services. The department shall approve an application submitted under this subsection if it determines that the applicable requirements of subsection (1) of this section are met.

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

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

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

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

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

(i) Offers services only to contractual members;

(ii) Provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some assistance with daily living activities;

(iii) Contractually assumes responsibility for the cost of services exceeding the member's financial responsibility under the contract, so that no third party, with the exception of insurance purchased by the retirement community or its members, but including the medicaid program, is liable for costs of care even if the member depletes his or her personal resources;

(iv) Has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home;

(v) Maintains a binding agreement with the state assuring that financial liability for services to members, including nursing home services, will not fall upon the state;

(vi) Does not operate, and has not undertaken a project that would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and

(vii) Has obtained a professional review of pricing and long-term solvency within the prior five years which was fully disclosed to members.

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

(i) It has submitted an application for exemption at least ((~~thirty~~)) 30 days prior to commencing construction of, is submitting an application for the licensure of, or is commencing operation of a nursing home, whichever comes first; and

(ii) The application documents to the department that the continuing care retirement community qualifies for exemption.

(c) The sale, lease, acquisition, or use of part or all of a continuing care retirement community nursing home that qualifies for exemption under this subsection shall require prior certificate of need approval to qualify for licensure as a nursing home unless the department determines such sale, lease, acquisition, or use is by a continuing care retirement community that meets the conditions of (a) of this subsection.

(6) A rural hospital, as defined by the department, reducing the number of licensed beds to become a rural primary care hospital under the provisions of Part A Title XVIII of the Social Security Act Section 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction of beds licensed under chapter 70.41 RCW, increase the number of licensed beds to no more than the previously licensed number without being subject to the provisions of this chapter.

(7) A rural health care facility licensed under RCW 70.175.100 formerly licensed as a hospital under chapter 70.41 RCW may, within three years of the effective date of the rural health care facility license, apply to the department for a hospital license and not be subject to the requirements of RCW

70.38.105(4)(a) as the construction, development, or other establishment of a new hospital, provided there is no increase in the number of beds previously licensed under chapter 70.41 RCW and there is no redistribution in the number of beds used for acute care or long-term care, the rural health care facility has been in continuous operation, and the rural health care facility has not been purchased or leased.

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

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

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

(i) Give notice of its intent to preserve conversion options to the department of health no later than ((~~thirty~~)) 30 days after the effective date of the license reduction; and

(ii) Give notice to the department of health and to the department of social and health services of the intent to convert beds back. If construction is required for the conversion of beds back, the notice of intent to convert beds back must be given, at a minimum, one year prior to the effective date of license modification reflecting the restored beds; otherwise, the notice must be given a minimum of ((~~ninety~~)) 90 days prior to the effective date of license modification reflecting the restored beds. Prior to any license modification to convert beds back to nursing home beds under this section, the licensee must demonstrate that the nursing home meets the certificate of need exemption requirements of this section.

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

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

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

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

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

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

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

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

(B) Has operated the facility or group of facilities for at least ((~~ten~~)) 10 continuous years prior to the establishment of the hospice agency;

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

(iv) The hospice agency has a census of no more than ((~~forty~~)) 40 patients;

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

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

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

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

(11) To alleviate the need to board psychiatric patients in emergency departments and increase capacity of hospitals to serve individuals on ((~~ninety~~)) 90-day or ((~~one hundred eighty~~)) 180-day commitment orders, for the period of time from May 5, 2017, through June 30, 2023:

(a) The department shall suspend the certificate of need requirement for a hospital licensed under chapter 70.41 RCW that changes the use of licensed beds to increase the number of beds to provide psychiatric services, including

involuntary treatment services. A certificate of need exemption under this subsection (11)(a) shall be valid for two years.

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

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

(ii) The construction, development, or establishment of a ((~~psychiatric~~)) behavioral health hospital licensed as an establishment under chapter 71.12 RCW that will have no more than ((~~sixteen~~)) 16 beds and provide treatment to adults on ((~~ninety~~)) 90 or ((~~one hundred eighty~~)) 180-day involuntary commitment orders, as described in RCW 70.38.260(4).

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

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

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

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

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

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

(b) The exemption under this subsection:

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

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

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

Sec. 24. RCW 70.38.260 and 2021 c 277 s 2 are each amended to read as follows:

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

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

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

(i) Notify the department of the addition of new psychiatric beds. The department shall provide the hospital with a notice of exemption within ((~~thirty~~)) 30 days; and

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

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

(3)(a) Until June 30, 2023, a ((~~psychiatric~~)) behavioral health hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements for the one-time addition of up to 30 new psychiatric beds devoted solely for 90-day and 180-day civil commitment services and for the one-time addition of up to 30 new voluntary psychiatric beds or involuntary psychiatric beds for patients on a 120 hour detention or 14-day civil commitment order, if the hospital makes a commitment to maintain a payer mix of at least ((~~fifty~~)) 50 percent medicare and medicaid based on a calculation using patient days for a period of five consecutive years after the beds are made available for use by patients, if it demonstrates to the satisfaction of the department:

(i) That its most recent two years of publicly available fiscal year-end report data as required under RCW 70.170.100 and 43.70.050 reported to the department by the ((~~psychiatric~~)) behavioral health hospital, show a payer mix of a minimum of ((~~fifty~~)) 50 percent medicare and medicaid based on a calculation using patient days; and

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

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

(i) Notify the department of the addition of new psychiatric beds. The department shall provide the ((~~psychiatric~~)) behavioral health hospital with a notice of exemption within ((~~thirty~~)) 30 days; and

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

(c) Beds granted an exemption under RCW 70.38.111(11)(b) must remain the types of psychiatric beds indicated to the department in the original exemption application unless a certificate of need is granted to change their use or the ((~~psychiatric~~)) behavioral health hospital voluntarily reduces its licensed capacity.

(4)(a) Until June 30, 2023, an entity seeking to construct, develop, or establish a ((~~psychiatric~~)) behavioral health hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements if the proposed ((~~psychiatric~~)) behavioral health hospital will have no more than ((~~sixteen~~)) 16 beds and dedicate a portion of the beds to providing treatment to adults on ((~~ninety~~)) 90 or ((~~one hundred eighty~~)) 180-day involuntary commitment orders. The ((~~psychiatric~~)) behavioral health hospital may also provide treatment to adults on a 120 hour detention or 14-day involuntary commitment order.

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

(i) Notify the department of the addition of construction, development, or establishment. The department shall provide the entity with a notice of exemption within ((~~thirty~~)) 30 days; and

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

(c) Entities granted an exemption under RCW 70.38.111(11)(b)(ii) may not exceed ((~~sixteen~~)) 16 beds unless a certificate of need is granted to increase the ((~~psychiatric~~)) behavioral health hospital's capacity.

(5) This section expires June 30, 2025.

Sec. 25. RCW 71.24.025 and 2023 c 454 s 1 and 2023 c 433 s 1 are each reenacted and amended to read as follows:

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

(1) "23-hour crisis relief center" means a community-based facility or portion of a facility serving adults, which is licensed or certified by the department of health and open 24 hours a day, seven days a week, offering access to mental health and substance use care for no more than 23 hours and 59 minutes at a time per patient, and which accepts all behavioral health crisis walk-ins drop-offs from first responders, and individuals referred through the 988 system regardless of behavioral health acuity, and meets the requirements under RCW 71.24.916.

(2) "988 crisis hotline" means the universal telephone number within the United States designated for the purpose of the national suicide prevention and mental health crisis hotline system operating through the national suicide prevention lifeline.

(3) "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.

(4) "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.

(5) "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.

(6) "Authority" means the Washington state health care authority.

(7) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during

any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(8) "Behavioral health administrative services organization" means an entity contracted with the authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(9) "Behavioral health aide" means a counselor, health educator, and advocate who helps address individual and community-based behavioral health needs, including those related to alcohol, drug, and tobacco abuse as well as mental health problems such as grief, depression, suicide, and related issues and is certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l and RCW 43.71B.010 (7) and (8).

(10) "Behavioral health provider" means a person licensed under chapter 18.57, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(11) "Behavioral health services" means mental health services, substance use disorder treatment services, and co-occurring disorder treatment services as described in this chapter and chapter 71.36 RCW 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.

(12) "Child" means a person under the age of ((~~eighteen~~)) 18 years.

(13) "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~~)) behavioral health 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~~)) 12 months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(14) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(15) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat substance use disorder, mental illness, or both in the community behavioral health system.

(16) "Community behavioral health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders, substance use disorders, or both, as defined under RCW 71.05.020 and receive funding from public sources.

(17) "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~~)) 24 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.

(18) "Community-based crisis team" means a team that is part of an emergency medical services agency, a fire service agency, a public health agency, a medical facility, a nonprofit crisis response provider, or a city or county government entity, other than a law enforcement agency, that provides the on-site community-based interventions of a mobile rapid response crisis team for individuals who are experiencing a behavioral health crisis.

(19) "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.

(20) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a behavioral health administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to establish a behavioral health administrative services organization.

(21) "Crisis stabilization services" means services such as 23-hour crisis relief centers, crisis stabilization units, short-term respite facilities, peer-run respite services, and same-day walk-in behavioral health services, including within the overall crisis system components that operate like hospital emergency departments that accept all walk-ins, and ambulance, fire, and police drop-offs, or determine the need for involuntary hospitalization of an individual.

(22) "Crisis stabilization unit" has the same meaning as under RCW 71.05.020.

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

(24) "Designated 988 contact hub" means a state-designated contact center that streamlines clinical interventions and access to resources for people experiencing a behavioral health crisis and participates in the national suicide prevention lifeline network to respond to statewide or regional 988 contacts that meets the requirements of RCW 71.24.890.

(25) "Designated crisis responder" has the same meaning as in RCW 71.05.020.

(26) "Director" means the director of the authority.

(27) "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.

(28) "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(7).

(29) "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 (30) of this section.

(30) "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.

(31) "First responders" includes ambulance, fire, mobile rapid response crisis team, coresponder team, designated crisis responder, fire department mobile integrated health team, community assistance referral and education services program under RCW 35.21.930, and law enforcement personnel.

(32) "Immediate jeopardy" means a situation in which the licensed or certified behavioral health agency's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

(33) "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).

((~~(33)~~)) (34) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

((~~(34)~~)) (35) "Licensed or certified behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW;

(b) An entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department; or

(c) An entity with a tribal attestation that it meets state minimum standards for a licensed or certified behavioral health agency.

((~~(35)~~)) (36) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(((~~(36)~~))) (37) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ((~~ninety~~)) 90 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.

(((~~(37)~~))) (38) "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.

(((~~(38)~~))) (39) "Mental health peer-run respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

(((~~(39)~~))) (40) Mental health "treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services or the authority, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, or by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the entities listed in this subsection, or a treatment facility if the notes or records are not available to others.

(((~~(40)~~))) (41) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (3), (13), (((~~(48)~~))) (49), and (((~~(49)~~))) (50) of this section.

(((~~(41)~~))) (42) "Mobile rapid response crisis team" means a team that provides professional on-site community-based intervention such as outreach, de-escalation, stabilization, resource connection, and follow-up support for individuals who are experiencing a behavioral health crisis, that shall include certified peer counselors as a best practice to the extent practicable based on workforce availability, and that meets standards for response times established by the authority.

(((~~(42)~~))) (43) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(((~~(43)~~))) (44) "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 (30) of this section but does not meet the full criteria for evidence-based.

(((~~(44)~~))) (45) "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.

(((~~(45)~~))) (46) "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.

(((~~(46)~~))) (47) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined by a behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, ((~~twenty-four~~)) 24 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.

(((~~(47)~~))) (48) "Secretary" means the secretary of the department of health.

(((~~(48)~~))) (49) "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.

(((~~(49)~~))) (50) "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~~)) behavioral health 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.

(((~~50~~))) (51) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified behavioral health agencies for the purpose of providing mental health or substance use disorder programs and services, or both;

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

(((~~51~~))) (52) "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.

(((~~52~~))) (53) "Tribe," for the purposes of this section, means a federally recognized Indian tribe.

Sec. 26. RCW 71.24.037 and 2023 c 454 s 2 are each amended to read as follows:

(1) The secretary shall license or certify any agency or facility that: (a) Submits payment of the fee established under RCW 43.70.110 and 43.70.250; and (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 prelicensure inspection requirement~~)).

(2) The secretary shall establish by rule minimum standards for licensed or certified behavioral health agencies that must, at a minimum, establish: (a) Qualifications for staff providing services directly to persons with mental disorders, substance use disorders, or both; (b) the intended result of each service; and (c) the rights and responsibilities of persons receiving behavioral health services pursuant to this chapter and chapters 71.34 and ((~~chapter~~)) 71.05 RCW. The secretary shall provide for deeming of licensed or certified behavioral health 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) ((~~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 agency may advertise or represent itself as a licensed or certified behavioral health agency if approval has not been granted or has been denied, suspended, revoked, or canceled.

((~~(7)~~)) (4) Licensure or certification as a behavioral health agency 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 agency 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)~~)) (5) Licensure or certification as a licensed or certified behavioral health agency 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.

((~~(9)~~)) (6) The department shall develop a process by which a provider may obtain dual licensure as an evaluation and treatment facility and secure withdrawal management and stabilization facility.

((~~(10)~~)) (7) Licensed or certified behavioral health agencies may not provide types of services for which the licensed or certified behavioral health agency has not been certified. Licensed or certified behavioral health agencies may provide services for which approval has been sought and is pending, if approval for the services has not been previously revoked or denied.

((~~(11) The department periodically shall inspect licensed or certified behavioral health agencies at reasonable times and in a reasonable manner.~~

~~(12) 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 agency 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.~~

~~(13)~~)) (8) The department shall maintain and periodically publish a current list of licensed or certified behavioral health agencies.

(((~~(14) Each licensed or certified behavioral health agency 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 agency 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.~~

~~(15) The authority shall use the data provided in subsection (14) 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.~~

~~(16) Any settlement agreement entered into between the department and licensed or certified behavioral health agencies 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 agency did not commit one or more of the violations.~~

~~(17) In cases in which a behavioral health agency that is in violation of licensing or certification standards attempts to transfer or sell the behavioral health agency 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 agency 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 agency's license or certification or issue a new license or certification to the behavioral health service provider.~~

~~(18) Every licensed or certified outpatient behavioral health agency shall display the 988 crisis hotline number in common areas of the premises and include the number as a calling option on any phone message for persons calling the agency after business hours.~~

~~(19) Every licensed or certified inpatient or residential behavioral health agency must include the 988 crisis hotline number in the discharge summary provided to individuals being discharged from inpatient or residential services.~~))

NEW SECTION. **Sec. 27.** A new section is added to chapter 71.24 RCW to read as follows:

(1) 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.

(2) The department shall conduct inspections of licensed or certified behavioral health agencies, including reviews of records and documents required to be maintained under this chapter or rules adopted under this chapter.

(3) Each licensed or certified behavioral health agency shall file with the department or the authority upon request data, statistics, schedules, medical records, and other information the department or the authority reasonably requires. A licensed or certified behavioral health agency 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.

(4) The authority shall use the data provided in subsection (3) of this section to evaluate each program that admits children to inpatient substance use disorder treatment upon application of their parents. The evaluation shall be done at least once every 12 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.

(5) Any settlement agreement entered into between the department and licensed or certified behavioral health agencies 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 agency did not commit one or more of the violations.

(6) In cases in which a licensed or certified behavioral health agency that is in violation of licensing or certification standards attempts to transfer or sell the behavioral health agency 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 agency 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 agency's license or certification or issue a new license or certification to the behavioral health provider.

(7) In any case in which the department finds that a licensed or certified behavioral health agency has failed or refused to comply with the requirements of this chapter or the standards or rules adopted under this chapter, the

department may take one or more of the actions identified in this section, except as otherwise limited in this section.

(a) When the department determines the licensed or certified behavioral health agency 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 any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the licensed or certified behavioral health agency failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the licensed or certified behavioral health agency cannot demonstrate to the department that it has access to sufficient internal expertise.

(b)(i) In accordance with the department's authority under RCW 43.70.095, the department may assess a civil fine of up to $3,000 per violation on a licensed or certified behavioral health agency when the department determines the licensed or certified behavioral health agency 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 any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the licensed or certified behavioral health agency failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(ii) Proceeds from these fines may only be used by the department to provide training or technical assistance to licensed or certified behavioral health agencies and to offset costs associated with licensing, certification, or enforcement of behavioral health agencies.

(iii) The department shall adopt in rules under this chapter specific fine amounts in relation to the severity of the noncompliance and at an adequate level to be a deterrent to future noncompliance.

(iv) If a licensee is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(c) The department may suspend new intake or admission of a specific category or categories of individuals receiving behavioral health services as related to the violation by imposing a limited stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop placement, the department shall provide a licensed or certified behavioral health agency written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and the licensed or certified behavioral health agency shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop placement.

(ii) When the department imposes a limited stop placement, the licensed or certified behavioral health agency may not accept any new individuals in the category or categories subject to the limited stop placement until the limited stop placement is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the licensed or certified behavioral health agency if more than five business days is needed to verify the violation necessitating the limited stop placement has been corrected.

(iv) The limited stop placement shall be terminated when:

(A) The department verifies the violation necessitating the limited stop placement has been corrected or the department determines that the licensed or certified behavioral health agency has taken intermediate action to address the immediate jeopardy; and

(B) The licensed or certified behavioral health agency establishes the ability to maintain correction of the violation previously found deficient.

(d) The department may suspend new intake or admission of individuals receiving behavioral health services as related to the violation by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of individuals.

(i) Prior to imposing a stop placement, the department shall provide a licensed or certified behavioral health agency written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The licensed or certified behavioral health agency shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute an immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the stop placement.

(ii) When the department imposes a stop placement, the licensed or certified behavioral health agency may not accept any new individuals receiving behavioral health services until the stop placement is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the licensed or certified behavioral health agency if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(iv) The stop placement shall be terminated when:

(A) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the licensed or certified behavioral health agency has taken intermediate action to address the immediate jeopardy; and

(B) The licensed or certified behavioral health agency establishes the ability to maintain correction of the violation previously found deficient.

(e) The department may suspend a specific category or categories of behavioral health services as related to the violation by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop service, the department shall provide a licensed or certified behavioral health agency written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy. The licensed or certified behavioral health agency shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate

jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24-hour period, the department may issue the limited stop service.

(ii) When the department imposes a limited stop service, the licensed or certified behavioral health agency may not provide the services in the category or categories subject to the limited stop service to any new or existing individuals, unless otherwise allowed by the department, until the limited stop service is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the licensed or certified behavioral health agency if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(iv) The limited stop service shall be terminated when:

(A) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the licensed or certified behavioral health agency has taken intermediate action to address the immediate jeopardy; and

(B) The licensed or certified behavioral health agency establishes the ability to maintain correction of the violation previously found deficient.

(f) The department may suspend, revoke, or refuse to renew a license.

(8)(a) Except as otherwise provided, RCW 43.70.115 governs notice of the imposition of conditions on a license, a limited stop placement, stop placement, limited stop service, or the suspension, revocation, or refusal to renew a license and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the department's notice, be served on and received by the department within 28 days of the licensee's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(b) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop placement, stop placement, limited stop service, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(i) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(ii) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate suspension or immediate imposition of conditions.

(iii) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(iv) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(v) If the secretary sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

(9) When the department determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the department's investigation of such an alleged violation, the department may impose an immediate limited stop placement, immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension.

(a) When the department imposes an immediate limited stop placement, immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate limited stop placement, immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate. At the show cause hearing the department has the burden of demonstrating that more probably than not the alleged violation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate limited stop placement, immediate stop placement, immediate limited stop service, immediate imposition of conditions, or immediate suspension for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department shall provide the licensee with all documentation that supports the department's immediate action for failure to cooperate.

(c) If the presiding officer determines the alleged violation, if true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the department's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(d) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the department's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

Sec. 28. RCW 70.170.020 and 2022 c 197 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Department" means department of health.

(2) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(8); or as a ((~~psychiatric~~)) behavioral health hospital under chapter 71.12 RCW.

(3) "Secretary" means secretary of health.

(4) "Charity care" means medically necessary hospital health care rendered to indigent persons when third-party coverage, if any, has been exhausted, to the extent that the persons are unable to pay for the care or to pay deductibles or coinsurance amounts required by a third-party payer, as determined by the department.

(5) "Indigent persons" are those patients or their guarantors who qualify for charity care pursuant to RCW 70.170.060(5) based on the federal poverty level, adjusted for family size, and who have exhausted any third-party coverage.

(6) "Third-party coverage" means an obligation on the part of an insurance company, health care service contractor, health maintenance organization, group health plan, government program, tribal health benefits, or health care sharing ministry as defined in 26 U.S.C. Sec. 5000A to pay for the care of covered patients and services, and may include settlements, judgments, or awards actually received related to the negligent acts of others which have resulted in the medical condition for which the patient has received hospital health care service. The pendency of such settlements, judgments, or awards must not stay hospital obligations to consider an eligible patient for charity care.

(7) "Special studies" means studies which have not been funded through the department's biennial or other legislative appropriations.

Sec. 29. RCW 18.64.005 and 2022 c 240 s 15 are each amended to read as follows:

The commission shall:

(1) Regulate the practice of pharmacy and enforce all laws placed under its jurisdiction;

(2) Prepare or determine the nature of, and supervise the grading of, examinations for applicants for pharmacists' licenses;

(3) Establish the qualifications for licensure of pharmacists or pharmacy interns;

(4) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the commission, which hearings may also be conducted by an administrative law judge appointed under chapter 34.12 RCW or a presiding officer designated by the commission. The commission may authorize the secretary, or their designee, to serve as the presiding officer for any disciplinary proceedings of the commission ((~~authorized under this chapter~~)). The presiding officer shall not vote on or make any final decision in cases pertaining to standards of practice or where clinical expertise is necessary. All functions performed by the presiding officer shall be subject to chapter 34.05 RCW;

(5) Issue subpoenas and administer oaths in connection with any hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the commission;

(6) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, or any other laws or rules under its jurisdiction;

(7) Promulgate rules for the dispensing, distribution, wholesaling, and manufacturing of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety, and welfare. Violation of any such rules shall constitute grounds for ((~~refusal~~)) denial of an application, assessment of a civil fine, imposition of a limited stop service, imposition of reasonable conditions, suspension, ((~~or~~)) revocation, or modification of licenses or any other authority to practice issued by the commission;

(8) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter;

(9) Be immune, collectively and individually, from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed as members of the commission. Such immunity shall apply to employees of the department when acting in the course of disciplinary proceedings;

(10) Suggest strategies for preventing, reducing, and eliminating drug misuse, diversion, and abuse, including professional and public education, and treatment of persons misusing and abusing drugs;

(11) Conduct or encourage educational programs to be conducted to prevent the misuse, diversion, and abuse of drugs for health care practitioners and licensed or certified health care facilities;

(12) Monitor trends of drug misuse, diversion, and abuse and make periodic reports to disciplinary boards of licensed health care practitioners and education, treatment, and appropriate law enforcement agencies regarding these trends;

(13) Enter into written agreements with all other state and federal agencies with any responsibility for controlling drug misuse, diversion, or abuse and with health maintenance organizations, health care service contractors, and health care providers to assist and promote coordination of agencies responsible for ensuring compliance with controlled substances laws and to monitor observance of these laws and cooperation between these agencies. The department of social and health services, the department of labor and industries, and any other state agency including licensure disciplinary boards, shall refer all apparent instances of over-prescribing by practitioners and all apparent instances of legend drug overuse to the department. The department shall also encourage such referral by health maintenance organizations, health service contractors, and health care providers;

(14) Whenever the workload of the commission requires, request that the secretary appoint pro tempore members. While serving as members pro tempore persons have all the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses, of the commission.

Sec. 30. RCW 18.64.011 and 2021 c 78 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) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(2) "Business licensing system" means the mechanism established by chapter 19.02 RCW by which business licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a business license application and a business license expiration date common to each renewable license endorsement.

(3) "Chart order" means a lawful order for a drug or device entered on the chart or medical record of an inpatient or resident of an institutional facility by a practitioner or his or her designated agent.

(4) "Closed door long-term care pharmacy" means a pharmacy that provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a long-term care facility or hospice program, and that is not a retailer of goods to the general public.

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

(6) "Compounding" means the act of combining two or more ingredients in the preparation of a prescription. Reconstitution and mixing of (a) sterile products according to federal food and drug administration-approved labeling does not constitute compounding if prepared pursuant to a prescription and administered immediately or in accordance with package labeling, and (b) nonsterile products according to federal food and drug administration-approved labeling does not constitute compounding if prepared pursuant to a prescription.

(7) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

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

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

(10) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or (b) to affect the structure or any function of the body of human beings or other animals.

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

(12) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(13) "Drug" and "devices" do not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes. "Drug" also does not include any article or mixture covered by the Washington

pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than human beings.

(14) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of human beings or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(15) "Health care entity" means an organization that provides health care services in a setting that is not otherwise licensed by the state to acquire or possess legend drugs. Health care entity includes a freestanding outpatient surgery center, a residential treatment facility, and a freestanding cardiac care center. "Health care entity" does not include an individual practitioner's office or a multipractitioner clinic, regardless of ownership, unless the owner elects licensure as a health care entity. "Health care entity" also does not include an individual practitioner's office or multipractitioner clinic identified by a hospital on a pharmacy application or renewal pursuant to RCW 18.64.043.

(16) "Hospice program" means a hospice program certified or paid by medicare under Title XVIII of the federal social security act, or a hospice program licensed under chapter 70.127 RCW.

(17) "Institutional facility" means any organization whose primary purpose is to provide a physical environment for patients to obtain health care services including, but not limited to, services in a hospital, long-term care facility, hospice program, mental health facility, drug abuse treatment center, residential habilitation center, or a local, state, or federal correction facility.

(18) "Labeling" means the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(19) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(20) "Long-term care facility" means a nursing home licensed under chapter 18.51 RCW, an assisted living facility licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(21) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, personally prepares, compounds, packages, or labels such substance or device. "Manufacture" includes the distribution of a licensed pharmacy compounded drug product to other state licensed persons or

commercial entities for subsequent resale or distribution, unless a specific product item has approval of the commission. The term does not include:

(a) The activities of a licensed pharmacy that compounds a product on or in anticipation of an order of a licensed practitioner for use in the course of their professional practice to administer to patients, either personally or under their direct supervision;

(b) The practice of a licensed pharmacy when repackaging commercially available medication in small, reasonable quantities for a practitioner legally authorized to prescribe the medication for office use only;

(c) The distribution of a drug product that has been compounded by a licensed pharmacy to other appropriately licensed entities under common ownership or control of the facility in which the compounding takes place; or

(d) The delivery of finished and appropriately labeled compounded products dispensed pursuant to a valid prescription to alternate delivery locations, other than the patient's residence, when requested by the patient, or the prescriber to administer to the patient, or to another licensed pharmacy to dispense to the patient.

(22) "Manufacturer" means a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(23) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(24) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(25) "Pharmacist" means a person duly licensed by the commission to engage in the practice of pharmacy.

(26) "Pharmacy" means every place properly licensed by the commission where the practice of pharmacy is conducted.

(27) "Poison" does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(28) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(29) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(30) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

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

(32) "Shared pharmacy services" means a system that allows a participating pharmacist or pharmacy pursuant to a request from another participating pharmacist or pharmacy to process or fill a prescription or drug order, which may include but is not necessarily limited to preparing, packaging, labeling, data entry, compounding for specific patients, dispensing, performing drug utilization reviews, conducting claims adjudication, obtaining refill authorizations, reviewing therapeutic interventions, or reviewing chart orders.

(33) "Wholesaler" means a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

(34) "Directed plan of correction" means a plan devised by the commission that includes specific actions that must be taken to correct identified unresolved deficiencies with time frames to complete them.

(35) "Immediate jeopardy" means a situation in which a licensee's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of individuals or animals at risk for serious injury, serious harm, serious impairment, or death.

(36) "License," "licensing," and "licensure" shall be deemed equivalent to the terms "approval," "credential," "certificate," "certification," "permit," and "registration" and an "exemption" issued under chapter 69.50 RCW.

(37) "Plan of correction" means a proposal devised by the applicant or licensee that includes specific actions that must be taken to correct identified unresolved deficiencies with the time frames to complete them.

(38) "Statement of deficiency" means a written statement of the deficiencies prepared by the commission, or its designee, identifying one or more violations of law. The report clearly identifies the specific law or rule that has been violated along with a description of the reasons for noncompliance.

NEW SECTION. **Sec. 31.** A new section is added to chapter 18.64 RCW to read as follows:

This section governs the denial of an application for a license or the suspension, revocation, or modification of a license issued by the commission. This section does not govern actions taken under chapter 18.130 RCW.

(1) The commission shall give written notice of the denial of an application for a license to the applicant or its agent. The form, contents, and service of the notice shall comply with this chapter and the procedural rules adopted by the commission.

(2) The commission shall give written notice of revocation, suspension, or modification of a license to the licensee or its agent. The form, contents, and service of the notice shall comply with this chapter and the procedural rules adopted by the commission.

(3) Except as otherwise provided in this chapter, revocation, suspension, or modification is effective 28 days after the licensee or the agent receives the notice.

(a) The commission may make the date the action is effective later than 28 days after receipt. If the commission does so, it shall state the effective date in the written notice given to the licensee or its agent.

(b) The commission may make the date the action is effective sooner than 28 days after receipt when necessary to protect the public health, safety, or

welfare. When the commission does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or its agent.

(4) Except for licensees suspended for noncompliance with a child support order under chapter 74.20A RCW, a license applicant or licensee who is aggrieved by a commission denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The form, contents, and service of the application for an adjudicative hearing must comply with this chapter and with the procedural rules adopted by the commission and must be served on and received by the commission within 28 days of the applicant or licensee receiving the notice.

(5)(a) If the commission gives a licensee 28 or more days' notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the commission shall not implement the adverse action until the final order has been entered. The commission may implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the commission gives a licensee less than 28 days' notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the commission may implement the adverse action on the effective date stated in the notice. The commission may stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

(6) The commission may accept the surrender of the licensee's license. A licensee whose surrender has been accepted may not petition for reinstatement of its surrendered license.

NEW SECTION. **Sec. 32.** A new section is added to chapter 18.64 RCW to read as follows:

This section governs the assessment of a civil fine against a licensee issued by the commission. This section does not govern actions taken under chapter 18.130 RCW.

(1) The commission shall give written notice to the licensee or its agent against whom it assesses a civil fine. The form, contents, and service of the notice shall comply with this chapter and the procedural rules adopted by the commission.

(2) The civil fine is due and payable 28 days after receipt by the licensee or its agent. The commission may make the date the fine is due later than 28 days after receipt by the licensee or its agent. When the commission does so, it shall state the date the fine is due in the written notice given to the licensee against whom it assesses the fine.

(3) The licensee against whom the commission assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The form, contents, and service of the application for an adjudicative hearing must comply with this chapter and the procedural rules adopted by the commission and must be served on and received by the commission within 28 days of the licensee receiving the notice.

NEW SECTION. **Sec. 33.** A new section is added to chapter 18.64 RCW to read as follows:

This section does not govern actions taken under chapter 18.130 RCW.

(1) The commission is authorized to take any of the actions identified in this section against licenses, registrations, permits, or other credentials or approvals issued by the commission under this chapter and chapters 18.64A, 69.38, 69.41, 69.43, 69.45, and 69.50 RCW in any case in which it finds the licensee has failed or refused to comply with any state or federal statute or administrative rule regulating the license in question including, but not limited to, Title 69 RCW, this chapter, chapter 18.64A RCW, and administrative rules adopted by the commission, except as otherwise limited in this section.

(a) When the commission determines a licensee has previously been subject to an enforcement action for the same or similar type of violation of the same or similar statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the licensee failed to correct noncompliance with a statute or rule by a date established or agreed to by the commission, the commission may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, a directed plan of correction, training, or hiring a commission-approved consultant if the licensee cannot demonstrate to the commission that it has access to sufficient internal expertise. If the commission determines the violations constitute immediate jeopardy, the conditions may be imposed immediately in accordance with subsection (2)(b) of this section.

(b)(i) In accordance with the commission's authority under section 32 of this act, the commission may assess a civil fine of up to $10,000 per violation, not to exceed a total fine of $1,000,000, on a licensee when the commission determines the licensee has previously been subject to an enforcement action for the same or similar type of violation of the same or similar statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when a licensee failed to correct noncompliance with a statute or rule by a date established or agreed to by the commission.

(ii) Proceeds from these fines may only be used by the commission to provide training or technical assistance to licensees and to offset costs associated with licensing and enforcement.

(iii) The commission shall adopt in rules under this chapter to establish specific fine amounts in relation to:

(A) The severity of the noncompliance and at an adequate level to be a deterrent to future noncompliance; and

(B) The operation size of the licensee.

(iv) If a licensee is aggrieved by the commission's action of assessing civil fines, the licensee has the right to appeal under section 32 of this act.

(c) The commission may restrict the ability of a licensee to engage in a specific service related to a violation by imposing a limited stop service. This may only be done if the commission finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop service, the commission shall provide a licensee written notification upon identifying deficient practices or conditions

that constitute an immediate jeopardy. The licensee shall have 24 hours from notification to develop and implement a commission-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practices or conditions that constitute immediate jeopardy are not verified by the commission as having been corrected within the same 24-hour period, the commission may issue the limited stop service.

(ii) When the commission imposes a limited stop service, the licensee may not provide the services subject to the limited stop service, unless otherwise allowed by the commission, until the limited stop service order is terminated.

(iii) The commission shall conduct a follow-up inspection within five business days or within the time period requested by the licensee if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(iv) The limited stop service shall be terminated when:

(A) The commission verifies the violation necessitating the limited stop service has been corrected or the commission determines that the licensee has taken intermediate action to address the immediate jeopardy; and

(B) The licensee establishes the ability to maintain correction of the violation previously found deficient.

(d) The commission may deny an application, or suspend, revoke, or modify a license.

(2)(a) Except as otherwise provided, sections 31 and 32 of this act govern notices of actions taken by the commission under subsection (1) of this section and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW.

(b) When the commission determines a licensee's noncompliance results in immediate jeopardy, the commission may make the imposition of conditions on a licensee, a limited stop service, or the suspension or modification of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(i) When the commission makes the suspension or modification of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a hearing panel of the commission within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice. At the show cause hearing the commission has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(ii) At the show cause hearing, the commission may consider the notice and documents supporting the immediate imposition of conditions on a licensee, or the suspension or modification of a license, and the licensee's response, and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the commission shall provide the licensee with all documentation that supports the commission's immediate imposition of conditions on a licensee or suspension or modification of a license.

(iii) If the hearing panel of the commission determines there is no immediate jeopardy, the hearing panel of the commission may overturn the

immediate suspension or modification of the license or immediate imposition of conditions.

(iv) If the hearing panel of the commission determines there is immediate jeopardy, the immediate suspension or modification of the license or immediate imposition of conditions shall remain in effect pending a full hearing.

(v) If the commission sustains the immediate suspension or modification of the license or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits. A full hearing must be provided within 90 days of the licensee's request, unless otherwise stipulated by the parties.

(3) The commission may take action under subsection (1) of this section against a nonresident pharmacy for failure to comply with any requirement of RCW 18.64.350 through 18.64.400, conduct that caused injury to a resident of this state, or conduct that resulted in adverse action against the nonresident pharmacy by a federal agency or the regulatory or licensing agency in the state in which the nonresident pharmacy is located.

(4) When the commission determines an alleged violation, if true, would constitute an immediate jeopardy, and the licensee fails to cooperate with the commission's investigation of such an alleged violation, the commission may impose an immediate limited stop service, immediate imposition of conditions, or immediate suspension or modification of a license.

(a) When the commission imposes an immediate limited stop service, immediate imposition of conditions, or immediate suspension or modification of a license for failure to cooperate, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of an immediate limited stop service, immediate imposition of conditions, or immediate suspension or modification of a license for failure to cooperate. At the show cause hearing the commission has the burden of demonstrating that more probably than not the alleged violation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the commission's investigation.

(b) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate limited stop service, immediate imposition of conditions, or immediate suspension or modification of a license for failure to cooperate, and the licensee's response and shall provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the commission shall provide the licensee with all documentation that supports the commission's immediate action for failure to cooperate.

(c) If the presiding officer determines the alleged violation, if true, does not constitute an immediate jeopardy or determines that the licensee cooperated with the commission's investigation, the presiding officer may overturn the immediate action for failure to cooperate.

(d) If the presiding officer determines the allegation, if true, would constitute an immediate jeopardy and the licensee failed to cooperate with the commission's investigation, the immediate action for failure to cooperate shall remain in effect pending a full hearing.

(e) If the presiding officer sustains the immediate action for failure to cooperate, the licensee may request an expedited full hearing on the merits of the

commission's action. A full hearing must be provided within 90 days of the licensee's request.

NEW SECTION. **Sec. 34.** A new section is added to chapter 18.64 RCW to read as follows:

This section does not govern actions taken under chapter 18.130 RCW.

(1) A licensee whose license has been suspended under this chapter may petition the commission for reinstatement after an interval as determined by the commission in the order. The commission shall hold hearings on the petition. The commission may deny the petition or may order reinstatement of the licensee's license. The commission may impose terms and conditions in the order of reinstatement.

(2) A licensee whose license has been suspended for noncompliance with a support order or visitation order under RCW 74.20A.320 may petition for reinstatement at any time by providing the commission a release issued by the department of social and health services stating that the person is in compliance with the order. If the person has continued to meet all other requirements for reinstatement during the suspension, the commission shall automatically reissue the person's license upon receipt of the release, and payment of a reinstatement fee, if any.

NEW SECTION. **Sec. 35.** A new section is added to chapter 18.64 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a license under this chapter.

Sec. 36. RCW 18.64.047 and 2013 c 19 s 10 are each amended to read as follows:

(1) Any itinerant vendor or any peddler of any nonprescription drug or preparation for the treatment of disease or injury, shall pay a registration fee determined by the secretary on a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280. The department may issue a registration to such vendor on an approved application made to the department.

(2) Any itinerant vendor or peddler who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, is guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

(3) In event the registration fee remains unpaid on the date due, no renewal or new registration shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280. This registration shall not authorize the sale of legend drugs or controlled substances.

(4) An itinerant vendor may purchase products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The commission shall issue a warning to an itinerant vendor who violates this subsection, and may suspend or revoke the registration of the vendor for a subsequent violation.

(5) An itinerant vendor who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or

their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The itinerant vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ((~~ten~~)) 10 percent of the vendor's total prior monthly sales of nonprescription drugs in March through October. In November through February, the vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ((~~twenty~~)) 20 percent of the vendor's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. ((~~The commission may suspend or revoke the registration of an itinerant vendor who violates this subsection.~~))

(b) The itinerant vendor shall maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the commission. The records must be available for inspection by the commission or any law enforcement agency and must be maintained for two years. The commission may suspend or revoke the registration of an itinerant vendor who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor.

Sec. 37. RCW 18.64.165 and 2016 c 81 s 10 are each amended to read as follows:

((~~The commission shall have the power to refuse, suspend, or revoke the license of any manufacturer, wholesaler, pharmacy, shopkeeper, itinerant vendor, peddler, poison distributor, health care entity, or precursor chemical distributor~~)) In addition to any other grounds, the commission may take action against a license issued under this chapter and chapters 18.64A, 69.38, 69.41, 69.43, 69.45, and 69.50 RCW, except nonresident pharmacies, upon proof that:

(1) The license was procured through fraud, misrepresentation, or deceit;

(2) Except as provided in RCW 9.97.020, the licensee has violated or has permitted any employee to violate any of the laws of this state or the United States relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the commission or has been convicted of a felony.

Sec. 38. RCW 18.64A.020 and 2013 c 19 s 33 are each amended to read as follows:

(1)(a) The commission shall adopt, in accordance with chapter 34.05 RCW, rules fixing the classification and qualifications and the educational and training requirements for persons who may be employed as pharmacy technicians or who may be enrolled in any pharmacy technician training program. Such rules shall provide that:

(i) Licensed pharmacists shall supervise the training of pharmacy technicians;

(ii) Training programs shall assure the competence of pharmacy technicians to aid and assist pharmacy operations. Training programs shall consist of instruction and/or practical training; and

(iii) Pharmacy technicians shall complete continuing education requirements established in rule by the commission.

(b) Such rules may include successful completion of examinations for applicants for pharmacy technician certificates. If such examination rules are adopted, the commission shall prepare or determine the nature of, and supervise the grading of the examinations. The commission may approve an examination prepared or administered by a private testing agency or association of licensing authorities.

(2) The commission may disapprove or revoke approval of any training program for failure to conform to commission rules. In the case of the disapproval or revocation of approval of a training program by the commission, a hearing shall be conducted in accordance with ((~~RCW 18.64.160~~)) section 31 of this act, and appeal may be taken in accordance with the administrative procedure act, chapter 34.05 RCW.

Sec. 39. RCW 18.64A.060 and 2013 c 19 s 38 are each amended to read as follows:

No pharmacy licensed in this state shall utilize the services of pharmacy ancillary personnel without approval of the commission.

Any pharmacy licensed in this state may apply to the commission for permission to use the services of pharmacy ancillary personnel. The application shall be accompanied by a fee and shall comply with administrative procedures and administrative requirements set pursuant to RCW 43.70.250 and 43.70.280, shall detail the manner and extent to which the pharmacy ancillary personnel would be used and supervised, and shall provide other information in such form as the secretary may require.

The commission may approve or reject such applications. In addition, the commission may modify the proposed utilization of pharmacy ancillary personnel and approve the application as modified. Whenever it appears to the commission that pharmacy ancillary personnel are being utilized in a manner inconsistent with the approval granted, the commission may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of approval, a hearing shall be conducted in accordance with ((~~chapter 18.64 RCW, as now or hereafter amended,~~)) section 31 of this act and appeal may be taken in accordance with the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. **Sec. 40.** A new section is added to chapter 69.38 RCW to read as follows:

Chapter 18.64 RCW governs the denial of licenses and the discipline of persons licensed under this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a license under this chapter.

Sec. 41. RCW 69.45.080 and 2013 c 19 s 84 are each amended to read as follows:

(1) The manufacturer is responsible for the actions and conduct of its representatives with regard to drug samples.

(2) ((~~The commission may hold a public hearing to examine a possible violation and may require a designated representative of the manufacturer to attend.~~

~~(3) If a manufacturer fails to comply with this chapter following notification by the commission, the commission may impose a civil penalty of up to five thousand dollars. The commission shall take no action to impose any civil penalty except pursuant to a hearing held in accordance with chapter 34.05 RCW.~~

~~(4)~~)) Chapter 18.64 RCW governs the denial of licenses and the discipline of persons registered under this chapter.

(3) Specific drug samples which are distributed in this state in violation of this chapter, following notification by the commission, shall be subject to seizure following the procedures set out in RCW 69.41.060.

NEW SECTION. **Sec. 42.** A new section is added to chapter 69.45 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter.

Sec. 43. RCW 69.43.100 and 2013 c 19 s 74 are each amended to read as follows:

((~~The pharmacy quality assurance commission shall have the power to refuse, suspend, or revoke the permit of any manufacturer or wholesaler~~)) In addition to any other grounds, the pharmacy quality assurance commission may take action against a permit issued under this chapter upon proof that:

(1) The permit was procured through fraud, misrepresentation, or deceit;

(2) The permittee has violated or has permitted any employee to violate any of the laws of this state relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the pharmacy quality assurance commission.

Sec. 44. RCW 69.43.140 and 2013 c 19 s 78 are each amended to read as follows:

(1) ((~~In addition to the other penalties provided for in this chapter or in chapter 18.64 RCW, the pharmacy quality assurance commission may impose a civil penalty, not to exceed ten thousand dollars for each violation, on any licensee or registrant who has failed to comply with this chapter or the rules adopted under this chapter. In the case of a continuing violation, every day the violation continues shall be considered a separate violation~~)) Chapter 18.64 RCW governs the denial of permits and the discipline of permits issued under this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a permit under this chapter.

(2) The pharmacy quality assurance commission may waive ((~~the suspension or revocation of a license or registration~~)) action taken under chapter 18.64 RCW against a permit issued under this chapter ((~~18.64 RCW, or waive any civil penalty under this chapter,~~)) if the ((~~licensee or registrant~~)) permittee establishes that he or she acted in good faith to prevent violations of this chapter, and the violation occurred despite the licensee's or registrant's exercise of due diligence. In making such a determination, the pharmacy quality assurance commission may consider evidence that an employer trained employees on how to sell, transfer, or otherwise furnish substances specified in RCW 69.43.010(1) in accordance with applicable laws.

Sec. 45. RCW 69.50.302 and 2013 c 19 s 98 are each amended to read as follows:

(((~~(a) [(1)]~~))) (1) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, shall obtain annually a registration issued by the ((~~department~~)) commission in accordance with the commission's rules.

(((~~(b) [(2)]~~))) (2) A person registered by the ((~~department~~)) commission under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by the registration and in conformity with this Article.

(((~~(c) [(3)]~~))) (3) The following persons need not register and may lawfully possess controlled substances under this chapter:

(((~~(1) [(a)]~~))) (a) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if the agent or employee is acting in the usual course of business or employment. This exemption shall not include any agent or employee distributing sample controlled substances to practitioners without an order;

(((~~(2) [(b)]~~))) (b) A common or contract carrier or warehouse operator, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(((~~(3) [(c)]~~))) (c) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a substance included in Schedule V.

(((~~(d) [(4)]~~))) (4) The commission may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers upon finding it consistent with the public health and safety. Personal practitioners licensed or registered in the state of Washington under the respective professional licensing acts shall not be required to be registered under this chapter unless the specific exemption is denied pursuant to ((~~RCW 69.50.305~~)) sections 31 and 33 of this act for violation of any provisions of this chapter.

(((~~(e) [(5)]~~))) (5) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(((~~(f) [(6)]~~))) (6) The department, at the direction of the commission, may inspect the establishment of a registrant or applicant for registration in accordance with rules adopted by the commission.

Sec. 46. RCW 69.50.303 and 2013 c 19 s 99 are each amended to read as follows:

(((~~(a) [(1)]~~))) (1) The ((~~department~~)) commission shall register an applicant to manufacture ((~~or~~)), distribute, dispense, or conduct research with controlled substances included in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 unless the commission determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the commission shall consider the following factors:

(((~~(1) [(a)]~~))) (a) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

(((~~(2) [(b)]~~))) (b) compliance with applicable state and local law;

((~~(3) [(c)]~~)) (c) promotion of technical advances in the art of manufacturing controlled substances and the development of new substances;

((~~(4) [(d)]~~)) (d) any convictions of the applicant under any laws of another country or federal or state laws relating to any controlled substance;

((~~(5) [(e)]~~)) (e) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

((~~(6) [(f)]~~)) (f) furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

((~~(7) [(g)]~~)) (g) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

((~~(8) [(h)]~~)) (h) any other factors relevant to and consistent with the public health and safety.

((~~(b) [(2)]~~)) (2) Registration under subsection ((~~(a) [(1)]~~)) (1) of this section does not entitle a registrant to manufacture or distribute controlled substances included in Schedule I or II other than those specified in the registration.

((~~(c) [(3)]~~)) (3) Practitioners must be registered, or exempted under RCW 69.50.302((~~(d) [(4)]~~)) (4), to dispense any controlled substances or to conduct research with controlled substances included in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The commission need not require separate registration under this Article for practitioners engaging in research with nonnarcotic substances included in Schedules II through V where the registrant is already registered under this Article in another capacity. Practitioners registered under federal law to conduct research with substances included in Schedule I may conduct research with substances included in Schedule I within this state upon furnishing the commission evidence of that federal registration.

((~~(d) [(4)]~~)) (4) A manufacturer or distributor registered under the federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., may submit a copy of the federal application as an application for registration as a manufacturer or distributor under this section. The commission may require a manufacturer or distributor to submit information in addition to the application for registration under the federal act.

Sec. 47. RCW 69.50.304 and 2013 c 19 s 100 are each amended to read as follows:

((~~(a) [(1) A]~~)) (1) This chapter and chapter 18.64 RCW govern the denial of registrations and the discipline of registrations issued under RCW 69.50.303. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter.

(2) In addition to any other grounds, the commission may take action against the registration, or exemption from registration, under RCW 69.50.303 to manufacture, distribute, ((~~or~~)) dispense, or conduct research with a controlled substance ((~~may be suspended or revoked by the commission~~)) upon finding that the registrant has:

((~~(1) [(a)]~~)) (a) furnished false or fraudulent material information in any application filed under this chapter;

(((~~(2) [(b)]~~))) (b) been convicted of a felony under any state or federal law relating to any controlled substance;

(((~~(3) [(c)]~~))) (c) had the registrant's federal registration suspended or revoked and is no longer authorized by federal law to manufacture, distribute, ((~~or~~)) dispense, or conduct research with controlled substances; or

(((~~(4) [(d)]~~))) (d) committed acts that would render registration under RCW 69.50.303 inconsistent with the public interest as determined under that section.

(((~~(b) [(2)]~~))) (3) The commission may limit revocation or suspension of a registration to the particular controlled substance or schedule of controlled substances, with respect to which grounds for revocation or suspension exist.

(((~~(c) [(3)]~~))) (4) If the commission suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(((~~(d) [(4)]~~))) (5) The ((~~department~~)) commission may seize or place under seal any controlled substance owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by the registration. The controlled substance must be held for the benefit of the registrant or the registrant's successor in interest. The ((~~department~~)) commission shall notify a registrant, or the registrant's successor in interest, who has any controlled substance seized or placed under seal, of the procedures to be followed to secure the return of the controlled substance and the conditions under which it will be returned. The ((~~department~~)) commission may not dispose of any controlled substance seized or placed under seal under this subsection until the expiration of ((~~one hundred eighty~~)) 180 days after the controlled substance was seized or placed under seal. The costs incurred by the ((~~department~~)) commission in seizing, placing under seal, maintaining custody, and disposing of any controlled substance under this subsection may be recovered from the registrant, any proceeds obtained from the disposition of the controlled substance, or from both. Any balance remaining after the costs have been recovered from the proceeds of any disposition must be delivered to the registrant or the registrant's successor in interest.

(((~~(e) [(5)]~~))) (6) The ((~~department~~)) commission shall promptly notify the drug enforcement administration of all orders restricting, suspending, or revoking registration and all forfeitures of controlled substances.

Sec. 48. RCW 69.50.310 and 2013 c 19 s 104 are each amended to read as follows:

On and after September 21, 1977, a humane society and animal control agency may apply to the ((~~department~~)) commission for registration pursuant to the applicable provisions of this chapter for the sole purpose of being authorized to purchase, possess, and administer sodium pentobarbital to euthanize injured, sick, homeless, or unwanted domestic pets and animals. Any agency so registered shall not permit a person to administer sodium pentobarbital unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering this drug.

The ((~~department~~)) commission may issue a limited registration to carry out the provisions of this section. ((~~The commission shall promulgate such rules as it deems necessary to insure strict compliance with the provisions of this section. The commission may suspend or revoke registration upon determination that the person administering sodium pentobarbital has not demonstrated adequate knowledge as herein provided. This authority is granted in addition to any other power to suspend or revoke registration as provided by law.~~)) Chapter 18.64 RCW governs the denial of licenses and the discipline of registrations issued under this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter.

Sec. 49. RCW 69.50.320 and 2013 c 19 s 106 are each amended to read as follows:

The department of fish and wildlife may apply to the ((~~department of health~~)) commission for registration pursuant to the applicable provisions of this chapter to purchase, possess, and administer controlled substances for use in chemical capture programs. The department of fish and wildlife must not permit a person to administer controlled substances unless the person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering controlled substances.

The ((~~department of health~~)) commission may issue a limited registration to carry out the provisions of this section. The commission may adopt rules to ensure strict compliance with the provisions of this section. The commission, in consultation with the department of fish and wildlife, must by rule add or remove additional controlled substances for use in chemical capture programs. ((~~The~~)) Chapter 18.64 RCW governs the denial of licenses and the discipline of registrations issued under this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter. In addition to any other grounds, the commission ((~~shall~~)) may suspend or revoke a registration issued under this chapter upon determination that the person administering controlled substances has not demonstrated adequate knowledge as required by this section. ((~~This authority is granted in addition to any other power to suspend or revoke registration as provided by law.~~))

Sec. 50. RCW 69.41.080 and 2013 c 19 s 57 are each amended to read as follows:

Humane societies and animal control agencies registered with the ((~~pharmacy quality assurance~~)) commission under chapter 69.50 RCW and authorized to euthanize animals may purchase, possess, and administer approved legend drugs for the sole purpose of sedating animals prior to euthanasia, when necessary, and for use in chemical capture programs. For the purposes of this section, "approved legend drugs" means those legend drugs designated by the commission by rule as being approved for use by such societies and agencies for animal sedating or capture and does not include any substance regulated under chapter 69.50 RCW. Any society or agency so registered shall not permit persons to administer any legend drugs unless such person has demonstrated to the satisfaction of the commission adequate knowledge of the potential hazards involved in and the proper techniques to be used in administering the drugs.

The commission shall promulgate rules to regulate the purchase, possession, and administration of legend drugs by such societies and agencies and to insure strict compliance with the provisions of this section. Such rules shall require that the storage, inventory control, administration, and recordkeeping for approved legend drugs conform to the standards adopted by the commission under chapter 69.50 RCW to regulate the use of controlled substances by such societies and agencies. ((~~The~~)) Chapter 18.64 RCW governs the denial of licenses and the discipline of registrations issued under chapter 69.50 RCW. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice of persons required to obtain a registration under this chapter. In addition to any other grounds, the commission may suspend or revoke a registration issued under chapter 69.50 RCW upon a determination by the commission that the person administering legend drugs has not demonstrated adequate knowledge as herein provided. ((~~This authority is granted in addition to any other power to suspend or revoke a registration as provided by law.~~))

NEW SECTION. **Sec. 51.** The following acts or parts of acts are each repealed:

(1) RCW 18.64.200 (Refusal, suspension, and revocation of other licenses—Appeal procedure) and 2013 c 19 s 15, 1963 c 38 s 11, & 1909 c 213 s 11;

(2) RCW 18.64.390 (Nonresident pharmacies—Violations—Penalties) and 2013 c 19 s 23 & 1991 c 87 s 5; and

(3) RCW 69.50.305 (Procedure for denial, suspension, or revocation of registration) and 2013 c 19 s 101 & 1971 ex.s. c 308 s 69.50.305.

Passed by the Senate January 24, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 122

[Senate Bill 5792]

MULTIUNIT RESIDENTIAL BUILDINGS—DEFINITION EXCLUSION

AN ACT Relating to exempting buildings with 12 or fewer units that are no more than three stories so long as one story is utilized for either parking or retail, from the definition of multiunit residential building; and amending RCW 64.55.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 64.55.010 and 2023 c 263 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in RCW 64.34.020 and in this section apply throughout this chapter.

(1) "Attached dwelling unit" means any dwelling unit that is attached to another dwelling unit by a wall, floor, or ceiling that separates heated living spaces. A garage is not a heated living space.

(2) "Building enclosure" means that part of any building, above or below grade, that physically separates the outside or exterior environment from interior environments and which weatherproofs, waterproofs, or otherwise protects the building or its components from water or moisture intrusion. Interior

environments consist of both heated and unheated enclosed spaces. The building enclosure includes, but is not limited to, that portion of roofs, walls, balcony support columns, decks, windows, doors, vents, and other penetrations through exterior walls, which waterproof, weatherproof, or otherwise protect the building or its components from water or moisture intrusion.

(3) "Building enclosure design documents" means plans, details, and specifications for the building enclosure that have been stamped by a licensed engineer or architect. The building enclosure design documents shall include details and specifications that are appropriate for the building in the professional judgment of the architect or engineer who prepared the same to waterproof, weatherproof, and otherwise protect the building or its components from water or moisture intrusion, including details of flashing, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane, and details around openings.

(4) "Developer" means:

(a) With respect to a condominium or a conversion condominium, the declarant; and

(b) With respect to all other buildings, an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other entity or person that obtains a building permit for the construction or rehabilitative reconstruction of a multiunit residential building. If a permit is obtained by service providers such as architects, contractors, and consultants who obtain permits for others as part of services rendered for a fee, the person for whom the permit is obtained shall be the developer, not the service provider.

(5) "Dwelling unit" has the meaning given to that phrase or similar phrases in the ordinances of the jurisdiction issuing the permit for construction of the building enclosure but if such ordinances do not provide a definition, then "dwelling unit" means a residence containing living, cooking, sleeping, and sanitary facilities.

(6) "Multiunit residential building" means:

(a) A building containing more than two attached dwelling units, including a building containing nonresidential units if the building also contains more than two attached dwelling units, but excluding the following classes of buildings:

(i) Hotels and motels;

(ii) Dormitories;

(iii) Care facilities;

(iv) Floating homes;

(v) A building that contains attached dwelling units that are each located on a single platted lot, except as provided in (b) of this subsection;

(vi) A building in which all of the dwelling units are held under one ownership and is subject to a recorded irrevocable sale prohibition covenant; ((~~and~~))

(vii) A building with 12 or fewer units that is no more than two stories; and

(viii) A building with 12 or fewer units that is no more than three stories so long as one story is utilized for parking, either above or below ground, or retail space.

(b) If the developer submits to the appropriate building department when applying for the building permit described in RCW 64.55.020 a statement that the developer elects to treat the improvement for which a permit is sought as a

multiunit residential building for all purposes under this chapter, then "multiunit residential building" also means the following buildings for which such election has been made:

(i) A building containing only two attached dwelling units;

(ii) A building that does not contain attached dwelling units; and

(iii) Any building that contains attached dwelling units each of which is located on a single platted lot.

(7) "Party unit owner" means a unit owner who is a named party to an action subject to this chapter and does not include any unit owners whose involvement with the action stems solely from their membership in the association.

(8) "Qualified building inspector" means a person satisfying the requirements of RCW 64.55.040.

(9) "Rehabilitative construction" means construction work on the building enclosure of a multiunit residential building if the cost of such construction work is more than five percent of the assessed value of the building.

(10) "Sale prohibition covenant" means a recorded covenant that prohibits the sale or other disposition of individual dwelling units as or as part of a condominium for five years or more from the date of first occupancy except as otherwise provided in RCW 64.55.090, a certified copy of which the developer shall submit to the appropriate building department; provided such covenant shall not apply to sales or dispositions listed in RCW 64.34.400(2). The covenant must be recorded in the county in which the building is located and must be in substantially the following form:

> This covenant has been recorded in the real property records of . . . . . County, Washington, in satisfaction of the requirements of RCW 64.55.010 through 64.55.090. The undersigned is the owner of the property described on Exhibit A (the "Property"). Until termination of this covenant, no dwelling unit in or on the Property may be sold as a condominium unit except for sales listed in RCW 64.34.400(2).
>
> This covenant terminates on the earlier of either: (a) Compliance with the requirements of RCW 64.55.090, as certified by the owner of the Property in a recorded supplement hereto; or (b) the fifth anniversary of the date of first occupancy of a dwelling unit as certified by the Owner in a recorded supplement hereto.

All title insurance companies and persons acquiring an interest in the Property may rely on the forgoing certifications without further inquiry in issuing any policy of title insurance or in acquiring an interest in the Property.

(11) "Stamped" means bearing the stamp and signature of the responsible licensed architect or engineer on the title page, and on every sheet of the documents, drawings, or specifications, including modifications to the documents, drawings, and specifications that become part of change orders or addenda to alter those documents, drawings, or specifications.

Passed by the Senate February 6, 2024.
Passed by the House March 1, 2024.
Approved by the Governor March 15, 2024.

Filed in Office of Secretary of State March 15, 2024.

CHAPTER 123

[Substitute Senate Bill 5806]

INSURANCE COMPANY DATA—CONFIDENTIALITY

AN ACT Relating to the confidentiality of insurance company data; and amending RCW 48.02.065.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.02.065 and 2015 c 122 s 15 are each amended to read as follows:

(1) Documents, materials, or other information as described in ((~~either subsection (5) or (6), or both,~~)) subsections (5), (6), (7), and (8) of this section are confidential by law and privileged, are not subject to public disclosure under chapter 42.56 RCW, and are not subject to subpoena directed to the commissioner or any person who received documents, materials, or other information while acting under the authority of the commissioner. The commissioner is authorized to use such documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The confidentiality and privilege created by this section and RCW 42.56.400(8) applies only to the commissioner, any person acting under the authority of the commissioner, the national association of insurance commissioners and its affiliates and subsidiaries, regulatory and law enforcement officials of other states and nations, the federal government, and international authorities.

(2) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner is permitted or required to testify in any private civil action concerning any confidential and privileged documents, materials, or information subject to subsection (1) of this section.

(3) The commissioner:

(a) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (1) of this section, with (i) the national association of insurance commissioners and its affiliates and subsidiaries, ((~~and~~)) (ii) regulatory and law enforcement officials of other states and nations, the federal government, and international authorities, and (iii) agencies of this state, if the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information;

(b) May receive documents, materials, or information, including otherwise either confidential or privileged, or both, documents, materials, or information, from (i) the national association of insurance commissioners and its affiliates and subsidiaries, and (ii) regulatory and law enforcement officials of other states and nations, the federal government, and international authorities and shall maintain as confidential and privileged any document, material, or information received that is either confidential or privileged, or both, under the laws of the jurisdiction that is the source of the document, material, or information; and

(c) May enter into agreements governing the sharing and use of information consistent with this subsection.

(4) No waiver of an existing privilege or claim of confidentiality in the documents, materials, or information may occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.

(5) Documents, materials, or information, which is either confidential or privileged, or both, which has been provided to the commissioner by (a) the national association of insurance commissioners and its affiliates and subsidiaries, (b) regulatory or law enforcement officials of other states and nations, the federal government, or international authorities, or (c) agencies of this state, is confidential and privileged only if the documents, materials, or information is protected from disclosure by the applicable laws of the jurisdiction that is the source of the document, material, or information.

(6) Working papers, documents, materials, or information produced by, obtained by, or disclosed to the commissioner or any other person in the course of a financial or market conduct examination, or in the course of financial analysis or market conduct desk audit, are not required to be disclosed by the commissioner unless cited by the commissioner in connection with an agency action as defined in RCW 34.05.010(3). The commissioner shall notify a party that produced the documents, materials, or information five business days before disclosure in connection with an agency action. The notified party may seek injunctive relief in any Washington state superior court to prevent disclosure of any documents, materials, or information it believes is confidential or privileged. In civil actions between private parties or in criminal actions, disclosure to the commissioner under this section does not create any privilege or claim of confidentiality or waive any existing privilege or claim of confidentiality.

(7) Documents, materials, or information provided to the commissioner by the federal government related to emergency management, hazard mitigation, and the national flood insurance program are confidential by law and privileged, and are not subject to public disclosure under chapter 42.56 RCW.

(8) Data requested by the commissioner from property and casualty entities regulated by the commissioner for the purpose of understanding and studying insurance market conditions outside the context of market conduct action is confidential by law and privileged and is not subject to public disclosure under chapter 42.56 RCW. Nothing in this section prohibits the commissioner from preparing and publishing reports, analysis, or other documents using the data received from individual property and casualty companies so long as the data in the report is in aggregate form and does not permit the identification of information related to individual companies. Data in the aggregate form are deemed open records available for public inspection. Nothing in this section affects, limits, or amends the commissioner's authority under chapter 48.37 RCW.

(9)(a) After receipt of a public disclosure request, the commissioner shall disclose the documents, materials, or information under subsection (6) of this section that relate to a financial or market conduct examination undertaken as a result of a proposed change of control of a nonprofit or mutual health insurer governed in whole or in part by chapter 48.31B RCW.

(b) The commissioner is not required to disclose the documents, materials, or information in (a) of this subsection if:

(i) The documents, materials, or information are otherwise privileged or exempted from public disclosure; or

(ii) The commissioner finds that the public interest in disclosure of the documents, materials, or information is outweighed by the public interest in nondisclosure in that particular instance.

((~~(8)~~)) (10) Any person may petition a Washington state superior court to allow inspection of information exempt from public disclosure under subsection (6) of this section when the information is connected to allegations of negligence or malfeasance by the commissioner related to a financial or market conduct examination. The court shall conduct an in-camera review after notifying the commissioner and every party that produced the information. The court may order the commissioner to allow the petitioner to have access to the information provided the petitioner maintains the confidentiality of the information. The petitioner must not disclose the information to any other person, except upon further order of the court. After conducting a regular hearing, the court may order that the information can be disclosed publicly if the court finds that there is a public interest in the disclosure of the information and the exemption of the information from public disclosure is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

Passed by the Senate February 2, 2024.
Passed by the House February 28, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 124

[Substitute Senate Bill 5808]

PUBLIC SAFETY TELECOMMUNICATORS—INTEREST ARBITRATION

AN ACT Relating to granting interest arbitration to certain public safety telecommunicators; and amending RCW 41.56.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.56.030 and 2022 c 71 s 9 are each amended to read as follows:

As used in this chapter:

(1) "Adult family home provider" means a provider as defined in RCW 70.128.010 who receives payments from the medicaid and state-funded long-term care programs.

(2) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(3) "Child care subsidy" means a payment from the state through a child care subsidy program established pursuant to RCW 74.12.340, 45 C.F.R. Sec. 98.1 through 98.17, or any successor program.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a

written agreement with respect to grievance procedures, subject to RCW 41.58.070, and collective negotiations on personnel matters, including wages, hours, and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(5) "Commission" means the public employment relations commission.

(6) "Executive director" means the executive director of the commission.

(7) "Family child care provider" means a person who: (a) Provides regularly scheduled care for a child or children in the home of the provider or in the home of the child or children for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours; (b) receives child care subsidies; and (c) under chapter 43.216 RCW, is either licensed by the state or is exempt from licensing.

(8) "Fish and wildlife officer" means a fish and wildlife officer as defined in RCW 77.08.010 who ranks below lieutenant and includes officers, detectives, and sergeants of the department of fish and wildlife.

(9) "Individual provider" means an individual provider as defined in RCW 74.39A.240(3) who, solely for the purposes of collective bargaining, is a public employee as provided in RCW 74.39A.270.

(10) "Institution 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)(a) "Language access provider" means any independent contractor who provides spoken language interpreter services, whether paid by a broker, language access agency, or the respective department:

(i) For department of social and health services appointments, department of children, youth, and families appointments, medicaid enrollee appointments, or who provided these services on or after January 1, 2011, and before June 10, 2012;

(ii) For department of labor and industries authorized medical and vocational providers who provided these services on or after January 1, 2019; or

(iii) For state agencies who provided these services on or after January 1, 2019.

(b) "Language access provider" does not mean a manager or employee of a broker or a language access agency.

(12) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to (i) the executive head or body of the applicable bargaining unit, or (ii) any person elected by popular vote, or (iii) any person appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (d) who is a court commissioner or a court magistrate of superior court, district court, or a

department of a district court organized under chapter 3.46 RCW, or (e) who is a personal assistant to a district court judge, superior court judge, or court commissioner. For the purpose of (e) of this subsection, no more than one assistant for each judge or commissioner may be excluded from a bargaining unit.

(13) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter, or any subdivision of such public body. For the purposes of this section, the public employer of district court or superior court employees for wage-related matters is the respective county legislative authority, or person or body acting on behalf of the legislative authority, and the public employer for nonwage-related matters is the judge or judge's designee of the respective district court or superior court. For the purposes of this chapter, public employer does not include a comprehensive cancer center participating in a collaborative arrangement as defined in RCW 28B.10.930 that is operated in conformance with RCW 28B.10.930.

(14) "Uniformed personnel" means: (a) Law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of two thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of ten thousand or more; (b) correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020(9), by a county with a population of seventy thousand or more, in a correctional facility created under RCW 70.48.095, or in a detention facility created under chapter 13.40 RCW that is located in a county with a population over one million five hundred thousand, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates; (c) general authority Washington peace officers as defined in RCW 10.93.020 employed by a port district in a county with a population of one million or more; (d) security forces established under RCW 43.52.520; (e) firefighters as that term is defined in RCW 41.26.030; (f) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other firefighting duties; (g) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; (h) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer; ((~~or~~)) (i) court marshals of any county who are employed by, trained for, and commissioned by the county sheriff and charged with the responsibility of enforcing laws, protecting and maintaining security in all county-owned or contracted property, and performing any other duties assigned to them by the county sheriff or mandated by judicial order; or (j) public safety telecommunicators, as defined in RCW 38.60.020, employed by a public employer. This subsection (14)(j) does not apply to public safety telecommunicators employed by the Washington state patrol or any other state agency.

Passed by the Senate January 31, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 15, 2024.

Filed in Office of Secretary of State March 15, 2024.

CHAPTER 125

[Senate Bill 5836]

CLARK COUNTY—ADDITIONAL SUPERIOR COURT JUDGE

AN ACT Relating to adding an additional superior court judge in Clark county; and amending RCW 2.08.062.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 2.08.062 and 2020 c 53 s 1 are each amended to read as follows:

There shall be in the county of Chelan four judges of the superior court; in the county of Douglas one judge of the superior court; in the county of Clark ((~~eleven~~)) 12 judges of the superior court; in the county of Grays Harbor three judges of the superior court; in the county of Kitsap eight judges of the superior court; in the county of Kittitas two judges of the superior court; in the county of Lewis three judges of the superior court.

Passed by the Senate February 13, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 126

[Senate Bill 5842]

INSURANCE CLAIMS—PAST-DUE CHILD SUPPORT—USE OF SOCIAL SECURITY NUMBERS

AN ACT Relating to restricting the use of social security numbers by insurance companies for the purpose of determining child support debt; and amending RCW 26.23.037.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 26.23.037 and 2021 c 168 s 2 are each amended to read as follows:

(1)(a) Except as otherwise provided in subsection (8) of this section, each insurer shall, not later than 10 days after opening a tort liability claim for bodily injury or wrongful death, a workers' compensation claim, or a claim under a policy of life insurance, exchange information with the division of child support in the manner prescribed by the department to verify whether the claimant owes debt for the support of one or more children to the department or to a person receiving services from the division of child support. To the extent feasible, the division of child support shall facilitate a secure electronic process to exchange information with insurers pursuant to this subsection. The obligation of an insurer to exchange information with the division of child support is discharged upon complying with the requirements of this subsection.

(b) The exchange of information pursuant to chapter 168, Laws of 2021 must comply with privacy protections under applicable state and federal laws and regulations, including the federal health insurance portability and accountability act.

(2) In order to determine whether a claimant owes a debt being enforced by the division of child support, all insurance companies doing business in the state of Washington that issue qualifying payments to claimants must provide minimum identifying information about the claimant to:

(a) An insurance claim data collection organization;

(b) The federal office of child support enforcement or the child support lien network; or

(c) The division of child support directly in a manner satisfactory to the department; however, the division of child support shall minimize the use of directly reported social security numbers unless the claimant cannot be identified using the claimant's full name, current physical address, and date of birth.

(3) Insurers must take the steps necessary to authorize an insurance claim data collection organization to share minimum identifying information with the federal office of child support enforcement and the child support claim lien network.

(4) Except as otherwise provided in subsections (5) and (7) of this section, if an insurer is notified by the division of child support that a claimant owes debt for the support of one or more children to the department or to a person receiving services from the division of child support, the insurer shall, upon the receipt of a notice issued by the department identifying the amount of debt owed pursuant to chapter 74.20A RCW:

(a) Withhold from payment on the claim the amount specified in the notice; and

(b) Remit the amount withheld from payment to the department within 20 days.

(5) The department shall give any lien, claim, or demand for reasonable claim-related attorneys' fees, property damage, and medical costs priority over any withholding of payment pursuant to subsection (4) of this section.

(6) Any information obtained pursuant to chapter 168, Laws of 2021 must be used only for the purpose of carrying out the provisions of chapter 168, Laws of 2021. An insurer or other entity described in subsection (2) of this section may not be held liable in any civil or criminal action for any act made in good faith pursuant to this section including, but not limited to:

(a) Any disclosure of information to the department or the division of child support; or

(b) The withholding of any money from payment on a claim or the remittance of such money to the department.

(7) An insurer may not delay the disbursement of a payment on a claim to comply with the requirements of this section. An insurer is not required to comply with subsection (4) of this section if the notice issued by the department is received by the insurer after the insurer has disbursed the payment on the claim. In the case of a claim that will be paid through periodic payments, the insurer:

(a) Is not required to comply with the provisions of subsection (4) of this section with regard to any payments on the claim disbursed to the claimant before the notice was received by the insurer; and

(b) Must comply with the provisions of subsection (4) of this section with regard to any payments on the claim scheduled to be made after the receipt of the notice.

(8) If periodic payment will be made to a claimant, an insurer is only required to engage in the exchange of information pursuant to subsection (1) of this section before issuing the initial payment.

(9) An insurance company's failure to comply with the reporting requirements of chapter 168, Laws of 2021 does not amount to noncompliance with a requirement of the division of child support as described in RCW 74.20A.350.

(10) For the purposes of this section, the following definitions apply:

(a) "Claimant" means any person who: (i) Brings a tort liability claim for bodily injury or wrongful death; (ii) is receiving workers' compensation benefits; or (iii) is a beneficiary under a life insurance policy. "Claim for bodily injury" does not include a claim for uninsured or underinsured vehicle coverage or medical payments coverage under a motor vehicle liability policy.

(b) "Insurance claim data collection organization" means an organization that maintains a centralized database of information concerning insurance claims to assist insurers that subscribe to the database in processing claims and detecting and preventing fraud, and also cooperates and coordinates with the federal or state child support entities to share relevant information for insurance intercept purposes.

(c) "Insurer" means: (i) A person who holds a certificate of authority to transact insurance in the state; or (ii) a chapter 48.15 RCW unauthorized insurer.

(d) "Qualifying payment" means a payment that is either a one-time lump sum or an installment payment issued by an insurance company doing business in the state of Washington, which is made for the purpose of satisfying, compromising, or settling, a tort or insurance claim where the payment is in excess of $500 and is intended to go directly to the claimant and not to a third party, such as a health care provider.

(e) "Tort or insurance claim" means: (i) A claim for general damages, which are also called noneconomic damages; or (ii) a claim for lost wages. "Tort or insurance claim" does not include claims for property damage under either liability insurance or uninsured motorist insurance.

Passed by the Senate January 31, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 127

[Senate Bill 5852]

SPECIAL EDUCATION SAFETY NET AWARDS—APPLICATIONS

AN ACT Relating to special education safety net awards; amending RCW 28A.150.392; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes that the special education safety net is an important funding resource for school districts that serve high-need students requiring extraordinary high-cost services. However, the legislature finds that the current safety net application requirements are burdensome to school districts, especially those with limited staff, and may

discourage school districts from applying for funding. School districts have reported that, as part of the application process, individualized education programs are rigorously analyzed beyond what is necessary to confirm a legitimate demonstration of need, and safety net awards are reduced by up to 45 percent for errors. This practice undermines the expertise of the individualized education program team members, creates barriers to funding for school districts with limited resources, and fails to accurately reimburse school districts for legitimate expenditures. Therefore, the legislature intends to clarify the responsibilities of the safety net oversight committee in reviewing applications and prohibit award reductions for nonmaterial errors. The legislature also intends to simplify the application process to reduce administrative barriers and increase funding accessibility.

Sec. 2. RCW 28A.150.392 and 2023 c 417 s 4 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. When determining award eligibility and amounts the committee shall limit its review to relevant documentation that illustrates adherence to award criteria. The committee shall not make determinations regarding the content of individualized education programs beyond confirming documented and quantified services and evidence of corresponding expenditures for which a school district seeks reimbursement.

(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 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. 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 served in residential schools, 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.

(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 unresolved audit findings or exceptions related to special education funding. Safety net awards may only be adjusted for errors in safety net applications or individualized education programs that materially affect the demonstration of need.

(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)(a) 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.

(b) By December 1, 2024, the office of the superintendent of public instruction must develop a survey requesting specific feedback on the safety net application process from school districts with 3,000 or fewer students. The survey must include, at a minimum, questions regarding the average amount of time school district staff spend gathering safety net application data, filling out application forms, and correcting application deficiencies. The survey must also

include questions to help identify which application components are the most challenging and time consuming for school districts to complete. By December 1, 2025, the office of the superintendent of public instruction must use this feedback to implement a simplified, standardized safety net application for all school districts that reduces barriers to safety net funding.

(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)(a) 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 three-tenths times the average per-pupil expenditure as defined in Title 20 U.S.C. Sec. 7801, the every student succeeds act of 2015.

(b) Beginning in the 2023-24 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:

(i) 2 times the average per-pupil expenditure, for school districts with fewer than 1,000 full-time equivalent students;

(ii) 2.2 times the average per-pupil expenditure, for school districts with 1,000 or more full-time equivalent students.

(c) For purposes of (b) of this subsection, "average per-pupil expenditure" has the same meaning as in 20 U.S.C. Sec. 7801, the every student succeeds act of 2015, and excludes safety net funding provided in this section.

Passed by the Senate February 8, 2024.
Passed by the House March 1, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 128

[Engrossed Substitute Senate Bill 5973]

COMMON INTEREST COMMUNITIES—HEAT PUMPS

AN ACT Relating to heat pumps in common interest communities; adding a new section to chapter 64.32 RCW; adding a new section to chapter 64.34 RCW; adding a new section to chapter 64.38 RCW; adding a new section to chapter 64.90 RCW; creating a new section; prescribing penalties; and providing a contingent expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 64.32 RCW to read as follows:

(1)(a) An association of apartment owners may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that:

(i) Effectively prohibits or unreasonably restricts the installation or use of a heat pump in compliance with the requirements of this section and for the personal use of an apartment owner within the boundaries of an apartment; or

(ii) Is in conflict with the provisions of this section.

(b) Nothing in this section prohibits an association from imposing reasonable restrictions on heat pumps.

(c) This section must not be construed to permit installation by an apartment owner of heat pump equipment on or in common areas without approval of the association, or the manager or board of directors acting on the association's behalf.

(2) An association of apartment owners may require an apartment owner to submit an application for approval for the installation of a heat pump before installing the heat pump.

(3)(a) If approval is required for the installation of a heat pump, the application for approval must be processed and approved in the same manner as an application for approval of an architectural modification.

(b) The approval or denial of an application must be in writing and must not be willfully avoided or delayed.

(c) If an application is not denied in writing within 60 days from the date of receipt of the application, the application is deemed approved, unless that delay is the result of a reasonable request for additional information.

(d) An association of apartment owners may not assess or charge an apartment owner a fee for the installation of a heat pump. An association may charge a reasonable fee for processing the application to approve the installation of a heat pump, but only if such a fee exists for all applications for approval of architectural modifications.

(4) If approval is required for the installation of a heat pump, an association of apartment owners must approve the installation if the installation is reasonably possible and the apartment owner agrees in writing to:

(a) Comply with the association's reasonable architectural standards applicable to the installation of the heat pump;

(b) Engage a heating, ventilation, and air conditioning (HVAC) contractor familiar with the standards for the installation of heat pumps to assess the existing infrastructure necessary to support the proposed heat pump, identify additional infrastructure needs, and install the heat pump; and

(c) Comply with the requirements of this section.

(5)(a) An apartment owner must obtain any permit or approval for a heat pump as required by the local government in which the common interest community is located and comply with all relevant building codes and safety standards.

(b) A heat pump must meet all applicable health and safety standards and requirements imposed by national, state, or local authorities, and all other applicable zoning, land use or other ordinances, building codes, or land use permits.

(6)(a) Unless otherwise agreed to by written contract with the association, an apartment owner is responsible for the costs of installing a heat pump.

(b) Heat pump equipment that is installed at the apartment owner's cost and is removable without damage to the property owned by others may be removed at the apartment owner's cost.

(7) The apartment owner and each successive owner of the heat pump is responsible for:

(a) Costs for the maintenance, repair, and replacement of the heat pump up until the heat pump is removed;

(b) Costs for damage to the heat pump, any apartment, common area, or limited common area resulting from the installation, use, maintenance, repair, removal, or replacement of the heat pump;

(c) If the owner decides to remove the heat pump, costs for the removal and the restoration of the common area or limited common area after the removal; and

(d) Removing heat pump equipment if reasonably necessary for the repair, maintenance, or replacement of the common area or limited common area.

(8)(a) An association of apartment owners that willfully violates this section is liable to the apartment owner for actual damages, and shall pay a civil penalty to the apartment owner in an amount not to exceed $1,000.

(b) In any action by an apartment owner requesting to have a heat pump installed and seeking to enforce compliance with this section, the court shall award reasonable attorneys' fees and costs to any prevailing apartment owner.

(9) For the purposes of this section:

(a) "Heat pump" means a heating or refrigerating system used to transfer heat. The heat pump condenser and evaporator may change roles to transfer heat in either direction. By receiving the flow of air or other fluid, a heat pump is used to cool or heat.

(b) "Reasonable restriction" means a restriction that does not significantly increase the cost of a heat pump or significantly decrease its efficiency or specified performance.

NEW SECTION. **Sec. 2.** A new section is added to chapter 64.34 RCW to read as follows:

(1)(a) A unit owners' association may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that:

(i) Effectively prohibits or unreasonably restricts the installation or use of a heat pump in compliance with the requirements of this section and for the personal use of a unit owner within the boundaries of a unit; or

(ii) Is in conflict with the provisions of this section.

(b) Nothing in this section prohibits an association from imposing reasonable restrictions on heat pumps.

(c) This section must not be construed to permit installation by a unit owner of heat pump equipment on or in common elements without approval of the board of directors.

(2) A unit owners' association may require a unit owner to submit an application for approval for the installation of a heat pump before installing the heat pump.

(3)(a) If approval is required for the installation of a heat pump, the application for approval must be processed and approved in the same manner as an application for approval of an architectural modification.

(b) The approval or denial of an application must be in writing and must not be willfully avoided or delayed.

(c) If an application is not denied in writing within 60 days from the date of receipt of the application, the application is deemed approved, unless that delay is the result of a reasonable request for additional information.

(d) An association may not assess or charge a unit owner a fee for the installation of a heat pump. An association may charge a reasonable fee for processing the application to approve the installation of a heat pump, but only if such a fee exists for all applications for approval of architectural modifications.

(4) If approval is required for the installation of a heat pump, a unit owners' association must approve the installation if the installation is reasonably possible and the unit owner agrees in writing to:

(a) Comply with the association's reasonable architectural standards applicable to the installation of the heat pump;

(b) Engage a heating, ventilation, and air conditioning (HVAC) contractor familiar with the standards for the installation of heat pumps to assess the existing infrastructure necessary to support the proposed heat pump, identify additional infrastructure needs, and install the heat pump; and

(c) Comply with the requirements of this section.

(5)(a) A unit owner must obtain any permit or approval for a heat pump as required by the local government in which the common interest community is located and comply with all relevant building codes and safety standards.

(b) A heat pump must meet all applicable health and safety standards and requirements imposed by national, state, or local authorities, and all other applicable zoning, land use or other ordinances, building codes, or land use permits.

(6)(a) Unless otherwise agreed to by written contract with the unit owners' association, a unit owner is responsible for the costs of installing a heat pump.

(b) Heat pump equipment that is installed at the unit owner's cost and is removable without damage to the property owned by others may be removed at the unit owner's cost.

(7) The unit owner and each successive owner of the heat pump is responsible for:

(a) Costs for the maintenance, repair, and replacement of the heat pump up until the heat pump is removed;

(b) Costs for damage to the heat pump, any unit, common element, or limited common element resulting from the installation, use, maintenance, repair, removal, or replacement of the heat pump;

(c) If the unit owner decides to remove the heat pump, costs for the removal and the restoration of the common elements or limited common elements after the removal; and

(d) Removing heat pump equipment if reasonably necessary for the repair, maintenance, or replacement of the common element or limited common element.

(8)(a) A unit owners' association that willfully violates this section is liable to the unit owner for actual damages, and shall pay a civil penalty to the unit owner in an amount not to exceed $1,000.

(b) In any action by a unit owner requesting to have a heat pump installed and seeking to enforce compliance with this section, the court shall award reasonable attorneys' fees and costs to any prevailing unit owner.

(9) For the purposes of this section:

(a) "Heat pump" means a heating or refrigerating system used to transfer heat. The heat pump condenser and evaporator may change roles to transfer heat in either direction. By receiving the flow of air or other fluid, a heat pump is used to cool or heat.

(b) "Reasonable restriction" means a restriction that does not significantly increase the cost of a heat pump or significantly decrease its efficiency or specified performance.

NEW SECTION. **Sec. 3.** A new section is added to chapter 64.38 RCW to read as follows:

(1)(a) A homeowners' association may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that:

(i) Effectively prohibits or unreasonably restricts the installation or use of a heat pump in compliance with the requirements of this section and for the personal use of an owner within the boundaries of a lot; or

(ii) Is in conflict with the provisions of this section.

(b) Nothing in this section prohibits an association from imposing reasonable restrictions on heat pumps.

(c) This section must not be construed to permit installation by an owner of heat pump equipment on or in common areas without approval of the board of directors.

(2) A homeowners' association may require an owner to submit an application for approval for the installation of a heat pump before installing the heat pump.

(3)(a) If approval is required for the installation of a heat pump, the application for approval must be processed and approved in the same manner as an application for approval of an architectural modification.

(b) The approval or denial of an application must be in writing and must not be willfully avoided or delayed.

(c) If an application is not denied in writing within 60 days from the date of receipt of the application, the application is deemed approved, unless that delay is the result of a reasonable request for additional information.

(d) An association may not assess or charge an owner a fee for the installation of a heat pump. An association may charge a reasonable fee for processing the application to approve the installation of a heat pump, but only if such a fee exists for all applications for approval of architectural modifications.

(4) If approval is required for the installation of a heat pump, a homeowners' association must approve the installation if the installation is reasonably possible and the owner agrees in writing to:

(a) Comply with the association's reasonable architectural standards applicable to the installation of the heat pump;

(b) Engage a heating, ventilation, and air conditioning (HVAC) contractor familiar with the standards for the installation of heat pumps to assess the existing infrastructure necessary to support the proposed heat pump, identify additional infrastructure needs, and install the heat pump; and

(c) Comply with the requirements of this section.

(5)(a) An owner must obtain any permit or approval for a heat pump as required by the local government in which the common interest community is located and comply with all relevant building codes and safety standards.

(b) A heat pump must meet all applicable health and safety standards and requirements imposed by national, state, or local authorities, and all other applicable zoning, land use or other ordinances, building codes, or land use permits.

(6)(a) Unless otherwise agreed to by written contract with the homeowners' association, an owner is responsible for the costs of installing a heat pump.

(b) Heat pump equipment that is installed at the owner's cost and is removable without damage to the property owned by others may be removed at the owner's cost.

(7) The owner and each successive owner of the heat pump is responsible for:

(a) Costs for the maintenance, repair, and replacement of the heat pump up until the heat pump is removed;

(b) Costs for damage to the heat pump, any unit, common area, or limited common area resulting from the installation, use, maintenance, repair, removal, or replacement of the heat pump;

(c) If the owner decides to remove the heat pump, costs for the removal and the restoration of the common areas or limited common areas after the removal; and

(d) Removing heat pump equipment if reasonably necessary for the repair, maintenance, or replacement of the common area or limited common area.

(8)(a) A homeowners' association that willfully violates this section is liable to the owner for actual damages, and shall pay a civil penalty to the owner in an amount not to exceed $1,000.

(b) In any action by an owner requesting to have a heat pump installed and seeking to enforce compliance with this section, the court shall award reasonable attorneys' fees and costs to any prevailing owner.

(9) For the purposes of this section:

(a) "Heat pump" means a heating or refrigerating system used to transfer heat. The heat pump condenser and evaporator may change roles to transfer heat in either direction. By receiving the flow of air or other fluid, a heat pump is used to cool or heat.

(b) "Reasonable restriction" means a restriction that does not significantly increase the cost of a heat pump or significantly decrease its efficiency or specified performance.

NEW SECTION. **Sec. 4.** A new section is added to chapter 64.90 RCW to read as follows:

(1)(a) A unit owners association may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that:

(i) Effectively prohibits or unreasonably restricts the installation or use of a heat pump in compliance with the requirements of this section and for the personal use of a unit owner within the boundaries of a unit; or

(ii) Is in conflict with the provisions of this section.

(b) Nothing in this section prohibits an association from imposing reasonable restrictions on heat pumps.

(c) This section must not be construed to permit installation by a unit owner of heat pump equipment on or in common elements without approval of the board.

(2) A unit owners association may require a unit owner to submit an application for approval for the installation of a heat pump before installing the heat pump.

(3)(a) If approval is required for the installation of a heat pump, the application for approval must be processed and approved in the same manner as an application for approval of an architectural modification.

(b) The approval or denial of an application must be in writing and must not be willfully avoided or delayed.

(c) If an application is not denied in writing within 60 days from the date of receipt of the application, the application is deemed approved, unless that delay is the result of a reasonable request for additional information.

(d) An association may not assess or charge a unit owner a fee for the installation of a heat pump. An association may charge a reasonable fee for processing the application to approve the installation of a heat pump, but only if such a fee exists for all applications for approval of architectural modifications.

(4) If approval is required for the installation of a heat pump, a unit owners association must approve the installation if the installation is reasonably possible and the unit owner agrees in writing to:

(a) Comply with the association's reasonable architectural standards applicable to the installation of the heat pump;

(b) Engage a heating, ventilation, and air conditioning (HVAC) contractor familiar with the standards for the installation of heat pumps to assess the existing infrastructure necessary to support the proposed heat pump, identify additional infrastructure needs, and install the heat pump; and

(c) Comply with the requirements of this section.

(5)(a) A unit owner must obtain any permit or approval for a heat pump as required by the local government in which the common interest community is located and comply with all relevant building codes and safety standards.

(b) A heat pump must meet all applicable health and safety standards and requirements imposed by national, state, or local authorities, and all other applicable zoning, land use or other ordinances, building codes, or land use permits.

(6)(a) Unless otherwise agreed to by written contract with the unit owners association, a unit owner is responsible for the costs of installing a heat pump.

(b) Heat pump equipment that is installed at the unit owner's cost and is removable without damage to the property owned by others may be removed at the unit owner's cost.

(7) The unit owner and each successive owner of the heat pump is responsible for:

(a) Costs for the maintenance, repair, and replacement of the heat pump up until the heat pump is removed;

(b) Costs for damage to the heat pump, any unit, common element, or limited common element resulting from the installation, use, maintenance, repair, removal, or replacement of the heat pump;

(c) If the unit owner decides to remove the heat pump, costs for the removal and the restoration of the common elements or limited common elements after the removal; and

(d) Removing heat pump equipment if reasonably necessary for the repair, maintenance, or replacement of the common element or limited common element.

(8)(a) A unit owners association that willfully violates this section is liable to the unit owner for actual damages, and shall pay a civil penalty to the unit owner in an amount not to exceed $1,000.

(b) In any action by a unit owner requesting to have a heat pump installed and seeking to enforce compliance with this section, the court shall award reasonable attorneys' fees and costs to any prevailing unit owner.

(9) For the purposes of this section:

(a) "Heat pump" means a heating or refrigerating system used to transfer heat. The heat pump condenser and evaporator may change roles to transfer heat in either direction. By receiving the flow of air or other fluid, a heat pump is used to cool or heat.

(b) "Reasonable restriction" means a restriction that does not significantly increase the cost of a heat pump or significantly decrease its efficiency or specified performance.

NEW SECTION. **Sec. 5.** If chapter . . . (Senate Bill No. 5796), Laws of 2024 is enacted by June 30, 2024, sections 1 through 3 of this act expire January 1, 2028.

Passed by the Senate February 8, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 129

[Engrossed Substitute Senate Bill 6007]

GROCERY WORKERS—EMPLOYMENT STANDARDS

AN ACT Relating to employment standards for grocery workers; adding a new chapter to Title 49 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) Supermarkets and other grocery retailers are the primary points of distribution for food and other daily necessities for the residents of Washington and are therefore essential to the vitality of every Washington community.

(2) The state has a compelling interest in ensuring the welfare of the residents of its communities through the maintenance of health and safety standards in grocery establishments.

(3) Experienced grocery retail workers with knowledge of proper sanitation procedures, health regulations and laws, and an experience-based understanding of the clientele and communities in which the retailer is located are essential in furthering this interest and the state's investments in health and safety.

(4) A transitional retention period for grocery retail workers upon change of ownership, control, or operation of grocery stores ensures stability throughout the state for these vital workers, which, in turn, results in preservation of health and safety standards.

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

(1) "Change in control" means any sale, purchase, assignment, acquisition, transfer, contribution, or other disposition of all or substantially all of the assets, cash on hand, or a controlling interest, including by consolidation, merger, or reorganization, of or by the incumbent grocery employer or any person who controls the incumbent grocery employer or any grocery establishment under the operation or control of either the incumbent grocery employer or any person who controls the incumbent grocery employer.

(2) "Eligible grocery worker" means any individual whose primary place of employment is at the grocery establishment subject to a change in control, and who has worked for the incumbent grocery employer for at least six months prior to the execution of the transfer document. "Eligible grocery worker" does not include a managerial, supervisory, or confidential employee.

(3) "Employment commencement date" means the date on which an eligible grocery worker retained by the successor grocery employer pursuant to this chapter commences work for the successor grocery employer in exchange for benefits and compensation under the terms and conditions established by the successor grocery employer and as required by law.

(4)(a) "Grocery establishment" means a retail store in this state that is over 15,000 square feet in size and that sells primarily household foodstuffs for off-site consumption, including the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, or prepared foods. Other household supplies or other products must be secondary to the primary purpose of food sales.

(b) A distribution center owned and operated by a grocery establishment and used primarily to distribute goods to or from its owned stores is considered a grocery establishment, regardless of its square footage.

(c) A grocery establishment does not include a retail store that has ceased operations for 12 months or more.

(5) "Incumbent grocery employer" means the person that owns, controls, or operates the grocery establishment at the time of the change in control.

(6) "Job classification" means a system for categorizing certain duties into certain jobs.

(7) "Person" means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

(8) "Successor grocery employer" means the person that owns, controls, or operates the grocery establishment after the change in control. A successor grocery employer may be the same entity as an incumbent employer when a change in control occurs, but the covered employer remains the same. "Successor grocery employer" does not include any person that owns or controls 25 or fewer grocery establishments in the state. A successor grocery employer does not include an establishment operated by a franchisee pursuant to a franchise agreement if the franchisee operates 25 or fewer grocery establishments in the state.

(9) "Transfer document" means the purchase agreement or other document effecting the change in control.

NEW SECTION. **Sec. 3.** (1)(a) The incumbent grocery employer must, within 15 days after the execution of the transfer document, provide to the successor grocery employer and any collective bargaining representative the name, address, date of hire, employment occupation classification, and, if known, the cellular telephone number and email address of each eligible grocery worker.

(b) If the incumbent grocery employer does not provide the information specified in (a) of this subsection within 15 days, the successor grocery employer may obtain the information from a collective bargaining representative.

(2) The successor grocery employer must maintain a preferential hiring list of eligible grocery workers identified by the incumbent grocery employer or collective bargaining representative pursuant to subsection (1) of this section and must hire from that list for a period beginning upon the execution of the transfer document and continuing for 180 days after the grocery establishment is fully operational and open to the public under the successor grocery employer.

(3) If the successor grocery employer extends an offer of employment to an eligible grocery worker pursuant to this chapter, the successor grocery employer must retain written verification of that offer for at least three years after the date of the offer. The verification must include the name, address, date of hire, and employment occupation classification of each eligible grocery worker.

NEW SECTION. **Sec. 4.** (1) A successor grocery employer must retain each eligible grocery worker hired pursuant to this chapter for at least 180 days after the eligible grocery worker's employment commencement date. During this 180-day transition employment period, eligible grocery workers must be employed under the terms and conditions established by the successor grocery employer and pursuant to the terms of a relevant collective bargaining agreement, if any.

(2) If, within the period established in section 3(2) of this act, the successor grocery employer determines that it requires fewer eligible grocery workers than were required by the incumbent grocery employer, the successor grocery employer must retain eligible grocery workers by seniority within each job classification to the extent that comparable job classifications exist or pursuant to the terms of a relevant collective bargaining agreement, if any. Nonclassified eligible grocery workers must be retained by seniority and according to experience, or pursuant to the terms of a relevant collective bargaining agreement, if any.

(3) During the 180-day transition employment period, the successor grocery employer may not discharge without cause an eligible grocery worker retained pursuant to this chapter.

(4) At the end of the 180-day transition employment period, the successor grocery employer must make a written performance evaluation for each eligible grocery worker retained pursuant to this chapter. If the eligible grocery worker's performance during the 180-day transition employment period is satisfactory, the successor grocery employer must consider offering the eligible grocery worker continued employment under the terms and conditions established by the successor grocery employer and as required by law. The successor grocery employer must retain a record of the written performance evaluation for at least three years.

NEW SECTION. **Sec. 5.** (1) This section only applies to a successor grocery employer that, after a change in control, will own, control, or operate 20 or more grocery establishments.

(2) Notwithstanding other provisions of this chapter, if a successor grocery employer does not hire an eligible grocery worker following a change in control or does not retain an eligible grocery worker for at least 180 days following the change in control or the eligible grocery worker's employment commencement date, whichever is later, the successor grocery company must, unless the eligible grocery worker has quit or has been discharged for cause, provide the eligible grocery employee a dislocated grocery worker allowance equal to one week of pay for each full year of employment with the incumbent grocery employer. The rate of the dislocated grocery worker allowance will be the average regular rate of compensation received during the eligible grocery worker's last three years of employment with the incumbent grocery employer or the final regular rate of compensation paid to the eligible grocery worker, whichever is higher.

(3) The successor grocery employer must provide the greater of the dislocated grocery worker allowance required pursuant to:

(a) Subsection (2) of this section; or

(b) The terms of a relevant collective bargaining agreement, if any.

NEW SECTION. **Sec. 6.** (1) The incumbent grocery employer must post public notice of the change in control at the location of the affected grocery establishment within five business days following the execution of the transfer document. Notice must remain posted during any closure of the grocery establishment and until the grocery establishment is fully operational and open to the public under the successor grocery employer.

(2) Notice must include, but is not limited to:

(a) The name of the incumbent grocery employer and its contact information;

(b) The name of the successor grocery employer and its contact information; and

(c) The effective date of the change in control.

(3) Notice must be posted in a conspicuous place at the grocery establishment in a manner to be readily viewed by eligible grocery workers and other employees, customers, and members of the public.

NEW SECTION. **Sec. 7.** (1) An employer must not refuse to employ, terminate, reduce the compensation of, or otherwise take adverse action against any employee for seeking to enforce the employee's rights under this chapter, including participating in proceedings, opposing any practice prescribed by this chapter, or otherwise asserting rights under this chapter.

(2) This section applies to an employee who mistakenly, but in good faith, alleges noncompliance with this chapter.

NEW SECTION. **Sec. 8.** (1) An aggrieved employee or an employee representative, such as a collective bargaining representative or nonprofit corporation, may bring an action in the superior court of the state of Washington for violations of this chapter and may be awarded the following:

(a) Hiring and reinstatement rights pursuant to this chapter. For violations of the retention provision, the 180-day transition employment period does not

commence until the eligible grocery worker's employment commencement date with the successor grocery employer;

(b) Front pay or back pay for each day during which the violation continues;

(c) The value of the benefits the employee would have received under any benefit plans;

(d) Reasonable attorneys' fees and costs to any employee or employee representative who prevails in an enforcement action.

(2) Before an employee or an employee representative brings an action in the superior court of the state of Washington for a violation of this chapter, both of the following requirements must be met:

(a) The employee has provided written notice to the employer of the provisions of this chapter alleged to have been violated and the facts to support the alleged violation; and

(b) The employer has not cured the alleged violation within 30 calendar days from receipt of the written notice.

NEW SECTION. **Sec. 9.** This chapter does not apply to grocery establishments that will be located in geographic areas designated by the United States department of agriculture as food deserts, based on the original food desert measure contained in the Food Access Research Atlas, provided that both of the following apply:

(1) More than six years have elapsed since the most recent grocery establishment was located in the area designated as a food desert; and

(2) The grocery establishment stocks and, during normal business hours, sells fresh fruit and vegetables in amounts and of a quality that is comparable to what the establishment sells in its three geographically closest stores, which are located outside of the food desert.

NEW SECTION. **Sec. 10.** (1) In the case of a change of control from a merger, a successor grocery employer may not cause a grocery establishment that is located in a geographic area designated by the United States department of agriculture as a food desert to cease being fully operational and open to the public until the establishment provides a written notice to the city council, county council, local health department, and attorney general 180 days before the establishment ceases to be fully operational and open to the public.

(2) The notice required by subsection (1) of this section must include both of the following:

(a) A written analysis and explanation, including data, of how residents living in the geographic area designated by the United States department of agriculture as a food desert will be able, at comparable costs, including transportation costs, time off work, and child care costs, to purchase food after the establishment ceases being fully operational and open to the public; and

(b) A profit and loss statement for the establishment consistent with generally accepted accounting principles for the two years prior to the merger attested to by a responsible officer of the successor employer.

NEW SECTION. **Sec. 11.** (1) This chapter does not apply to an incumbent grocery employer and the successor grocery employer executing the transfer document with that incumbent grocery employer, if the sum of both of the following is less than 300:

(a) The number of grocery workers employed immediately prior to the change in control by the incumbent grocery employer across that employer's grocery establishments nationwide; and

(b) The number of grocery workers employed immediately prior to the change in control by the successor grocery employer across that employer's grocery establishments nationwide.

(2) For purposes of this section only, the following definitions apply:

(a) "Grocery establishment," as used in this section, has the same meaning as defined in section 2 of this act, but also includes grocery establishments in other states in the United States.

(b) "Grocery worker," as used in this section, means any individual whose primary place of employment is at a grocery establishment that is owned, controlled, or operated by the incumbent or successor grocery employer, as applicable.

NEW SECTION. **Sec. 12.** This chapter is not to be construed to limit an eligible grocery worker's right to bring legal action for wrongful termination.

NEW SECTION. **Sec. 13.** This chapter does not preempt any city, county, or city and county ordinances that provide equal or greater protection to eligible grocery workers.

NEW SECTION. **Sec. 14.** 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. 15.** Sections 1 through 13 of this act constitute a new chapter in Title 49 RCW.

Passed by the Senate February 7, 2024.
Passed by the House February 22, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 130

[Senate Bill 6080]

STATEWIDE TOURISM MARKETING ACCOUNT—FUNDING

AN ACT Relating to simplifying the funding provisions of the statewide tourism marketing account; amending RCW 82.08.225; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.08.225 and 2018 c 275 s 9 are each amended to read as follows:

((~~(1)~~)) Beginning July 1, ((~~2018~~)) 2025, 0.2 percent of taxes collected pursuant to RCW 82.08.020(1) on retail sales of lodging, car rentals, and restaurants, up to $3,000,000 per biennium, must be deposited into the statewide tourism marketing account created in RCW 43.384.040. ((~~Except as provided otherwise for fiscal year 2019 in subsection (2) of this section, future revenue collections under this section may be up to three million dollars per biennium and must be deposited into the statewide tourism marketing account created in RCW 43.384.040. The deposit under this subsection to the statewide tourism~~

~~marketing account may only occur if the legislature authorizes the deposit in the biennial omnibus appropriations act.~~

~~(2) For fiscal year 2019, up to a maximum of one million five hundred thousand dollars must be deposited in the statewide tourism marketing account created in RCW 43.384.040. The deposit under this subsection to the statewide tourism marketing account may only occur if the legislature authorizes the deposit in the biennial omnibus appropriations act.~~))

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2025.

Passed by the Senate February 8, 2024.
Passed by the House March 1, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 131

[Senate Bill 6084]
COLLECTOR VEHICLES—TRAILER TOWING

AN ACT Relating to providing collector vehicles the ability to tow trailers; and amending RCW 46.18.220.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.18.220 and 2015 c 200 s 3 are each amended to read as follows:

(1) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a collector vehicle license plate for a motor vehicle or travel trailer that is at least ((~~thirty~~)) 30 years old. The motor vehicle must be operated primarily as a collector vehicle and be in good running order. The applicant for the collector vehicle license plate shall:

(a) Purchase a registration for the motor vehicle or travel trailer as required under chapters 46.16A and 46.17 RCW; and

(b) Pay the special license plate fee established under RCW 46.17.220(((~~(1)(f)~~))) (5), in addition to any other fees or taxes required by law.

(2) A person applying for a collector vehicle license plate may:

(a) Receive a collector vehicle license plate assigned by the department; or

(b) Provide an actual Washington state issued license plate designated for general use in the year of the vehicle's manufacture.

(3) Collector vehicle license plates:

(a) Are valid for the life of the motor vehicle or travel trailer;

(b) Are not required to be renewed; and

(c) Must be displayed on the rear of the motor vehicle or travel trailer.

(4) A collector vehicle registered under this section may only be used for participation in club activities, exhibitions, tours, parades, and occasional pleasure driving.

(5) Collector vehicle license plates under subsection (2)(b) of this section may be transferred from one vehicle to another vehicle described in subsection (1) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

(6) Any person who knowingly provides a false or facsimile license plate under subsection (2)(b) of this section is subject to a traffic infraction and fine in

an amount equal to the monetary penalty for a violation of RCW 46.16A.200(7)(b). Additionally, the person must pay for the cost of a collector vehicle license plate as listed in RCW 46.17.220(((~~(1)(f)~~))) (5), unless already paid.

(7) A collector vehicle that is a motor vehicle may tow a trailer if the trailer is being used for participation in club activities, exhibitions, tours, and parades.

Passed by the Senate February 6, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 132

[Senate Bill 6088]

MINOR LEAGUE BASEBALL PLAYERS—EMPLOYMENT STANDARDS

AN ACT Relating to minor league baseball players subject to the terms of a collective bargaining agreement regarding employment status; amending RCW 49.46.010, 49.46.070, and 49.12.050; and reenacting and amending RCW 49.12.187.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 49.46.010 and 2023 c 269 s 3 are each amended to read as follows:

As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Employ" includes to permit to work;

(3) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from his or her permanent residence to the farm on which he or she is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesperson as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the human resources director pursuant to chapter 41.06 RCW for employees employed under the director of personnel's jurisdiction;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or

qualification in any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement, or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel;

(o) Any farm intern providing his or her services to a small farm which has a special certificate issued under RCW 49.12.471;

(p) An individual who is at least 16 years old but under twenty-one years old, in his or her capacity as a player for a junior ice hockey team that is a member of a regional, national, or international league and that contracts with an arena owned, operated, or managed by a public facilities district created under chapter 36.100 RCW; or

(q) Any individual who has entered into a contract to play baseball at the minor league level and who is compensated pursuant to the terms of a collective bargaining agreement that expressly provides for wages and working conditions;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed;

(6) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry;

(7) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director.

Sec. 2. RCW 49.46.070 and 2010 c 8 s 12042 are each amended to read as follows:

(1) Every employer subject to any provision of this chapter or of any regulation issued under this chapter shall make, and keep in or about the premises wherein any employee is employed, a record of the name, address, and occupation of each of his or her employees, the rate of pay, and the amount paid each pay period to each such employee, the hours worked each day and each workweek by such employee, and such other information as the director shall prescribe by regulation as necessary or appropriate for the enforcement of the provisions of this chapter or of the regulations thereunder. Such records shall be open for inspection or transcription by the director or his or her authorized representative at any reasonable time. Every such employer shall furnish to the director or to his or her authorized representative on demand a sworn statement of such records and information upon forms prescribed or approved by the director.

(2) Notwithstanding any other provision of this chapter, the provisions of this section apply to individuals covered by RCW 49.46.010(3)(q) with the exception of records related to the hours worked each day and each workweek by such employee or employees, the time of day and day of week each workweek begins, and any other similar information that the director shall prescribe by regulation as necessary or appropriate related to records of hours worked for such individuals.

Sec. 3. RCW 49.12.187 and 2003 c 401 s 3 and 2003 c 146 s 1 are each reenacted and amended to read as follows:

(1) This chapter shall not be construed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing concerning wages or standards or conditions of employment. However, rules adopted under this chapter regarding appropriate rest and meal periods as applied to employees in the construction trades may be superseded by a collective bargaining agreement negotiated under the national labor relations act, 29 U.S.C. Sec. 151 et seq., if the terms of the collective bargaining agreement covering such employees specifically require rest and meal periods and prescribe requirements concerning those rest and meal periods.

(2) Employees of public employers may enter into collective bargaining contracts, labor/management agreements, or other mutually agreed to employment agreements that specifically vary from or supersede, in part or in

total, rules adopted under this chapter regarding appropriate rest and meal periods.

(3) Rules adopted under this chapter regarding appropriate rest and meal periods as applied to employees who have entered into a contract to play baseball at the minor league level may be superseded by a collective bargaining agreement negotiated under the national labor relations act, 29 U.S.C. Sec. 151 et seq., if the terms of the collective bargaining agreement covering such employees expressly provides for wages and working conditions.

Sec. 4. RCW 49.12.050 and 2010 c 8 s 12004 are each amended to read as follows:

(1) Every employer shall keep a record of the names of all employees employed by him or her, and shall on request permit the director to inspect such record.

(2) Rules adopted under this chapter regarding records of hours worked do not apply to employees who have entered into a contract to play baseball at the minor league level and who are compensated pursuant to the terms of a collective bargaining agreement that expressly provides for wages and working conditions.

Passed by the Senate February 2, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 133

[Engrossed Senate Bill 6120]
WILDLAND URBAN INTERFACE CODE

AN ACT Relating to the Wildland Urban Interface Code; amending RCW 19.27.031, 19.27.074, 19.27.560, and 43.30.580; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 19.27.031 and 2018 c 189 s 1 are each amended to read as follows:

Except as otherwise provided in this chapter, there shall be in effect in all counties and cities the state building code which shall consist of the following codes which are hereby adopted by reference:

(1)(a) The International Building Code, published by the International Code Council, Inc.;

(b) The International Residential Code, published by the International Code Council, Inc.;

(2) The International Mechanical Code, published by the International Code Council, Inc., except that the standards for liquefied petroleum gas installations shall be NFPA 58 (Storage and Handling of Liquefied Petroleum Gases) and ANSI Z223.1/NFPA 54 (National Fuel Gas Code);

(3) The International Fire Code, published by the International Code Council, Inc., including those standards of the National Fire Protection Association specifically referenced in the International Fire Code: PROVIDED, That, notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying handheld candles;

(4) ((~~Portions~~)) Only those portions of the International Wildland Urban Interface Code, published by the International Code Council Inc., as ((~~set forth~~)) specifically referenced in RCW 19.27.560(1), or the model International Wildland Urban Interface Code specifically referenced in RCW 19.27.560(2);

(5) ((~~Except as provided in RCW 19.27.170, the~~)) The Uniform Plumbing Code and Uniform Plumbing Code Standards, published by the International Association of Plumbing and Mechanical Officials: PROVIDED, That any provisions of such code affecting sewers or fuel gas piping are not adopted;

(6) The rules adopted by the council establishing standards for making buildings and facilities accessible to and usable by individuals with disabilities or elderly persons as provided in RCW 70.92.100 through 70.92.160; and

(7) The state's climate zones for building purposes are designated in RCW 19.27A.020(3) and may not be changed through the adoption of a model code or rule.

In case of conflict among the codes enumerated in subsections (1), (2), (3), (4), and (5) of this section, the first named code shall govern over those following.

The codes enumerated in this section shall be adopted by the council as provided in RCW 19.27.074. The council shall solicit input from first responders to ensure that firefighter safety issues are addressed during the code adoption process.

The council may issue opinions relating to the codes at the request of a local official charged with the duty to enforce the enumerated codes.

Sec. 2. RCW 19.27.074 and 2018 c 207 s 4 are each amended to read as follows:

(1) The state building code council shall:

(a) Adopt and maintain the codes to which reference is made in RCW 19.27.031 in a status which is consistent with the state's interest as set forth in RCW 19.27.020. In maintaining these codes, the council shall regularly review updated versions of the codes referred to in RCW 19.27.031 and other pertinent information and shall amend the codes as deemed appropriate by the council, provided, that Wildland Urban Interface Codes must be consistent with RCW 19.27.560;

(b) Approve or deny all county or city amendments to any code referred to in RCW 19.27.031 to the degree the amendments apply to single-family or multifamily residential buildings;

(c) As required by the legislature, develop and adopt any codes relating to buildings; and

(d) Approve a proposed budget for the operation of the state building code council to be submitted by the department of enterprise services to the office of financial management pursuant to RCW 43.88.090.

(2) The state building code council may:

(a) Appoint technical advisory committees which may include members of the council;

(b) Approve contracts for services; and

(c) Conduct research into matters relating to any code or codes referred to in RCW 19.27.031 or any related matter.

(3) The department of enterprise services, with the advice and input from the members of the building code council, shall:

(a) Employ permanent and temporary staff and contract for services;

(b) Contract with an independent, third-party entity to perform a Washington energy code baseline economic analysis and economic analysis of code proposals; and

(c) Provide all administrative and information technology services required for the building code council.

(4) Rule-making authority as authorized in this chapter resides within the building code council.

(5)(a) All meetings of the state building code council shall be open to the public under the open public meetings act, chapter 42.30 RCW. All actions of the state building code council which adopt or amend any code of statewide applicability shall be pursuant to the administrative procedure act, chapter 34.05 RCW.

(b) All council decisions relating to the codes enumerated in RCW 19.27.031 shall require approval by at least a majority of the members of the council.

(c) All decisions to adopt or amend codes of statewide application shall be made prior to December 1 of any year and shall not take effect before the end of the regular legislative session in the next year.

Sec. 3. RCW 19.27.560 and 2018 c 189 s 2 are each amended to read as follows:

(1) In addition to the provisions of RCW 19.27.031, the state building code shall, upon the completion of a statewide ((~~mapping of wildland urban interface areas consist of the following parts~~)) wildfire hazard map and a base-level wildfire risk map for each county of the state, per RCW 43.30.580, consist of chapter 1 and the following technical provisions of the ((~~2018~~)) International Wildland Urban Interface Code, published by the International Code Council, Inc., which are hereby adopted by reference:

(a) The following parts of ((~~section 504~~)) class 1 ignition-resistant construction:

(i)(A) ((~~504.2~~)) Roof covering - Roofs shall have a roof assembly that complies with class A rating when testing in accordance with American society for testing materials E 108 or underwriters laboratories 790. For roof coverings where the profile allows a space between the roof covering and roof decking, the space at the eave ends shall be fire stopped to preclude entry of flames or embers, or have one layer of seventy-two pound mineral-surfaced, nonperforated camp sheet complying with American society for testing materials D 3909 installed over the combustible decking.

(B) The roof covering on buildings or structures in existence prior to the adoption of the wildland urban interface code under this section that are replaced or have fifty percent or more replaced in a twelve month period shall be replaced with a roof covering required for new construction based on the type of ignition-resistant construction specified in accordance with ((~~section 503 of~~)) the International Wildland Urban Interface Code.

(C) The roof covering on any addition to a building or structure shall be replaced with a roof covering required for new construction based on the type of ignition-resistant construction specified in accordance with ((~~section 503 of~~)) the International Wildland Urban Interface Code.

(ii) ((~~504.5~~)) Exterior walls - Exterior walls of buildings or structures shall be constructed with one of the following methods:

(A) Materials approved for not less than one hour fire-resistance rated construction on the exterior side;

(B) Approved noncombustible materials;

(C) Heavy timber or log wall construction;

(D) Fire retardant-treated wood on the exterior side. The fire retardant-treated wood shall be labeled for exterior use and meet the requirements of ((~~section 2303.2 of~~)) the International Building Code; or

(E) Ignition-resistant materials on the exterior side.

Such materials shall extend from the top of the foundation to the underside of the roof sheathing.

(iii)(A) ((~~504.7~~)) Appendages and projections - Unenclosed accessory structures attached to buildings with habitable spaces and projections, such as decks, shall not be less than one hour fire-resistance rated construction, heavy timber construction, or constructed of one of the following:

(I) Approved noncombustible materials;

(II) Fire retardant-treated wood identified for exterior use and meeting the requirements of ((~~section 2303.2 of~~)) the International Building Code; or

(III) Ignition-resistant building materials in accordance with ((~~section 503.2 of~~)) the International Wildland Urban Interface Code.

(B) Subsection (1)(a)(iii)(A) of this section does not apply to an unenclosed accessory structure attached to buildings with habitable spaces and projections, such as decks, attached to the first floor of a building if the structure is built with building materials at least two inches nominal depth and the area below the unenclosed accessory structure is screened with wire mesh screening to prevent embers from coming in from underneath.

(b) ((~~Section 403.2~~)) Driveways - Driveways shall be provided where any portion of an exterior wall of the first story of the building is located more than one hundred fifty feet from a fire apparatus access road. Driveways in excess of three hundred feet in length shall be provided with turnarounds and driveways in excess of five hundred feet in length and less than twenty feet in width shall be provided with turnouts and turnarounds. The county, city, or town will define the requirements for a turnout or turnaround as required in this subsection.

(2) All counties, cities, and towns may adopt the International Wildland Urban Interface Code, published by the International Code Council, Inc., in whole or any portion thereof.

(3) In adopting and maintaining the code enumerated in subsection((~~s~~)) (1) ((~~and (2)~~)) of this section, any amendment to the code as adopted under subsection((~~s~~)) (1) ((~~and (2)~~)) of this section may not result in an International Wildland Urban Interface Code that is more than the minimum performance standards and requirements contained in ((~~the published model code~~)) subsection (1) of this section.

(4) All counties, cities, and towns may complete their own wildfire hazard and base-level wildfire risk map for use in applying the code enumerated in subsections (1) and (2) of this section. Counties, cities, and towns may continue to use locally adopted wildfire risk maps until completion of a statewide wildfire hazard map and base-level wildfire risk map for each county of the state per RCW 43.30.580. Six months after the statewide wildfire hazard map and base-

level wildfire risk map is complete, any map adopted by counties, cities, and towns must utilize the same or substantially similar criteria as the map required by subsection (1) of this section.

(5) All counties, cities, and towns issuing commercial and residential building permits for parcels in areas identified as high hazard and very high hazard on the map required by subsection (1) of this section or adopted according to subsection (4) of this section shall apply the code enumerated in subsections (1) or (2) of this section.

Sec. 4. RCW 43.30.580 and 2018 c 189 s 3 are each amended to read as follows:

(1) The department shall, to the extent practical within existing resources, establish a program of technical assistance to counties, cities, and towns for the development of findings of fact and maps establishing the wildland urban interface areas of jurisdictions in accordance with the requirements of the International Wildland Urban Interface Code as adopted by reference in RCW 19.27.560.

(2) The department shall develop and administer a grant program, subject to funding provided for this purpose, to provide direct financial assistance to counties, cities, and towns for the development of findings of fact and maps establishing wildland urban interface areas. Applications for grant funds must be submitted by counties, cities, and towns in accordance with regulations adopted by the department. The department is authorized to make and administer grants on the basis of applications, within appropriations authorized by the legislature, to any county, city, or town for the purpose of developing findings of fact and maps establishing wildland urban interface areas.

(3) The department shall establish and maintain a statewide wildfire hazard map and a base-level wildfire risk map for each county of the state based upon criteria established in coordination with the state fire marshal office. The hazard map shall be made available on the department's website and shall designate areas as low, moderate, high, and very high wildfire hazard. The risk map shall be made available on the department's website and designate vulnerable resources or assets based on their exposure and susceptibility to a wildfire hazard. The department shall establish a method by which local governments may update the wildfire hazard map and wildfire risk map based on local assessments and approved by the jurisdiction's fire marshal. The department shall make publicly available the criteria and analysis utilized in assessing the wildfire hazard and risk.

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.

Passed by the Senate March 5, 2024.

Passed by the House February 29, 2024.

Approved by the Governor March 15, 2024.

Filed in Office of Secretary of State March 15, 2024.

CHAPTER 134

[Substitute Senate Bill 6125]

LAKELAND VILLAGE—PRESERVATION OF RECORDS AND ARTIFACTS

AN ACT Relating to preserving records and artifacts regarding the historical treatment of people with intellectual and developmental disabilities in Washington state; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes that in 2023, numerous records and artifacts were discovered at Lakeland Village, a state-operated facility originally established in 1916 to serve individuals with intellectual or developmental disabilities. The collection of items discovered includes an unknown number of medical records, letters, images, films, and historical artifacts, including letters from family members, artifacts that capture important events, such as props from theater plays, and images of daily life. The legislature finds that preserving historical records and artifacts is crucial to understanding our past treatment of individuals with intellectual and developmental disabilities and to shaping our future. Some of the records and artifacts highlight a darker story of medical sterilization and medical restraint.

Therefore, the legislature finds and declares that the Washington state archives and the department of social and health services shall work with the University of Washington institute on human development and disability, to the extent allowable under federal and state privacy law, to create a preservation plan that details how the records and artifacts will be catalogued and preserved for the purpose of sharing this important history with all Washingtonians and that moving forward the state intends to work directly with those with lived experience to shape future policies and enhance service delivery with the goal of better outcomes for those individuals with intellectual and developmental disabilities.

NEW SECTION. **Sec. 2.** (1) The division of archives and records management, working with the University of Washington institute on human development and disability, the department of social and health services, and the department of archaeology and historic preservation, shall create a preservation plan to organize, catalogue, and store the historical documents and artifacts identified at Lakeland Village, a state-operated facility. Historical documents and artifacts may include but are not limited to medical records, letters, images, films, and artifacts of past residents with intellectual or developmental disabilities at Lakeland Village.

(2) The preservation plan shall:

(a) Identify all the records and artifacts that are available and at risk of destruction;

(b) Assess the condition of the records and artifacts and level of preservation required, including but not limited to the age of the record, the material used, and environmental conditions in which the items have been stored;

(c) Outline the steps that will be taken to preserve the records and artifacts. This includes how the records will be stored, where they will be stored, how they will be handled and transported, and how they will be restored if they are in danger of falling into disrepair, dysfunction, or destruction. The plan must also

include how the records will be catalogued, digitized, and transferred to archival microfilm for long-term access; and

(d) Include a timeline for the preservation work and an overall budget for the work. The plan must be reported to the appropriate committees of the legislature by September 1, 2025.

(3) The plan described in this section must also include future plans for public access for historical and educational purposes.

(4) The division of archives and records management and the department of social and health services shall work together in storing and retaining the records described in this act, from Lakeland Village. No records shall be destroyed until the preservation plan is completed and the work is funded during fiscal year 2026.

(5) Indirect costs to the University of Washington for this project are limited to 15 percent.

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, 2024, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 4.** This act expires June 30, 2026.

Passed by the Senate February 13, 2024.
Passed by the House March 1, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 135

[Substitute Senate Bill 6140]

GROWTH MANAGEMENT—ESSENTIAL RURAL RETAIL SERVICES

AN ACT Relating to limited areas of more intensive rural development; and amending RCW 36.70A.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.70A.070 and 2023 c 228 s 3 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140. Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces and green spaces, urban and community forests within the urban growth area, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for

public water supplies. The land use element must give special consideration to achieving environmental justice in its goals and policies, including efforts to avoid creating or worsening environmental health disparities. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity and reduce per capita vehicle miles traveled within the jurisdiction, but without increasing greenhouse gas emissions elsewhere in the state. Where applicable, the land use element shall review drainage, flooding, and stormwater runoff in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound. The land use element must reduce and mitigate the risk to lives and property posed by wildfires by using land use planning tools, which may include, but are not limited to, adoption of portions or all of the wildland urban interface code developed by the international code council or developing building and maintenance standards consistent with the firewise USA program or similar program designed to reduce wildfire risk, reducing wildfire risks to residential development in high risk areas and the wildland urban interface area, separating human development from wildfire prone landscapes, and protecting existing residential development and infrastructure through community wildfire preparedness and fire adaptation measures.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that:

(a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, as provided by the department of commerce, including:

(i) Units for moderate, low, very low, and extremely low-income households; and

(ii) Emergency housing, emergency shelters, and permanent supportive housing;

(b) Includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences, and within an urban growth area boundary, moderate density housing options including, but not limited to, duplexes, triplexes, and townhomes;

(c) Identifies sufficient capacity of land for housing including, but not limited to, government-assisted housing, housing for moderate, low, very low, and extremely low-income households, manufactured housing, multifamily housing, group homes, foster care facilities, emergency housing, emergency shelters, permanent supportive housing, and within an urban growth area boundary, consideration of duplexes, triplexes, and townhomes;

(d) Makes adequate provisions for existing and projected needs of all economic segments of the community, including:

(i) Incorporating consideration for low, very low, extremely low, and moderate-income households;

(ii) Documenting programs and actions needed to achieve housing availability including gaps in local funding, barriers such as development regulations, and other limitations;

(iii) Consideration of housing locations in relation to employment location; and

(iv) Consideration of the role of accessory dwelling units in meeting housing needs;

(e) Identifies local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing, including:

(i) Zoning that may have a discriminatory effect;

(ii) Disinvestment; and

(iii) Infrastructure availability;

(f) Identifies and implements policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing caused by local policies, plans, and actions;

(g) Identifies areas that may be at higher risk of displacement from market forces that occur with changes to zoning development regulations and capital investments; and

(h) Establishes antidisplacement policies, with consideration given to the preservation of historical and cultural communities as well as investments in low, very low, extremely low, and moderate-income housing; equitable development initiatives; inclusionary zoning; community planning requirements; tenant protections; land disposition policies; and consideration of land that may be used for affordable housing.

In counties and cities subject to the review and evaluation requirements of RCW 36.70A.215, any revision to the housing element shall include consideration of prior review and evaluation reports and any reasonable measures identified. The housing element should link jurisdictional goals with overall county goals to ensure that the housing element goals are met.

The adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city that is required or chooses to plan under RCW 36.70A.040 that increase housing capacity, increase housing affordability, and mitigate displacement as required under this subsection (2) and that apply outside of critical areas are not subject to administrative or judicial appeal under chapter 43.21C RCW unless the adoption of such ordinances, development regulations and amendments to such regulations, or other nonproject actions has a probable significant adverse impact on fish habitat.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, including green infrastructure, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

The county or city shall identify all public entities that own capital facilities and endeavor in good faith to work with other public entities, such as special purpose districts, to gather and include within its capital facilities element the information required by this subsection. If, after a good faith effort, the county or

city is unable to gather the information required by this subsection from the other public entities, the failure to include such information in its capital facilities element cannot be grounds for a finding of noncompliance or invalidity under chapter 228, Laws of 2023. A good faith effort must, at a minimum, include consulting the public entity's capital facility or system plans and emailing and calling the staff of the public entity.

(4)(a) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities including, but not limited to, electrical, telecommunications, and natural gas systems.

(b) The county or city shall identify all public entities that own utility systems and endeavor in good faith to work with other public entities, such as special purpose districts, to gather and include within its utilities element the information required in (a) of this subsection. However, if, after a good faith effort, the county or city is unable to gather the information required in (a) of this subsection from the other public entities, the failure to include such information in the utilities element shall not be grounds for a finding of noncompliance or invalidity under chapter 228, Laws of 2023. A good faith effort must, at a minimum, include consulting the public entity's capital facility or system plans, and emailing and calling the staff of the public entity.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural economic advancement, densities, and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

(i) Containing or otherwise controlling rural development;

(ii) Assuring visual compatibility of rural development with the surrounding rural area;

(iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;

(iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources; and

(v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area are subject to the requirements of (d)(iv) of this subsection, but are not subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity may be permitted subject to confirmation from all existing providers of public facilities and public services of sufficient capacity of existing public facilities and public services to serve any new or additional demand from the new development or redevelopment. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5) and is consistent with the local character. Any commercial development or redevelopment within a mixed-use area must be principally designed to serve the existing and projected rural population and must meet the following requirements:

(I) Any included retail or food service space must not exceed the footprint of previously occupied space or 5,000 square feet, whichever is greater, for the same or similar use, unless the retail space is for an essential rural retail service and the designated limited area is located at least 10 miles from an existing urban growth area, then the retail space must not exceed the footprint of the previously occupied space or 10,000 square feet, whichever is greater; and

(II) Any included retail or food service space must not exceed 2,500 square feet for a new use, unless the new retail space is for an essential rural retail service and the designated limited area is located at least 10 miles from an existing urban growth area, then the new retail space must not exceed 10,000 square feet;

For the purposes of this subsection (5)(d), "essential rural retail services" means services including grocery, pharmacy, hardware, automotive parts, and similar uses that sell or provide products necessary for health and safety, such as food, medication, sanitation supplies, and products to maintain habitability and mobility.

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall

be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030((~~(23)~~)) (35). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030((~~(23)~~)) (35). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas shall not extend beyond the logical outer boundary of the existing area, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary, the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries, such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of this subsection (5)(d), an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated multimodal level of service impacts to state-owned transportation facilities resulting from land use assumptions to assist in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments, active transportation facilities, and general aviation airport facilities, to define existing capital facilities and travel levels to inform future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) Multimodal level of service standards for all locally owned arterials, locally and regionally operated transit routes that serve urban growth areas, state-owned or operated transit routes that serve urban areas if the department of transportation has prepared such standards, and active transportation facilities to serve as a gauge to judge performance of the system and success in helping to achieve the goals of this chapter consistent with environmental justice. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, multimodal level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting multimodal level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, active transportation, or transit program and the office of financial management's ten-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance transportation facilities or services that are below an established multimodal level of service standard;

(E) Forecasts of multimodal transportation demand and needs within cities and urban growth areas, and forecasts of multimodal transportation demand and needs outside of cities and urban growth areas, for at least ten years based on the adopted land use plan to inform the development of a transportation element that balances transportation system safety and convenience to accommodate all users of the transportation system to safely, reliably, and efficiently provide access and mobility to people and goods. Priority must be given to inclusion of transportation facilities and services providing the greatest multimodal safety benefit to each category of roadway users for the context and speed of the facility;

(F) Identification of state and local system needs to equitably meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW. Local system needs should reflect the regional

transportation system and local goals, and strive to equitably implement the multimodal network;

(G) A transition plan for transportation as required in Title II of the Americans with disabilities act of 1990 (ADA). As a necessary step to a program access plan to provide accessibility under the ADA, state and local government, public entities, and public agencies are required to perform self-evaluations of their current facilities, relative to accessibility requirements of the ADA. The agencies are then required to develop a program access plan, which can be called a transition plan, to address any deficiencies. The plan is intended to achieve the following:

(I) Identify physical obstacles that limit the accessibility of facilities to individuals with disabilities;

(II) Describe the methods to be used to make the facilities accessible;

(III) Provide a schedule for making the access modifications; and

(IV) Identify the public officials responsible for implementation of the transition plan;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the ten-year investment program developed by the office of financial management as required by RCW 47.05.030;

(C) If probable funding falls short of meeting the identified needs of the transportation system, including state transportation facilities, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies;

(vii) Active transportation component to include collaborative efforts to identify and designate planned improvements for active transportation facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned or locally or regionally operated transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include active transportation facility improvements, increased or enhanced public transportation service, ride-sharing programs, demand management, and other transportation systems management strategies. For the purposes of this

subsection (6), "concurrent with the development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years. If the collection of impact fees is delayed under RCW 82.02.050(3), the six-year period required by this subsection (6)(b) must begin after full payment of all impact fees is due to the county or city. A development proposal may not be denied for causing the level of service on a locally owned or locally or regionally operated transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan where such impacts could be adequately mitigated through active transportation facility improvements, increased or enhanced public transportation service, ride-sharing programs, demand management, or other transportation systems management strategies funded by the development.

(c) The transportation element described in this subsection (6), the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, and the ten-year investment program required by RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; (c) an evaluation of tree canopy coverage within the urban growth area; and (d) an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(9)(a) A climate change and resiliency element that is designed to result in reductions in overall greenhouse gas emissions and that must enhance resiliency to and avoid the adverse impacts of climate change, which must include efforts to reduce localized greenhouse gas emissions and avoid creating or worsening localized climate impacts to vulnerable populations and overburdened communities.

(b) The climate change and resiliency element shall include the following subelements:

(i) A greenhouse gas emissions reduction subelement;

(ii) A resiliency subelement.

(c) The greenhouse gas emissions reduction subelement of the climate change and resiliency element is mandatory for the jurisdictions specified in RCW 36.70A.095 and is encouraged for all other jurisdictions, including those planning under RCW 36.70A.040 and those planning under chapter 36.70 RCW. The resiliency subelement of the climate change and resiliency element is mandatory for all jurisdictions planning under RCW 36.70A.040 and is encouraged for those jurisdictions planning under chapter 36.70 RCW.

(d)(i) The greenhouse gas emissions reduction subelement of the comprehensive plan, and its related development regulations, must identify the actions the jurisdiction will take during the planning cycle consistent with the guidelines published by the department pursuant to RCW 70A.45.120 that will:

(A) Result in reductions in overall greenhouse gas emissions generated by transportation and land use within the jurisdiction but without increasing greenhouse gas emissions elsewhere in the state;

(B) Result in reductions in per capita vehicle miles traveled within the jurisdiction but without increasing greenhouse gas emissions elsewhere in the state; and

(C) Prioritize reductions that benefit overburdened communities in order to maximize the cobenefits of reduced air pollution and environmental justice.

(ii) Actions not specifically identified in the guidelines developed by the department pursuant to RCW 70A.45.120 may be considered consistent with these guidelines only if:

(A) They are projected to achieve greenhouse gas emissions reductions or per capita vehicle miles traveled reductions equivalent to what would be required of the jurisdiction under the guidelines adopted by the department; and

(B) They are supported by scientifically credible projections and scenarios that indicate their adoption is likely to result in reductions of greenhouse gas emissions or per capita vehicle miles traveled.

(iii) A jurisdiction may not restrict population growth or limit population allocation in order to achieve the requirements set forth in this subsection (9)(d).

(e)(i) The resiliency subelement must equitably enhance resiliency to, and avoid or substantially reduce the adverse impacts of, climate change in human communities and ecological systems through goals, policies, and programs consistent with the best available science and scientifically credible climate projections and impact scenarios that moderate or avoid harm, enhance the resiliency of natural and human systems, and enhance beneficial opportunities. The resiliency subelement must prioritize actions that benefit overburdened communities that will disproportionately suffer from compounding environmental impacts and will be most impacted by natural hazards due to climate change. Specific goals, policies, and programs of the resiliency subelement must include, but are not limited to, those designed to:

(A) Identify, protect, and enhance natural areas to foster resiliency to climate impacts, as well as areas of vital habitat for safe passage and species migration;

(B) Identify, protect, and enhance community resiliency to climate change impacts, including social, economic, and built environment factors, that support adaptation to climate impacts consistent with environmental justice; and

(C) Address natural hazards created or aggravated by climate change, including sea level rise, landslides, flooding, drought, heat, smoke, wildfire, and other effects of changes to temperature and precipitation patterns.

(ii) A natural hazard mitigation plan or similar plan that is guided by RCW 36.70A.020(14), that prioritizes actions that benefit overburdened communities, and that complies with the applicable requirements of this chapter, including the requirements set forth in this subsection (9)(e), may be adopted by reference to satisfy these requirements, except that to the extent any of the substantive requirements of this subsection (9)(e) are not addressed, or are inadequately addressed, in the referenced natural hazard mitigation plan, a county or city must supplement the natural hazard mitigation plan accordingly so that the adopted resiliency subelement complies fully with the substantive requirements of this subsection (9)(e).

(A) If a county or city intends to adopt by reference a federal emergency management agency natural hazard mitigation plan in order to meet all or part of the substantive requirements set forth in this subsection (9)(e), and the most recently adopted federal emergency management agency natural hazard mitigation plan does not comply with the requirements of this subsection (9)(e), the department may grant the county or city an extension of time in which to submit a natural hazard mitigation plan.

(B) Eligibility for an extension under this subsection prior to July 1, 2027, is limited to a city or county required to review and, if needed, revise its comprehensive plan on or before June 30, 2025, as provided in RCW 36.70A.130, or for a city or county with an existing, unexpired federal emergency management agency natural hazard mitigation plan scheduled to expire before December 31, 2024.

(C) Extension requests after July 1, 2027, may be granted if requirements for the resiliency subelement are amended or added by the legislature or if the department finds other circumstances that may result in a potential finding of noncompliance with a jurisdiction's existing and approved federal emergency management agency natural hazard mitigation plan.

(D) A city or county that wishes to request an extension of time must submit a request in writing to the department no later than the date on which the city or county is required to review and, if needed, revise its comprehensive plan as provided in RCW 36.70A.130.

(E) Upon the submission of such a request to the department, the city or county may have an additional 48 months from the date provided in RCW 36.70A.130 in which to either adopt by reference an updated federal emergency management agency natural hazard mitigation plan or adopt its own natural hazard mitigation plan, and to then submit that plan to the department.

(F) The adoption of ordinances, amendments to comprehensive plans, amendments to development regulations, and other nonproject actions taken by a county or city pursuant to (d) of this subsection in order to implement measures specified by the department pursuant to RCW 70A.45.120 are not subject to administrative or judicial appeal under chapter 43.21C RCW.

(10) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

Passed by the Senate February 7, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 136

[Senate Bill 6173]

AFFORDABLE AND SUPPORTIVE HOUSING SALES AND USE TAXES—INCOME LIMIT

AN ACT Relating to affordable and supportive housing sales and use taxes and encouraging investments in affordable homeownership unit development; and amending RCW 82.14.540.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.14.540 and 2023 c 101 s 2 are each amended to read as follows:

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

(a) "Nonparticipating city" is a city that does not impose a sales and use tax in accordance with the terms of this section.

(b) "Nonparticipating county" is a county that does not impose a sales and use tax in accordance with the terms of this section.

(c) "Participating city" is a city that imposes a sales and use tax in accordance with the terms of this section.

(d) "Participating county" is a county that imposes a sales and use tax in accordance with the terms of this section.

(e) "Qualifying local tax" means the following tax sources, if the tax source is instated no later than twelve months after July 28, 2019:

(i) The affordable housing levy authorized under RCW 84.52.105;

(ii) The sales and use tax for housing and related services authorized under RCW 82.14.530, provided the city has imposed the tax at a minimum or of at least half of the authorized rate;

(iii) The sales tax for chemical dependency and mental health treatment services or therapeutic courts authorized under RCW 82.14.460 imposed by a city; and

(iv) The levy authorized under RCW 84.55.050, if used solely for affordable housing.

(2)(a) A county or city legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this section.

(b) The tax under this section is assessed on the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(c) The rate of the tax under this section for an individual participating city and an individual participating county may not exceed:

(i) Beginning on July 28, 2019, until twelve months after July 28, 2019:

(A) 0.0073 percent for a:

(I) Participating city, unless the participating city levies a qualifying local tax; and

(II) Participating county, within the limits of nonparticipating cities within the county and within participating cities that do not currently levy a qualifying tax;

(B) 0.0146 percent for a:

(I) Participating city that currently levies a qualifying local tax;

(II) Participating city if the county in which it is located declares they will not levy the sales and use tax authorized under this section or does not adopt a resolution in accordance with this section; and

(III) Participating county within the unincorporated areas of the county and any city that declares they will not levy the sales and use tax authorized under this section or does not adopt a resolution in accordance with this section;

(ii) Beginning twelve months after July 28, 2019:

(A) 0.0073 percent for a:

(I) Participating city that is located within a participating county if the participating city is not levying a qualifying local tax; and

(II) Participating county, within the limits of a participating city if the participating city is not levying a qualifying local tax;

(B) 0.0146 percent within the limits of a:

(I) Participating city that is levying a qualifying local tax; and

(II) Participating county within the unincorporated area of the county and within the limits of any nonparticipating city that is located within the county.

(d) A county may not levy the tax authorized under this section within the limits of a participating city that levies a qualifying local tax.

(e)(i) In order for a county or city legislative authority to impose the tax under this section, the authority must adopt:

(A) A resolution of intent to adopt legislation to authorize the maximum capacity of the tax in this section within six months of July 28, 2019; and

(B) Legislation to authorize the maximum capacity of the tax in this section within one year of July 28, 2019.

(ii) Adoption of the resolution of intent and legislation requires simple majority approval of the enacting legislative authority.

(iii) If a county or city has not adopted a resolution of intent in accordance with the terms of this section, the county or city may not authorize, fix, and impose the tax.

(3) The tax imposed under this section must be deducted from the amount of tax otherwise required to be collected or paid to the department of revenue under chapter 82.08 or 82.12 RCW. The department must perform the collection of such taxes on behalf of the county or city at no cost to the county or city.

(4) By December 31, 2019, or within thirty days of a county or city authorizing the tax under this section, whichever is later, the department must calculate the maximum amount of tax distributions for each county and city authorizing the tax under this section as follows:

(a) The maximum amount for a participating county equals the taxable retail sales within the county in state fiscal year 2019 multiplied by the tax rate imposed under this section. If a county imposes a tax authorized under this section after a city located in that county has imposed the tax, the taxable retail sales within the city in state fiscal year 2019 must be subtracted from the taxable retail sales within the county for the calculation of the maximum amount; and

(b) The maximum amount for a city equals the taxable retail sales within the city in state fiscal year 2019 multiplied by the tax rate imposed under subsection (1) of this section.

(5) The tax must cease to be distributed to a county or city for the remainder of any fiscal year in which the amount of tax exceeds the maximum amount in subsection (4) of this section. The department must remit any annual tax revenues above the maximum to the state treasurer for deposit in the general fund. Distributions to a county or city meeting the maximum amount must resume at the beginning of the next fiscal year.

(6)(a) The moneys collected or bonds issued under this section may only be used for the following purposes:

(i) Acquiring, rehabilitating, or constructing affordable housing, which may include new units of affordable housing within an existing structure or facilities providing supportive housing services under RCW 71.24.385;

(ii) Funding the operations and maintenance costs of new units of affordable or supportive housing; or

(iii) For providing rental assistance to tenants.

(b) Administrative costs of the county or city associated with administering this section may not exceed 10 percent of the annual tax distributed to the jurisdiction under this section.

(7) The housing and services provided pursuant to subsection (6) of this section may only be provided to persons whose income is at or below ((~~sixty~~)) 60 percent of the median income of the county or city imposing the tax, or at or below 80 percent of the median income of the county or city imposing the tax if it is supporting the development of affordable housing intended for owner occupancy, as defined in RCW 84.14.010.

(8) In determining the use of funds under subsection (6) of this section, a county or city must consider the income of the individuals and families to be served, the leveraging of the resources made available under this section, and the housing needs within the jurisdiction of the taxing authority.

(9) To carry out the purposes of this section including, but not limited to, financing loans or grants to nonprofit organizations or public housing authorities, the legislative authority of the county or city imposing the tax has the authority to issue general obligation or revenue bonds within the limitations now or hereafter prescribed by the laws of this state, and may use, and is authorized to pledge, the moneys collected under this section for repayment of such bonds.

(10) A county or city may enter into an interlocal agreement with one or more counties, cities, or public housing authorities in accordance with chapter 39.34 RCW. The agreement may include, but is not limited to, pooling the tax receipts received under this section, pledging those taxes to bonds issued by one or more parties to the agreement, and allocating the proceeds of the taxes levied or the bonds issued in accordance with such interlocal agreement and this section.

(11) Counties and cities imposing the tax under this section must report annually to the department of commerce on the collection and use of the revenue. The department of commerce must adopt rules prescribing content of such reports. By December 1, 2019, and annually thereafter, and in compliance with RCW 43.01.036, the department of commerce must submit a report annually to the appropriate legislative committees with regard to such uses.

(12) The tax imposed by a county or city under this section expires twenty years after the date on which the tax is first imposed.

Passed by the Senate February 9, 2024.
Passed by the House March 1, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 137

[Substitute Senate Bill 6227]

NOT GUILTY BY REASON OF INSANITY—PROTECTION ORDERS

AN ACT Relating to allowing entry of a civil protection order to protect victims when a person is found not guilty by reason of insanity; amending RCW 10.77.110 and 7.105.450; and adding a new section to chapter 10.77 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 10.77.110 and 2000 c 94 s 14 are each amended to read as follows:

(1) If a defendant is acquitted of a crime by reason of insanity, and it is found that he or she is not a substantial danger to other persons, and does not 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, the court shall direct the defendant's release. If it is found that such defendant is a substantial danger to other persons, or presents 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, the court shall order his or her hospitalization, or any appropriate alternative treatment less restrictive than detention in a state mental hospital, pursuant to the terms of this chapter.

~~(((2) If the defendant has been found not guilty by reason of insanity and a substantial danger, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, so as to require treatment then the secretary shall immediately cause the defendant to be evaluated to ascertain if the defendant is developmentally disabled. When appropriate, and subject to available funds, the defendant may be committed to a program specifically reserved for the treatment and training of developmentally disabled persons. A person so committed shall receive habilitation services according to an individualized service plan specifically developed to treat the behavior which was the subject of the criminal proceedings. The treatment program shall be administered by developmental disabilities professionals and others trained specifically in the needs of developmentally disabled persons. The treatment program shall provide physical security to a degree consistent with the finding that the defendant is dangerous and may incorporate varying conditions of security and alternative sites when the dangerousness of any particular defendant makes this necessary. The department may limit admissions to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services. The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.~~

~~(3)~~))) If it is found that such defendant is not a substantial danger to other persons, and does not present a substantial likelihood of committing criminal acts jeopardizing public safety or security, but that he or she is in need of control by the court or other persons or institutions, the court shall direct the defendant's conditional release.

(2)(a) Upon placement of the defendant under control by the court or other persons and institutions or placement of the defendant on conditional release, or upon application by the prosecuting attorney at any subsequent time during which the court retains supervision of the defendant, the court may enter a separate no-contact order to protect any victim of the defendant's conduct in addition to the defendant's order of commitment. The maximum term of the no-contact order shall be the defendant's maximum term of commitment, or until the defendant's release under RCW 10.77.200, whichever comes sooner. The clerk's office shall provide a written certified copy of the no-contact order to the victim.

(b) The no-contact order shall contain the court's directives and shall state that a violation of the order is a criminal offense under chapter 7.105 RCW and

will subject the person who violates the order to arrest, and that any assault, drive-by shooting, or reckless endangerment that is a violation of the order is a felony.

(c) Any willful violation of a no-contact order issued under this section is punishable under RCW 7.105.450.

(d) For the purpose of this subsection, "victim" has the same meaning as in RCW 9.94A.030.

(3) Whenever an order is issued, modified, or terminated under 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. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system.

Sec. 2. RCW 7.105.450 and 2022 c 268 s 21 are each amended to read as follows:

(1)(a) Whenever a domestic violence protection order, a sexual assault protection order, a stalking protection order, or a vulnerable adult protection order is granted under this chapter, or an order is granted under chapter 9A.40, 9A.44, 9A.46, 9A.88, 9.94A, 10.77, 10.99, 26.09, 26.26A, or 26.26B RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, or there is a Canadian domestic violence protection order as defined in RCW 26.55.010, 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 the 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 the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, a protected party's person, or a protected party's vehicle;

(iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, the 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 must provide the electronic monitoring services and the terms under which the monitoring must 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; and

(ii) Shall impose a fine of $15, in addition to any penalty or fine imposed, for a violation of a domestic violence protection order issued under this chapter. Revenue from the $15 fine must be remitted monthly to the state treasury for deposit in the domestic violence prevention account.

(2) A law enforcement officer shall arrest without a warrant and take into custody a person whom the law enforcement officer has probable cause to believe has violated a domestic violence protection order, a sexual assault protection order, a stalking protection order, or a vulnerable adult protection order, or an order issued under chapter 9A.40, 9A.44, 9A.46, 9A.88, 9.94A, 10.77, 10.99, 26.09, 26.26A, or 26.26B RCW, or a valid foreign protection order as defined in RCW 26.52.020, or a Canadian domestic violence protection order as defined in RCW 26.55.010, 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, a protected party's person, or a protected party's vehicle, 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 a domestic violence protection order, a sexual assault protection order, a stalking protection order, or a vulnerable adult protection order, or an order issued under chapter 9A.40, 9A.44, 9A.46, 9A.88, 9.94A, 10.77, 10.99, 26.09, 26.26A, or 26.26B RCW, or a valid foreign protection order as defined in RCW 26.52.020, or a Canadian domestic violence protection order as defined in RCW 26.55.010, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of a domestic violence protection order, a sexual assault protection order, a stalking protection order, or a vulnerable adult protection order, or an order issued under chapter 9A.40, 9A.44, 9A.46, 9A.88, 9.94A, 10.77, 10.99, 26.09, 26.26A, or 26.26B RCW, or a valid foreign protection order as defined in RCW 26.52.020, or a Canadian domestic violence protection order as defined in RCW 26.55.010, 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 domestic violence protection order, a sexual assault protection order, a stalking protection order, or a vulnerable adult protection order, or a court order issued under chapter 9A.40, 9A.44, 9A.46, 9A.88, 9.94A, 10.77, 10.99, 26.09, 26.26A, or 26.26B RCW, or a valid foreign protection order as defined in RCW 26.52.020, or a Canadian domestic violence protection order as defined in RCW 26.55.010, is a class C felony if the offender has at least two previous convictions for violating the provisions of a domestic violence protection order, a sexual assault protection order, a stalking protection order, or a vulnerable adult protection order, or an order issued under chapter 9A.40, 9A.44, 9A.46, 9A.88, 9.94A, 10.77, 10.99, 26.09, 26.26A, or 26.26B RCW, or a valid foreign protection order as defined in RCW 26.52.020, or a Canadian

domestic violence protection order as defined in RCW 26.55.010. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6)(a) A defendant arrested for violating a domestic violence protection order, sexual assault protection order, stalking protection order, or vulnerable adult protection order, or an order granted under chapter 9A.40, 9A.44, 9A.46, 9A.88, 9.94A, 10.77, 10.99, 26.09, 26.26A, or 26.26B RCW, or a valid foreign protection order as defined in RCW 26.52.020, or a Canadian domestic violence protection order as defined in RCW 26.55.010, is required to appear in person before a magistrate within one judicial day after the arrest. At the time of the appearance, the court shall determine the necessity of imposing a no-contact order or other conditions of pretrial release.

(b) A defendant who is charged by citation, complaint, or information with violating any protection order identified in (a) of this subsection and not arrested shall appear in court for arraignment in person as soon as practicable, but in no event later than 14 days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

(7) Upon the filing of an affidavit by the petitioner or any law enforcement officer alleging that the respondent has violated a domestic violence protection order, a sexual assault protection order, a stalking protection order, or a vulnerable adult protection order, or an order granted under chapter 9A.40, 9A.44, 9A.46, 9A.88, 9.94A, 10.77, 10.99, 26.09, 26.26A, or 26.26B RCW, or a valid foreign protection order as defined in RCW 26.52.020, or a Canadian domestic violence protection order as defined in RCW 26.55.010, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days as to 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.

(8) Appearances required under this section are mandatory and cannot be waived.

NEW SECTION. **Sec. 3.** A new section is added to chapter 10.77 RCW to read as follows:

If the defendant has been found not guilty by reason of insanity and a substantial danger, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, so as to require treatment then the secretary shall immediately cause the defendant to be evaluated to ascertain if the defendant has a developmental disability. When appropriate, and subject to available funds, the defendant may be committed to a program specifically reserved for the treatment and training of persons with developmental disabilities. A person so committed shall receive habilitation services according to an individualized service plan specifically developed to treat the behavior which was the subject of the criminal proceedings. The treatment program shall be administered by developmental disabilities professionals and others trained specifically in the needs of persons with developmental disabilities. The treatment program shall provide physical security to a degree consistent with the finding that the defendant is dangerous and may incorporate varying conditions of security and alternative sites when the dangerousness of any particular defendant makes this necessary. The department may limit admissions to this

specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services. The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.

Passed by the Senate February 6, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 138

[Substitute Senate Bill 6269]

ELECTIONS—ALTERNATIVE VERIFICATION OPTIONS PILOT PROJECT

AN ACT Relating to establishing an alternative voter verification options pilot project; reenacting and amending RCW 29A.40.110; adding a new section to chapter 29A.40 RCW; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 29A.40 RCW to read as follows:

(1) The secretary of state shall establish the alternative verification options pilot project. The purpose of the pilot project is to allow for the development and testing of supplemental methods, other than signature verification, to verify that a ballot was filled out and returned by the intended voter.

(2) Any county may apply to participate in the alternative verification options pilot project. The county auditor of any county that wishes to participate in the pilot project must submit an application to the office of the secretary of state. The office of the secretary of state must approve the county auditor's application before the county can participate in the pilot project.

(a) The application submitted by the county auditor must include at least the following:

(i) A description of the alternative verification method or methods the county auditor plans to utilize and how the method or methods comply with the requirements of (b) of this subsection;

(ii) Details on how the proposed alternative verification method or methods will be implemented; and

(iii) Which election the county plans to use the proposed alternative verification method or methods in.

(b) Each alternative verification method proposed for use in the pilot project must:

(i) Allow the voter to submit clear evidence which can be verified by the county auditor indicating that the intended voter was the one who filled out and returned the ballot;

(ii) Establish criteria for determining accepted and failed verifications;

(iii) Require the voter to attest to the ballot declaration; and

(iv) Be compatible with the centralized statewide voter registration list maintained by the secretary of state.

(c) Counties may participate in the pilot project during any special election held on the second Tuesday in February or the fourth Tuesday in April as

provided in RCW 29A.04.321 and 29A.04.330. A county may not participate in the pilot project during a special election held in a jurisdiction that is not wholly contained within one county, unless all counties involved in the special election agree to participate jointly in the pilot project.

(d) Each application to participate in the pilot project shall be limited to the special election or elections held on a single date. A county may participate in the pilot project during multiple special election dates, but the county auditor must submit a separate application for approval by the office of the secretary of state for each special election date.

(e) The office of the secretary of state shall review each application, the feasibility of each proposed alternative verification method and whether each proposed alternative verification method complies with the requirements of (b) of this subsection before determining whether to approve or deny the application.

(f) The secretary of state may establish additional rules governing application content, application submittal, and the application approval process as necessary, including deadlines for the submittal and approval of applications before each special election.

(g) The secretary of state may establish reasonable rules related to the standards and procedures for the examination and testing of alternative verification systems.

(h)(i) If the application is approved by the secretary of state, not later than 90 days before the election, the county auditor shall notify each city, town, or special taxing district located wholly within that county that an alternative verification option will be used.

(ii) Each unit of local government may petition the legislative authority of the county for a waiver to opt-out of this pilot project. The legislative authority of the county may provide such a waiver if it does so not later than 60 days before the election and it finds that the waiver is reasonable.

(iii) If a waiver is granted, no precincts within the unit of local government may use the alternative verification option.

(3) During the special election in which a county is participating in the alternative verification options pilot project, the county may accept and canvass any ballot that can be verified as being returned by the intended voter through an alternative verification method that was approved by the secretary of state for use by that county in the pilot project, even if a signature that matches a signature of that voter in the registration files of the county is not included with the ballot declaration as normally required by RCW 29A.40.110.

(a) The county auditor must notify the governing authorities of all jurisdictions with a race or measure on the ballot that the county is participating in the alternative verification options pilot project and provide information on the alternative verification method or methods that have been approved for use as soon as practicable after receiving approval from the secretary of state.

(b) Any voter in a county participating in the pilot project must still have their ballot counted if the signature on the ballot declaration matches a signature of that voter in the registration files of the county. The alternative verification method or methods utilized by the county for the pilot project may not entirely replace signature verification.

(c) If a voter has returned a ballot attempting to utilize an alternative verification method, but the county auditor is unable to verify that the ballot was returned by that voter, the county auditor shall follow the same procedures as if the voter neglected to sign the ballot declaration as outlined in RCW 29A.60.165.

(d) Any information provided by the voter in order to verify that they voted the ballot as part of the pilot project is exempt from public disclosure following the same rules as pertain to voter signatures on ballot return envelopes in RCW 29A.04.260 and 42.56.425.

(4)(a) The county auditor shall provide a report to the secretary of state on their participation in the alternative verification options pilot project no later than 30 days after the certification of each special election in which their county participates in the pilot project. This report must describe the alternative verification method or methods utilized, the number of voters that used each method, the ballot rejection rate for that election and a comparison to the ballot rejection rate for prior similar elections in that county, and any relevant information related to the administration of each method.

(b) The secretary of state shall provide reports on the progress of the alternative verification options pilot project to the governor, appropriate committees of the legislature, and county auditors no later than December 31st of each year. The report must describe the alternative verification methods utilized by each county that year, the number of voters that used each method in each election, the impact of alternative verification methods on ballot rejection rates, and any relevant other findings of the pilot project.

(c) The secretary of state shall provide a final report on the alternative verification options pilot project to the governor, appropriate committees of the legislature, and county auditors no later than December 31, 2028. The report must describe all alternative verification methods utilized by each county, the number of voters that used each method in each election, the impact of alternative verification methods on ballot rejection rates, and any other relevant findings of the pilot project.

Sec. 2. RCW 29A.40.110 and 2011 c 349 s 18, 2011 c 348 s 4, and 2011 c 10 s 41 are each reenacted and amended to read as follows:

(1) The opening and subsequent processing of return envelopes for any primary or election may begin upon receipt. The tabulation of absentee ballots must not commence until after 8:00 p.m. on the day of the primary or election.

(2) All received return envelopes must be placed in secure locations from the time of delivery to the county auditor until their subsequent opening. After opening the return envelopes, the county canvassing board shall place all of the ballots in secure storage until processing. Ballots may be taken from the inner envelopes and all the normal procedural steps may be performed to prepare these ballots for tabulation.

(3) The canvassing board, or its designated representatives, shall examine the postmark on the return envelope and signature on the declaration before processing the ballot. The ballot must either be received no later than 8:00 p.m. on the day of the primary or election, or must be postmarked no later than the day of the primary or election. All personnel assigned to verify signatures must receive training on statewide standards for signature verification. Personnel shall verify that the voter's signature on the ballot declaration is the same as the

signature of that voter in the registration files of the county. Verification may be conducted by an automated verification system approved by the secretary of state. A variation between the signature of the voter on the ballot declaration and the signature of that voter in the registration files due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same. A county that is participating in the alternative verification options pilot project under section 1 of this act may also verify a voter's ballot using an alternative verification method approved by the office of the secretary of state.

(4) If the postmark is missing or illegible, the date on the ballot declaration to which the voter has attested determines the validity, as to the time of voting, for that ballot. For overseas voters and service voters, the date on the declaration to which the voter has attested determines the validity, as to the time of voting, for that ballot. Any overseas voter or service voter may return the signed declaration and voted ballot by fax or email by 8:00 p.m. on the day of the primary or election, and the county auditor must use established procedures to maintain the secrecy of the ballot.

NEW SECTION. **Sec. 3.** This act expires January 1, 2029.

Passed by the Senate February 12, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 15, 2024.
Filed in Office of Secretary of State March 15, 2024.

CHAPTER 139

[House Bill 1054]

COMMON INTEREST COMMUNITIES—OCCUPANCY BY UNRELATED PERSONS

AN ACT Relating to the authority of owners' associations in common interest communities to regulate or limit occupancy by unrelated persons; adding a new section to chapter 64.32 RCW; adding a new section to chapter 64.34 RCW; adding a new section to chapter 64.38 RCW; adding a new section to chapter 64.90 RCW; and providing a contingent expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 64.32 RCW to read as follows:

Except for occupancy limits on short-term rentals as defined in RCW 64.37.010 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code, city ordinance, or county ordinance, an association of apartment owners may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that regulates or limits the number of unrelated persons that may occupy an apartment.

NEW SECTION. **Sec. 2.** A new section is added to chapter 64.34 RCW to read as follows:

Except for occupancy limits on short-term rentals as defined in RCW 64.37.010 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code, city ordinance, or county ordinance, a unit owners' association may not

adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that regulates or limits the number of unrelated persons that may occupy a unit.

NEW SECTION. **Sec. 3.** A new section is added to chapter 64.38 RCW to read as follows:

Except for occupancy limits on short-term rentals as defined in RCW 64.37.010 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code, city ordinance, or county ordinance, a homeowners' association may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that regulates or limits the number of unrelated persons that may occupy a lot.

NEW SECTION. **Sec. 4.** A new section is added to chapter 64.90 RCW to read as follows:

Except for occupancy limits on short-term rentals as defined in RCW 64.37.010 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code, city ordinance, or county ordinance, a unit owners association may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that regulates or limits the number of unrelated persons that may occupy a unit.

NEW SECTION. **Sec. 5.** If chapter . . . (Engrossed Substitute Senate Bill No. 5796), Laws of 2024 is enacted by June 30, 2024, sections 1 through 3 of this act expire January 1, 2028.

Passed by the House March 4, 2024.
Passed by the Senate February 22, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 140

[House Bill 1471]

STATE PROCUREMENT—VARIOUS PROVISIONS

AN ACT Relating to modifying state procurement procedures for competitive, sole source, convenience, and emergency goods and services contracts; and amending RCW 39.26.010, 39.26.070, 39.26.130, 39.26.140, and 39.26.200.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 39.26.010 and 2022 c 71 s 12 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 any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, institutions of higher education as defined in RCW 28B.10.016, and correctional and other types of institutions. "Agency" does not include a comprehensive cancer center participating in a collaborative

arrangement as defined in RCW 28B.10.930 that is operated in conformance with RCW 28B.10.930.

(2) "Bid" means an offer, proposal, or quote for goods or services in response to a solicitation issued for such goods or services by the department or an agency of Washington state government.

(3) "Bidder" means an individual or entity who submits a bid, quotation, or proposal in response to a solicitation issued for such goods or services by the department or an agency of Washington state government.

(4) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(5) "Community rehabilitation program of the department of social and health services" means any entity that:

(a) Is registered as a nonprofit corporation with the secretary of state; and

(b) Is recognized by the department of social and health services, division of vocational rehabilitation as eligible to do business as a community rehabilitation program.

(6) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to bidders and culminating in a selection based on predetermined criteria.

(7) "Contractor" means an individual or entity awarded a contract with an agency to perform a service or provide goods.

(8) "Debar" means to prohibit a contractor, individual, or other entity from submitting a bid, having a bid considered, or entering into a state contract during a specified period of time as set forth in a debarment order.

(9) "Department" means the department of enterprise services.

(10) "Director" means the director of the department of enterprise services.

(11) "Estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner.

(12) "Goods" means products, materials, supplies, or equipment provided by a contractor.

(13) "In-state business" means a business that has its principal office located in Washington.

(14) "Life-cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life.

(15) "Master contracts" means a contract for specific goods or services, or both, that is solicited and established by the department in accordance with procurement laws and rules on behalf of and for general use by agencies as specified by the department.

(16) "Microbusiness" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross revenue of less than ((~~one million dollars~~)) $1,000,000 annually as reported on its federal tax return or on its return filed with the department of revenue.

(17) "Minibusiness" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned

and operated independently from all other businesses; and (b) has a gross revenue of less than ((~~three million dollars~~)) $3,000,000, but ((~~one million dollars~~)) $1,000,000 or more annually as reported on its federal tax return or on its return filed with the department of revenue.

(18) "Polychlorinated biphenyls" means any polychlorinated biphenyl congeners and homologs.

(19) "Practical quantification limit" means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability during routine laboratory operating conditions.

(20) "Purchase" means the acquisition of goods or services, including the leasing or renting of goods.

(21) "Services" means labor, work, analysis, or similar activities provided by a contractor to accomplish a specific scope of work.

(22) "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that:

(a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either:

(i) Fifty or fewer employees; or

(ii) A gross revenue of less than ((~~seven million dollars~~)) $7,000,000 annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or

(b) Is certified with the office of women and minority business enterprises under chapter 39.19 RCW.

(23) "Sole source" means a contractor providing goods or services of such a unique nature or sole availability ((~~at the location required~~)) that the contractor is clearly and justifiably the only practicable source to provide the goods or services.

(24) "Washington grown" has the definition in RCW 15.64.060.

Sec. 2. RCW 39.26.070 and 2015 c 79 s 6 are each amended to read as follows:

A convenience contract is a contract for specific goods or services, or both, that is solicited and established in accordance with procurement laws and rules for use by ((~~a specific agency or~~)) a specified group of agencies ((~~as needed from time to time~~)). A convenience contract is not available for general use and ((~~may only~~)) must be ((~~used as specified~~)) approved by the department. Convenience contracts are not intended to replace or supersede master contracts as defined in this chapter.

Sec. 3. RCW 39.26.130 and 2012 c 224 s 15 are each amended to read as follows:

(1) An agency may make emergency purchases as defined in subsection ((~~(3)~~)) (4) of this section. When an emergency purchase is made, the agency head shall submit written notification of the purchase within ((~~three~~)) 10 business days of the purchase to the director. This notification must contain a description of the purchase, a description of the emergency and the circumstances leading up to the emergency, and an explanation of why the circumstances required an emergency purchase.

(2) Emergency contracts must be submitted to the department and made available for public inspection within ((~~three working~~)) 10 business days following the commencement of work or execution of the contract, whichever occurs first.

(3) The department may authorize exceptions to this section due to exigent circumstances.

(4) As used in this section, "emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

(a) Present a real, immediate, and extreme threat to the proper performance of essential functions; or

(b) May reasonably be expected to result in material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken.

Sec. 4. RCW 39.26.140 and 2012 c 224 s 16 are each amended to read as follows:

(1) Agencies must submit sole source contracts to the department and make the contracts available for public inspection not ((~~less~~)) fewer than ((~~ten~~)) 15 working days before the proposed starting date of the contract. Agencies must provide documented justification for sole source contracts to the department when the contract is submitted, and must include evidence that the agency posted the contract opportunity at a minimum on the state's enterprise vendor registration and bid notification system.

(2) The department must approve sole source contracts before any such contract becomes binding and before any services may be performed or goods provided under the contract. These requirements shall also apply to all sole source contracts except as otherwise exempted by the director.

(3) The director may provide an agency an exemption from the requirements of this section for a contract or contracts. Requests for exemptions must be submitted to the director in writing.

(4) Contracts awarded by institutions of higher education from nonstate funds are exempt from the requirements of this section.

Sec. 5. RCW 39.26.200 and 2020 c 269 s 3 are each amended to read as follows:

(1)(a) The director shall provide notice to the contractor of the director's intent to either fine or debar with the specific reason for either the fine or debarment. The department must establish the debarment and fining processes by rule.

(b) After reasonable notice to the contractor and reasonable opportunity for that contractor to be heard, the director has the authority to debar a contractor for cause from consideration for award of contracts. The debarment must be for a period of not more than three years.

(2) The director may either fine or debar a contractor based on a finding of one or more of the following causes:

(a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(b) Conviction or a final determination in a civil action under state or federal statutes of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of the federal false

claims act, 31 U.S.C. Sec. 3729 et seq., or the state medicaid fraud false claims act, chapter 74.66 RCW, or any other offense indicating a lack of business integrity or business honesty that currently, seriously, and directly affects responsibility as a state contractor;

(c) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(d) Two or more violations within the previous five years of the national labor relations act as determined by the national labor relations board or court of competent jurisdiction;

(e) Violation of contract provisions, as set forth in this subsection, of a character that is regarded by the director to be so serious as to justify debarment action:

(i) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(ii) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, however the failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor may not be considered to be a basis for debarment;

(f) Violation of ethical standards set forth in RCW 39.26.020;

(g) Any other cause the director determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause listed in regulations; and

(h) ((~~During the 2017-2019 fiscal biennium, the~~)) The failure to comply with a provision in a state master contract or other agreement with a state agency that requires equality among its workers by ensuring similarly employed individuals are compensated as equals.

(3) The director must issue a written decision to debar. The decision must:

(a) State the reasons for the action taken; and

(b) Inform the debarred contractor of the contractor's rights to judicial or administrative review.

Passed by the House March 5, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 141

[Engrossed Substitute House Bill 1862]

DISABLED VETERAN ADAPTIVE RECREATIONAL AND REHABILITATION FACILITIES—TAX EXEMPTIONS

AN ACT Relating to providing tax exemptions for the assistance of disabled veterans and members of the armed forces of the United States of America; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; providing an effective date; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) This section is the tax preference performance statement for the tax preference contained in sections 2 through 4, chapter . . ., Laws of 2024 (sections 2 through 4 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 to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to reduce the tax burden on individuals and businesses imposed by the existing business and occupation tax rates.

(4) If the review finds that there is an increase of the utilization of adaptive recreational and rehabilitation facilities by disabled veterans and members of the armed forces of the United States of America then the legislature intends to extend the expiration date of this tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to any amounts received as the result of sales on a federal military reservation by a nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of the effective date of this section, that operates an adaptive recreational and rehabilitation facility dedicated to the assistance of disabled veterans and members of the armed forces of the United States of America.

(2) For the purposes of this section, "adaptive recreational and rehabilitation facility" means a facility that provides activity modifications, assistive technologies, or other services to allow people with disabilities to participate in recreational activities, sports, or physical rehabilitation efforts.

(3) This section expires January 1, 2035.

NEW SECTION. **Sec. 3.** 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 sales made on a federal military reservation by a nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of the effective date of this section, that operates an adaptive recreational and rehabilitation facility dedicated to the assistance of disabled veterans and members of the armed forces of the United States of America.

(2) For the purposes of this section, "adaptive recreational and rehabilitation facility" means a facility that provides activity modifications, assistive technologies, or other services to allow people with disabilities to participate in recreational activities, sports, or physical rehabilitation efforts.

(3) This section expires January 1, 2035.

NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12 RCW to read as follows:

(1) The tax levied by RCW 82.12.020 does not apply to the use of tangible personal property purchased on a federal military reservation sold to a disabled veteran or member of the armed forces by a nonprofit organization under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of the effective date of this section, that operates an adaptive

recreational and rehabilitation facility dedicated to the assistance of disabled veterans and members of the armed forces of the United States of America.

(2) For the purposes of this section, "adaptive recreational and rehabilitation facility" means a facility that provides activity modifications, assistive technologies, or other services to allow people with disabilities to participate in recreational activities, sports, or physical rehabilitation efforts.

(3) This section expires January 1, 2035.

NEW SECTION. **Sec. 5.** This act takes effect October 1, 2024.

Passed by the House February 15, 2024.
Passed by the Senate March 4, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 142

[Substitute House Bill 1892]

WORKFORCE HOUSING ACCELERATOR REVOLVING LOAN FUND PROGRAM

AN ACT Relating to the workforce housing accelerator program; and adding a new chapter to Title 43 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" means the Washington state housing finance commission.

(2) "Department" means the department of commerce.

(3) "Eligible organizations" includes nonprofit developers, for-profit developers, public housing authorities, public development authorities, or other applicants eligible under rules established by the commission.

(4) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or above 50 percent, but not exceeding 80 percent, of the median family income adjusted for family size, for the county where the affordable housing is located, as reported by the United States department of housing and urban development.

(5) "Program" means the workforce housing accelerator revolving loan fund program created under sections 2 and 3 of this act.

NEW SECTION. **Sec. 2.** The program is created in the department to provide loans to eligible organizations to finance affordable housing for low-income households. The department shall contract with the commission to administer the program, subject to the availability of amounts appropriated for the specific purposes provided in this section.

NEW SECTION. **Sec. 3.** Under the program, the commission may administer loans to eligible organizations to assist with the development of housing for low-income households subject to the following considerations:

(1) Loans must be awarded to eligible organizations based on criteria established by the commission, including at least the following:

(a) Readiness to proceed with construction, including possession of necessary permits and completed land use entitlements;

(b) Amount and commitment of private capital being leveraged as part of the financing for the project;

(c) Proposed cost efficiency;

(d) Development location, with the goal of awarding funding to projects in as many areas of the state as financially feasible and viable;

(e) The applicant's qualifications and demonstrated capability to develop and manage the proposed project; and

(f) Any other criteria established by the commission, provided that such criteria shall not exceed the priority of any other criterion listed in this subsection (1).

(2) Any housing financed under the program must serve low-income households for at least 99 years; however, the commission, in consultation with program awardees, may establish a longer time period.

(3) Loans awarded under this section may not exceed the lesser of $20,000,000 or 20 percent of total project costs of the housing to be developed. The commission may exceed this maximum allowable loan amount for cause.

(4) Loans awarded under this section may be used in combination with private sector loans, tax exempt bonds, real estate excise tax abatements, corporate housing funding, or any other source of capital as recognized by the commission.

(5) The commission must structure loans issued pursuant to this section with an interest rate above one percent, but not exceeding 2.5 percent, for the first 20 years. The commission may not require annual loan repayments in excess of 15 percent of annual cash flow. Loans administered under this section may not include repayment timelines longer than 30 years, except as authorized by rules established by the commission.

(6) If a loan recipient refinances, the commission may require loan repayment at an equivalent percentage to the overall capital project financing package at the time of award.

(7) Upon receipt and repayment, any interest earnings and repaid loan funds must be tracked separately from other revenue and must be reloaned to qualifying applicants to finance additional housing serving low-income populations under the program.

(8) All loans issued pursuant to this section must be assumable under terms and conditions established by the commission.

(9) Loan recipients must:

(a) Commit to beginning construction within 180 days of award;

(b) Adhere to the evergreen sustainable development standard adopted by the department;

(c) File an annual compliance report containing information as specified by the commission; and

(d) Restrict use of awarded loan funding to eligible costs of housing as defined under RCW 43.180.020.

(10) The commission must:

(a) Strive to provide as much geographic distribution in areas where this type of financing tool is feasible and viable. The commission may not allocate more than $20,000,000 per round of funding to projects in each individual county. However, the commission may award more than $20,000,000 per round

of funding to projects in an individual county if there are no qualifying applications in other counties;

(b) Establish criteria and procedures for long-term monitoring of affordability of housing and compliance. The commission may charge monitoring fees; and

(c) Establish annual reporting requirements for loan recipients.

(11) The commission shall adopt policies necessary to administer the program established in this section and section 2 of this act.

(12) No commission general funds shall be expended to implement this program.

NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act constitute a new chapter in Title 43 RCW.

Passed by the House February 8, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 143

[Engrossed Second Substitute House Bill 1899]
2023 WILDFIRES—DISASTER RELIEF PAYMENT PROGRAM

AN ACT Relating to facilitating reconstruction of communities damaged or destroyed by wildfires; adding a new section to chapter 43.31 RCW; creating new sections; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** In recent years, devastating wildfires have destroyed homes, businesses, and infrastructure. These wildfires have become more frequent and more destructive due to the effects of climate change. Since the original construction of many of the lost structures, technological advances have made possible more energy efficient buildings, greater use of electric vehicles, and more opportunities to utilize solar energy. The insurance coverage for the destroyed structures, however, may not cover reconstruction utilizing new methods and technologies. As a result, many buildings may be rebuilt in less efficient ways that require greater use of greenhouse gases. These greenhouse gases, in turn, will exacerbate the threat of wildfires.

It is the intent of the legislature to assist in disrupting this cycle. By making disaster relief payments available to local governments, businesses, and individuals to repair or replace damaged or destroyed buildings in more energy efficient and environmentally friendly ways, the legislature will encourage a more sustainable use of resources and increased climate resilience with resulting environmental benefits for all of the people of the state. It is the intent of the legislature that the assistance provided in this act be considered disaster relief payments by the internal revenue service.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.31 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department of commerce shall establish and administer a disaster relief payment program to provide assistance to qualifying property owners and

local governments that had buildings destroyed or damaged in a wildfire occurring between August 1 and October 1, 2023. The department shall develop a system for the submission and evaluation of disaster relief payment applications in consultation with the emergency management division of the state military department and tribal and local government emergency management authorities. The system developed by the department must ensure that the disaster relief payments are only used for the purposes specified in this section.

(2) Disaster relief payments may only be awarded to property owners who had buildings damaged or destroyed during a wildfire and that meet the following criteria:

(a) The area in which the building was damaged or destroyed was under a state of emergency declared by the governor or a local government due to wildfires occurring in a county located to the east of the crest of the Cascade mountains with a population of at least 500,000;

(b) The building that was damaged or destroyed was a residential home, including manufactured homes, a multifamily building, a commercial building, or a public building;

(c) The same type of building as was damaged or destroyed in the wildfire is being constructed or repaired; and

(d) The new or repaired building will comply with all current state building and state energy code requirements in effect at the time of the permit application for the construction or repair.

(3) Disaster relief payments awarded under this section may only be used for the purpose of meeting increased energy efficiency standards, providing or increasing electric vehicle charging capacity, and the installation and use of solar panels on a building that did not, prior to being damaged or destroyed, utilize solar panels.

(4) The department shall develop criteria for awarding disaster relief payments under this section that is consistent with RCW 38.52.030(9) and, as appropriate, with other disaster response and recovery programs. When awarding disaster relief payments, the department must prioritize any building that is owned or rented by a low-income to moderate-income household. Thereafter, the department must award disaster relief payments based upon the amount of energy efficiency, electric vehicle charging capacity, or solar panels installation that will occur, with disaster relief payments going first to those buildings which will yield the greatest environmental benefits.

(5) For the purposes of this section:

(a) "Increased energy efficiency standards" means energy code standards under chapter 19.27A RCW that have increased between the time the building was originally constructed and the time that it is to be repaired or rebuilt.

(b) "Local government" means a city, town, county, or special purpose district.

(c) "Low-income or moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 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.

(d) "Public building" means a building or building wholly owned and used by a local government.

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.

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, 2024, in the omnibus appropriations act, this act is null and void.

Passed by the House March 6, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 144

[House Bill 1927]

TIME-LOSS COMPENSATION—FIRST THREE DAYS—DURATION OF DISABILITY

AN ACT Relating to reducing the number of days that a worker's temporary total disability must continue to receive industrial insurance compensation for the day of an injury and the three-day period following the injury; amending RCW 51.32.090 and 51.32.090; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 51.32.090 and 2011 1st sp.s. c 37 s 101 are each amended to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3)(a) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall:

(i) For claims for injuries that occurred before May 7, 1993, continue in the proportion which the new earning power shall bear to the old; or

(ii) For claims for injuries occurring on or after May 7, 1993, equal ((~~eighty~~)) 80 percent of the actual difference between the worker's present wages and earning power at the time of injury, but: (A) The total of these payments and the worker's present wages may not exceed ((~~one hundred fifty~~)) 150 percent of the average monthly wage in the state as computed under RCW 51.08.018; (B) the payments may not exceed ((~~one hundred~~)) 100 percent of the entitlement as computed under subsection (1) of this section; and (C) the payments may not be less than the worker would have received if (a)(i) of this subsection had been applicable to the worker's claim.

(b) No compensation shall be payable under this subsection (3) unless the loss of earning power shall exceed five percent.

(c) The prior closure of the claim or the receipt of permanent partial disability benefits shall not affect the rate at which loss of earning power benefits are calculated upon reopening the claim.

(4)(a) The legislature finds that long-term disability and the cost of injuries is significantly reduced when injured workers remain at work following their injury. To encourage employers at the time of injury to provide light duty or transitional work for their workers, wage subsidies and other incentives are made available to employers insured with the department.

(b) Whenever the employer of injury requests that a worker who is entitled to temporary total disability under this chapter be certified by a physician or licensed advanced registered nurse practitioner as able to perform available work other than his or her usual work, the employer shall furnish to the physician or licensed advanced registered nurse practitioner, with a copy to the worker, a statement describing the work available with the employer of injury in terms that will enable the physician or licensed advanced registered nurse practitioner to relate the physical activities of the job to the worker's disability. The physician or licensed advanced registered nurse practitioner shall then determine whether the worker is physically able to perform the work described. The worker's temporary total disability payments shall continue until the worker is released by his or her physician or licensed advanced registered nurse practitioner for the work, and begins the work with the employer of injury. If the work thereafter comes to an end before the worker's recovery is sufficient in the judgment of his or her physician or licensed advanced registered nurse practitioner to permit him or her to return to his or her usual job, or to perform other available work offered by the employer of injury, the worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her physician or licensed advanced registered nurse practitioner he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work.

(c) To further encourage employers to maintain the employment of their injured workers, an employer insured with the department and that offers work to a worker pursuant to this subsection (4) shall be eligible for reimbursement of the injured worker's wages for light duty or transitional work equal to ((~~fifty~~)) 50 percent of the basic, gross wages paid for that work, for a maximum of ((~~sixty-six~~)) 66 workdays within a consecutive ((~~twenty-four~~)) 24-month period. In no event may the wage subsidies paid to an employer on a claim exceed ((~~ten thousand dollars~~)) $10,000. Wage subsidies shall be calculated using the worker's basic hourly wages or basic salary, and no subsidy shall be paid for any other form of compensation or payment to the worker such as tips, commissions, bonuses, board, housing, fuel, health care, dental care, vision care, per diem, reimbursements for work-related expenses, or any other payments. An employer may not, under any circumstances, receive a wage subsidy for a day in which the worker did not actually perform any work, regardless of whether or not the employer paid the worker wages for that day.

(d) If an employer insured with the department offers a worker work pursuant to this subsection (4) and the worker must be provided with training or

instruction to be qualified to perform the offered work, the employer shall be eligible for a reimbursement from the department for any tuition, books, fees, and materials required for that training or instruction, up to a maximum of ((~~one thousand dollars~~)) $1,000. Reimbursing an employer for the costs of such training or instruction does not constitute a determination by the department that the worker is eligible for vocational services authorized by RCW 51.32.095 ((~~and 51.32.099~~)).

(e) If an employer insured with the department offers a worker work pursuant to this subsection (4), and the employer provides the worker with clothing that is necessary to allow the worker to perform the offered work, the employer shall be eligible for reimbursement for such clothing from the department, up to a maximum of ((~~four hundred dollars~~)) $400. However, an employer shall not receive reimbursement for any clothing it provided to the worker that it normally provides to its workers. The clothing purchased for the worker shall become the worker's property once the work comes to an end.

(f) If an employer insured with the department offers a worker work pursuant to this subsection (4) and the worker must be provided with tools or equipment to perform the offered work, the employer shall be eligible for a reimbursement from the department for such tools and equipment and related costs as determined by department rule, up to a maximum of ((~~two thousand five hundred dollars~~)) $2,500. An employer shall not be reimbursed for any tools or equipment purchased prior to offering the work to the worker pursuant to this subsection (4). An employer shall not be reimbursed for any tools or equipment that it normally provides to its workers. The tools and equipment shall be the property of the employer.

(g) An employer may offer work to a worker pursuant to this subsection (4) more than once, but in no event may the employer receive wage subsidies for more than ((~~sixty-six~~)) 66 days of work in a consecutive ((~~twenty-four~~)) 24-month period under one claim. An employer may continue to offer work pursuant to this subsection (4) after the worker has performed ((~~sixty-six~~)) 66 days of work, but the employer shall not be eligible to receive wage subsidies for such work.

(h) An employer shall not receive any wage subsidies or reimbursement of any expenses pursuant to this subsection (4) unless the employer has completed and submitted the reimbursement request on forms developed by the department, along with all related information required by department rules. No wage subsidy or reimbursement shall be paid to an employer who fails to submit a form for such payment within one year of the date the work was performed. In no event shall an employer receive wage subsidy payments or reimbursements of any expenses pursuant to this subsection (4) unless the worker's physician or licensed advanced registered nurse practitioner has restricted him or her from performing his or her usual work and the worker's physician or licensed advanced registered nurse practitioner has released him or her to perform the work offered.

(i) Payments made under (b) through (g) of this subsection are subject to penalties under RCW 51.32.240(5) in cases where the funds were obtained through willful misrepresentation.

(j) Once the worker returns to work under the terms of this subsection (4), he or she shall not be assigned by the employer to work other than the available

work described without the worker's written consent, or without prior review and approval by the worker's physician or licensed advanced registered nurse practitioner. An employer who directs a claimant to perform work other than that approved by the attending physician and without the approval of the worker's physician or licensed advanced registered nurse practitioner shall not receive any wage subsidy or other reimbursements for such work.

(k) If the worker returns to work under this subsection (4), any employee health and welfare benefits that the worker was receiving at the time of injury shall continue or be resumed at the level provided at the time of injury. Such benefits shall not be continued or resumed if to do so is inconsistent with the terms of the benefit program, or with the terms of the collective bargaining agreement currently in force.

(l) In the event of any dispute as to the validity of the work offered or as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination pursuant to an order that contains the notice required by RCW 51.52.060 and that is subject to appeal subject to RCW 51.52.050.

(5) An employer's experience rating shall not be affected by the employer's request for or receipt of wage subsidies.

(6) The department shall create a Washington stay-at-work account which shall be funded by assessments of employers insured through the state fund for the costs of the payments authorized by subsection (4) of this section and for the cost of creating a reserve for anticipated liabilities. Employers may collect up to one-half the fund assessment from workers.

(7) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of ((~~fourteen~~)) seven consecutive calendar days from date of injury: PROVIDED, That attempts to return to work in the first ((~~fourteen~~)) seven days following the injury shall not serve to break the continuity of the period of disability if the disability continues ((~~fourteen~~)) seven days after the injury occurs.

(8) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages: PROVIDED, That holiday pay, vacation pay, sick leave, or other similar benefits shall not be deemed to be payments by the employer for the purposes of this subsection.

(9) In no event shall the monthly payments provided in this section:

(a) Exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(b) For dates of injury or disease manifestation after July 1, 2008, be less than ((~~fifteen~~)) 15 percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ((~~ten dollars~~)) $10 per month if the worker is married and an additional ((~~ten dollars~~)) $10 per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (9)(b) is greater than ((~~one hundred~~)) 100 percent of the wages of the worker as determined under RCW 51.08.178, the monthly payment due to the worker shall be equal to the greater of the monthly wages of the worker or the minimum benefit set forth in this section on June 30, 2008.

(10) If the supervisor of industrial insurance determines that the worker is voluntarily retired and is no longer attached to the workforce, benefits shall not be paid under this section.

(11) The department shall adopt rules as necessary to implement this section.

Sec. 2. RCW 51.32.090 and 2023 c 171 s 7 are each amended to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3)(a) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall:

(i) For claims for injuries that occurred before May 7, 1993, continue in the proportion which the new earning power shall bear to the old; or

(ii) For claims for injuries occurring on or after May 7, 1993, equal ((~~eighty~~)) 80 percent of the actual difference between the worker's present wages and earning power at the time of injury, but: (A) The total of these payments and the worker's present wages may not exceed ((~~one hundred fifty~~)) 150 percent of the average monthly wage in the state as computed under RCW 51.08.018; (B) the payments may not exceed ((~~one hundred~~)) 100 percent of the entitlement as computed under subsection (1) of this section; and (C) the payments may not be less than the worker would have received if (a)(i) of this subsection had been applicable to the worker's claim.

(b) No compensation shall be payable under this subsection (3) unless the loss of earning power shall exceed five percent.

(c) The prior closure of the claim or the receipt of permanent partial disability benefits shall not affect the rate at which loss of earning power benefits are calculated upon reopening the claim.

(4)(a) The legislature finds that long-term disability and the cost of injuries is significantly reduced when injured workers remain at work following their injury. To encourage employers at the time of injury to provide light duty or

transitional work for their workers, wage subsidies and other incentives are made available to employers insured with the department.

(b) Whenever the employer of injury requests that a worker who is entitled to temporary total disability under this chapter be certified by the attending provider as able to perform available work other than his or her usual work, the employer shall furnish to the attending provider, with a copy to the worker, a statement describing the work available with the employer of injury in terms that will enable the attending provider to relate the activities of the job to the worker's disability. The attending provider shall then determine whether the worker is able to perform the work described. The worker's temporary total disability payments shall continue until the worker is released by his or her attending provider for the work, and begins the work with the employer of injury. If the work thereafter comes to an end before the worker's recovery is sufficient in the judgment of his or her attending provider to permit him or her to return to his or her usual job, or to perform other available work offered by the employer of injury, the worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her attending provider he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work.

(c) To further encourage employers to maintain the employment of their injured workers, an employer insured with the department and that offers work to a worker pursuant to this subsection (4) shall be eligible for reimbursement of the injured worker's wages for light duty or transitional work equal to ((~~fifty~~)) 50 percent of the basic, gross wages paid for that work, for a maximum of ((~~sixty-six~~)) 66 workdays within a consecutive ((~~twenty-four~~)) 24-month period. In no event may the wage subsidies paid to an employer on a claim exceed ((~~ten thousand dollars~~)) $10,000. Wage subsidies shall be calculated using the worker's basic hourly wages or basic salary, and no subsidy shall be paid for any other form of compensation or payment to the worker such as tips, commissions, bonuses, board, housing, fuel, health care, dental care, vision care, per diem, reimbursements for work-related expenses, or any other payments. An employer may not, under any circumstances, receive a wage subsidy for a day in which the worker did not actually perform any work, regardless of whether or not the employer paid the worker wages for that day.

(d) If an employer insured with the department offers a worker work pursuant to this subsection (4) and the worker must be provided with training or instruction to be qualified to perform the offered work, the employer shall be eligible for a reimbursement from the department for any tuition, books, fees, and materials required for that training or instruction, up to a maximum of ((~~one thousand dollars~~)) $1,000. Reimbursing an employer for the costs of such training or instruction does not constitute a determination by the department that the worker is eligible for vocational services authorized by RCW 51.32.095 ((~~and 51.32.099~~)).

(e) If an employer insured with the department offers a worker work pursuant to this subsection (4), and the employer provides the worker with clothing that is necessary to allow the worker to perform the offered work, the employer shall be eligible for reimbursement for such clothing from the department, up to a maximum of ((~~four hundred dollars~~)) $400. However, an

employer shall not receive reimbursement for any clothing it provided to the worker that it normally provides to its workers. The clothing purchased for the worker shall become the worker's property once the work comes to an end.

(f) If an employer insured with the department offers a worker work pursuant to this subsection (4) and the worker must be provided with tools or equipment to perform the offered work, the employer shall be eligible for a reimbursement from the department for such tools and equipment and related costs as determined by department rule, up to a maximum of ((~~two thousand five hundred dollars~~)) $2,500. An employer shall not be reimbursed for any tools or equipment purchased prior to offering the work to the worker pursuant to this subsection (4). An employer shall not be reimbursed for any tools or equipment that it normally provides to its workers. The tools and equipment shall be the property of the employer.

(g) An employer may offer work to a worker pursuant to this subsection (4) more than once, but in no event may the employer receive wage subsidies for more than ((~~sixty-six~~)) 66 days of work in a consecutive ((~~twenty-four~~)) 24-month period under one claim. An employer may continue to offer work pursuant to this subsection (4) after the worker has performed ((~~sixty-six~~)) 66 days of work, but the employer shall not be eligible to receive wage subsidies for such work.

(h) An employer shall not receive any wage subsidies or reimbursement of any expenses pursuant to this subsection (4) unless the employer has completed and submitted the reimbursement request on forms developed by the department, along with all related information required by department rules. No wage subsidy or reimbursement shall be paid to an employer who fails to submit a form for such payment within one year of the date the work was performed. In no event shall an employer receive wage subsidy payments or reimbursements of any expenses pursuant to this subsection (4) unless the worker's attending provider has restricted him or her from performing his or her usual work and the worker's attending provider has released him or her to perform the work offered.

(i) Payments made under (b) through (g) of this subsection are subject to penalties under RCW 51.32.240(5) in cases where the funds were obtained through willful misrepresentation.

(j) Once the worker returns to work under the terms of this subsection (4), he or she shall not be assigned by the employer to work other than the available work described without the worker's written consent, or without prior review and approval by the worker's attending provider. An employer who directs a claimant to perform work other than that approved by the attending provider and without the approval of the worker's attending provider shall not receive any wage subsidy or other reimbursements for such work.

(k) If the worker returns to work under this subsection (4), any employee health and welfare benefits that the worker was receiving at the time of injury shall continue or be resumed at the level provided at the time of injury. Such benefits shall not be continued or resumed if to do so is inconsistent with the terms of the benefit program, or with the terms of the collective bargaining agreement currently in force.

(l) In the event of any dispute as to the validity of the work offered or as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination pursuant to an order that contains

the notice required by RCW 51.52.060 and that is subject to appeal subject to RCW 51.52.050.

(5) An employer's experience rating shall not be affected by the employer's request for or receipt of wage subsidies.

(6) The department shall create a Washington stay-at-work account which shall be funded by assessments of employers insured through the state fund for the costs of the payments authorized by subsection (4) of this section and for the cost of creating a reserve for anticipated liabilities. Employers may collect up to one-half the fund assessment from workers.

(7) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of ((~~fourteen~~)) seven consecutive calendar days from date of injury: PROVIDED, That attempts to return to work in the first ((~~fourteen~~)) seven days following the injury shall not serve to break the continuity of the period of disability if the disability continues ((~~fourteen~~)) seven days after the injury occurs.

(8) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages: PROVIDED, That holiday pay, vacation pay, sick leave, or other similar benefits shall not be deemed to be payments by the employer for the purposes of this subsection.

(9) In no event shall the monthly payments provided in this section:

(a) Exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(b) For dates of injury or disease manifestation after July 1, 2008, be less than ((~~fifteen~~)) 15 percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ((~~ten dollars~~)) $10 per month if the worker is married and an additional ((~~ten dollars~~)) $10 per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (9)(b) is greater than ((~~one hundred~~)) 100 percent of the wages of the worker as determined under RCW 51.08.178, the monthly payment due to the worker shall be equal to the greater of the monthly wages of the worker or the minimum benefit set forth in this section on June 30, 2008.

(10) If the supervisor of industrial insurance determines that the worker is voluntarily retired and is no longer attached to the workforce, benefits shall not be paid under this section.

(11) The department shall adopt rules as necessary to implement this section.

NEW SECTION. **Sec. 3.** Section 2 of this act takes effect July 1, 2025.

NEW SECTION. **Sec. 4.** Section 1 of this act expires July 1, 2025.

Passed by the House February 6, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 145

[Substitute House Bill 1970]

DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES—CAREGIVER COMMUNICATION

AN ACT Relating to improving communication between the department of children, youth, and families and caregivers; adding a new section to chapter 74.13 RCW; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 74.13 RCW to read as follows:

The department shall establish a caregiver communication specialist position within the department for the purpose of improving communication between the department and caregivers. The caregiver communication specialist position established in this section is responsible for:

(1) Developing policies for sharing appropriate and timely information with caregivers of children receiving child welfare services; and

(2) Supporting coordination between existing caregiver engagement teams, constituent relations, communications specialists, and child welfare field offices.

NEW SECTION. **Sec. 2.** (1) By October 1, 2025, and in compliance with RCW 43.01.036, the department of children, youth, and families shall submit a report to the appropriate committees of the legislature and the governor describing:

(a) How the department of children, youth, and families could implement an automated notification system that would provide electronic or telephonic notifications to caregivers of children receiving child welfare services regarding upcoming changes in placements for the child, court hearings, or other relevant and appropriate information;

(b) Any statutory, policy, or funding changes needed to accomplish the automated notification system described in (a) of this subsection; and

(c) Recommendations regarding improving communications between the department of children, youth, and families and caregivers. The department shall consult with the caregiver communication specialist established in section 1 of this act, current and former caregivers, and youth who received or are receiving child welfare services regarding the recommendations required under this subsection.

(2) This section expires April 1, 2026.

Passed by the House February 12, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 146

[Second Substitute House Bill 2014]

DEFINITION OF VETERAN

AN ACT Relating to the definition of veteran and restoring honor to veterans; amending RCW 41.04.005, 41.04.007, 2.48.070, 2.48.090, 9.46.070, 28A.230.120, 28B.15.012, 28B.15.621, 28B.102.020, 41.04.010, 41.06.133, 41.08.040, 41.12.040, 41.16.220, 43.24.130, 43.60A.190, 43.70.270, 46.18.210, 46.18.270, 46.18.280, 46.18.295, 46.20.027, 46.20.161, 72.36.030, 73.08.005, 73.16.010, 73.16.120, 77.32.480, and 84.39.020; reenacting and amending RCW 41.20.050 and 41.40.170; adding a new section to chapter 73.04 RCW; adding a new section to chapter 43.60A RCW; creating new sections; repealing RCW 2.48.100 and 73.04.042; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature intends to align the federal and state definition of "veteran," expanding state veterans' benefits to any veteran who is already eligible for federal department of veterans affairs monetary benefits. The legislature further intends to create eligibility for state benefits for veterans who were separated with less than honorable characterizations of service due solely to sexual orientation, gender identity, or gender expression or actions or statements related to sexual orientation, gender identity, or gender expression, regardless of characterization of service.

Sec. 2. RCW 41.04.005 and 2023 c 18 s 1 are each amended to read as follows:

(1) As used in this section ((~~and RCW 41.16.220, 41.20.050, and 41.40.170~~)), "veteran" includes every person, who at the time he or she seeks the benefits of this section and ((~~RCW 41.16.220, 41.20.050, or 41.40.170~~)) has received ((~~an honorable discharge, is actively serving honorably, or received a discharge for physical reasons with an honorable record~~)) a qualifying discharge as defined in section 4 of this act and who meets at least one of the following criteria:

(a) The person has served between World War I and World War II or during any period of war, as defined in subsection (2) of this section, as either:

(i) A member in any branch of the armed forces of the United States;

(ii) A member of the women's air forces service pilots;

(iii) A U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the war shipping administration, the office of defense transportation, or their agents, from December 7, 1941, through December 31, 1946; or

(iv) A civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946; or

(b) The person has received the armed forces expeditionary medal, or marine corps and navy expeditionary medal, for opposed action on foreign soil, for service:

(i) In any branch of the armed forces of the United States; or

(ii) As a member of the women's air forces service pilots.

(2) A "period of war" includes:

(a) World War I;

(b) World War II;

(c) The Korean conflict;

(d) The Vietnam era, which means:

(i) The period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period;

(ii) The period beginning August 5, 1964, and ending on May 7, 1975;

(e) The Persian Gulf War, which was the period beginning August 2, 1990, and ending on February 28, 1991, or ending on November 30, 1995, if the participant was awarded a campaign badge or medal for such period;

(f) The period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress; and

(g) Any armed conflicts, if the participant was awarded the respective campaign or expeditionary badge or medal, or if the service was such that a campaign or expeditionary badge or medal would have been awarded, except that the member already received a campaign or expeditionary badge or medal for a prior deployment during that same conflict.

Sec. 3. RCW 41.04.007 and 2017 c 97 s 1 are each amended to read as follows:

"Veteran" includes every person who, at the time he or she seeks the benefits of RCW 46.18.212, 46.18.235, 72.36.030, 41.04.010, 73.04.090, or 43.180.250, has received ((~~an honorable discharge, received a discharge for medical reasons with an honorable record, where applicable, or is in receipt of a United States department of defense discharge document DD form 214, NGB form 22, or their equivalent or successor discharge paperwork, that characterizes his or her service as honorable~~)) a qualifying discharge as defined in section 4 of this act, and who has served in at least one of the following capacities:

(1) As a member in any branch of the armed forces of the United States, including the national guard and armed forces reserves, and has fulfilled his or her initial military service obligation;

(2) As a member of the women's air forces service pilots;

(3) As a member of the armed forces reserves, national guard, or coast guard, and has been called into federal service by a presidential select reserve call up for at least one hundred eighty cumulative days;

(4) As a civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946;

(5) As a member of the Philippine armed forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945; or

(6) A United States documented merchant mariner with service aboard an oceangoing vessel operated by the department of defense, or its agents, from both June 25, 1950, through July 27, 1953, in Korean territorial waters and from August 5, 1964, through May 7, 1975, in Vietnam territorial waters, and who received a military commendation.

NEW SECTION. **Sec. 4.** A new section is added to chapter 73.04 RCW to read as follows:

For purposes of RCW 9.46.070, 28A.230.120, 28B.15.012, 28B.15.621, 28B.102.020, 41.04.005, 41.04.007, 41.04.010, 41.06.133, 41.08.040, 41.12.040, 43.24.130, 43.70.270, 46.18.270, 46.18.280, 46.20.161, 72.36.030, 73.08.005, and 77.32.480:

(1) A "qualifying discharge" means:

(a) A discharge with an honorable characterization of service;

(b) A discharge with a general under honorable conditions characterization of service;

(c) A discharge with an other than honorable characterization of service if the applicant provides a letter, administrative decision, or other documentation from the United States department of veterans affairs showing eligibility for or receipt of monetary benefits, such as disability compensation or nonservice-connected pension; or

(d) Any characterization of service if the reason for discharge was listed as solely due to: (i) A person's sexual orientation, gender identity, or gender expression; (ii) statements, consensual sexual conduct, or consensual acts relating to sexual orientation, gender identity, or gender expression unless the statements, conduct, or acts are or were prohibited by the uniform code of military justice on grounds other than the person's sexual orientation, gender identity, or gender expression; or (iii) the disclosure of statements, conduct, or acts relating to sexual orientation, gender identity, or gender expression to military officials.

(2)(a) To prove a "qualifying discharge" under this section, an individual must provide official documentation that shows the following to the agency administering the sought benefit or protection:

(i) The individual's characterization of service; and

(ii) If an individual has a qualifying discharge under subsection (1)(d) of this section, also the individual's reason for discharge or narrative reason for separation.

(b) Proof may include, but is not limited to, a department of defense DD form 214, NGB form 22, or equivalent or successor official paperwork stating the required information from a government agency. Copies of official documents are acceptable as proof.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.60A RCW to read as follows:

The department shall develop and implement an outreach program to ensure that veterans as defined in RCW 41.04.005 and 41.04.007 are aware of state veterans' benefits and programs. Outreach information shall explain, in an easy to understand format, changes in the law made by chapter . . ., Laws of 2024 (this act), unchanged eligibility requirements for current benefits, and how to find more information about benefits from the department and other state agencies. The outreach program must begin on the effective date of this section.

Sec. 6. RCW 2.48.070 and 1945 c 181 s 1 are each amended to read as follows:

Any person who shall have graduated from any accredited law school and after such graduation shall have served in the armed forces of the United States

of America between December 7, 1941, and the termination of the present World War, may be admitted to the practice of law in the state of Washington and to membership in the Washington State Bar Association, upon motion made before the supreme court of the state of Washington, provided the following is made to appear:

(1) That the applicant is a person of good moral character over the age of twenty-one years;

(2) That the applicant, at the time of entering the armed forces of the United States, was a legal resident of the state of Washington;

(3) That the applicant's service in the armed forces of the United States is or was satisfactory ((~~and honorable~~)). An applicant's service is satisfactory if he or she meets the definition of "veteran" under RCW 41.04.007.

Sec. 7. RCW 2.48.090 and 2011 c 336 s 64 are each amended to read as follows:

If an applicant under RCW 2.48.070 through 2.48.110 is, at the time he or she applies for admission to practice law in the state of Washington, no longer in the armed forces of the United States, he or she may establish the requirements of the proviso in RCW 2.48.070 as follows:

(1) If he or she shall have been an enlisted person, by producing ((~~an honorable discharge~~)) documentation he or she is a veteran as defined by RCW 41.04.007, and by the certificates of at least two active members of the Washington state bar association.

(2) If he or she shall have been an officer, by an affidavit showing that he or she ((~~has been relieved from active duty under circumstances other than dishonorable~~)) is a veteran as defined in RCW 41.04.007, and by the certificates of at least two active members of the Washington state bar association.

NEW SECTION. **Sec. 8.** RCW 2.48.100 (Admission of veterans—Effect of disability discharge) and 1945 c 181 s 4 are each repealed.

Sec. 9. RCW 9.46.070 and 2020 c 127 s 3 are each amended to read as follows:

The commission shall have the following powers and duties:

(1) To authorize and issue licenses for a period not to exceed one year to bona fide charitable or nonprofit organizations approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said organizations to conduct bingo games, raffles, amusement games, and social card games, to utilize punchboards and pull-tabs in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter or any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission or director shall not issue, deny, suspend, or revoke any license because of considerations of race, sex, creed, color, or national origin: AND PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(2) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization operating a business primarily engaged in

the selling of items of food or drink for consumption on the premises, approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said person, association, or organization to utilize punchboards and pull-tabs and to conduct social card games as a commercial stimulant in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter and any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(3) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization approved by the commission meeting the requirements of this chapter and meeting the requirements of any rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended, permitting said person, association, or organization to conduct or operate amusement games in such manner and at such locations as the commission may determine. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(4) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association, or organization to engage in the manufacturing, selling, distributing, or otherwise supplying of devices, equipment, software, hardware, or any gambling-related services for use within this state for those activities authorized by this chapter. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(5) To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises, and for such other activities as may be licensed by the commission, which fees shall provide to the commission not less than an amount of money adequate to cover all costs incurred by the commission relative to licensing under this chapter and the enforcement by the commission of the provisions of this chapter and rules and regulations adopted pursuant thereto: PROVIDED, That all licensing fees shall be submitted with an application therefor and such portion of said fee as the commission may determine, based upon its cost of processing and investigation, shall be retained by the commission upon the withdrawal or denial of any such license application as its reasonable expense for processing the application and investigation into the granting thereof: PROVIDED FURTHER, That if in a particular case the basic license fee established by the commission for a particular class of license is less than the commission's actual expenses to investigate that particular application, the commission may at any time charge to that applicant such additional fees as are necessary to pay the commission for those costs. The commission may decline to proceed with its investigation and no license shall be issued until the commission has been fully paid therefor by the applicant: AND PROVIDED FURTHER, That the commission may establish fees for the furnishing by it to licensees of identification stamps to be affixed to such devices and equipment as required by the commission and for such other special services or programs required or offered by the commission, the amount of each of these

fees to be not less than is adequate to offset the cost to the commission of the stamps and of administering their dispersal to licensees or the cost of administering such other special services, requirements or programs;

(6) To prescribe the manner and method of payment of taxes, fees and penalties to be paid to or collected by the commission;

(7) To require that applications for all licenses contain such information as may be required by the commission: PROVIDED, That all persons (a) having a managerial or ownership interest in any gambling activity, or the building in which any gambling activity occurs, or the equipment to be used for any gambling activity, (b) participating as an employee in the operation of any gambling activity, or (c) participating as an employee in the operation, management, or providing of gambling-related services for sports wagering, shall be listed on the application for the license and the applicant shall certify on the application, under oath, that the persons named on the application are all of the persons known to have an interest in any gambling activity, building, or equipment by the person making such application: PROVIDED FURTHER, That the commission shall require fingerprinting and national criminal history background checks on any persons seeking licenses, certifications, or permits under this chapter or of any person holding an interest in any gambling activity, building, or equipment to be used therefor, or of any person participating as an employee in the operation of any gambling activity. All national criminal history background checks shall be conducted using fingerprints submitted to the United States department of justice-federal bureau of investigation. The commission must establish rules to delineate which persons named on the application are subject to national criminal history background checks. In identifying these persons, the commission must take into consideration the nature, character, size, and scope of the gambling activities requested by the persons making such applications;

(8) To require that any license holder maintain records as directed by the commission and submit such reports as the commission may deem necessary;

(9) To require that all income from bingo games, raffles, and amusement games be recorded and reported as established by rule or regulation of the commission to the extent deemed necessary by considering the scope and character of the gambling activity in such a manner that will disclose gross income from any gambling activity, amounts received from each player, the nature and value of prizes, and the fact of distributions of such prizes to the winners thereof;

(10) To regulate and establish maximum limitations on income derived from bingo. In establishing limitations pursuant to this subsection the commission shall take into account (a) the nature, character, and scope of the activities of the licensee; (b) the source of all other income of the licensee; and (c) the percentage or extent to which income derived from bingo is used for charitable, as distinguished from nonprofit, purposes. However, the commission's powers and duties granted by this subsection are discretionary and not mandatory;

(11) To regulate and establish the type and scope of and manner of conducting the gambling activities authorized by this chapter, including but not limited to, the extent of wager, money, or other thing of value which may be wagered or contributed or won by a player in any such activities;

(12) To regulate the collection of and the accounting for the fee which may be imposed by an organization, corporation, or person licensed to conduct a social card game on a person desiring to become a player in a social card game in accordance with RCW 9.46.0282;

(13) To cooperate with and secure the cooperation of county, city, and other local or state agencies in investigating any matter within the scope of its duties and responsibilities;

(14) In accordance with RCW 9.46.080, to adopt such rules and regulations as are deemed necessary to carry out the purposes and provisions of this chapter. All rules and regulations shall be adopted pursuant to the administrative procedure act, chapter 34.05 RCW;

(15) To set forth for the perusal of counties, city-counties, cities and towns, model ordinances by which any legislative authority thereof may enter into the taxing of any gambling activity authorized by this chapter;

(16)(a) To establish and regulate a maximum limit on salaries or wages which may be paid to persons employed in connection with activities conducted by bona fide charitable or nonprofit organizations and authorized by this chapter, where payment of such persons is allowed, and to regulate and establish maximum limits for other expenses in connection with such authorized activities, including but not limited to rent or lease payments. However, the commissioner's powers and duties granted by this subsection are discretionary and not mandatory.

(b) In establishing these maximum limits the commission shall take into account the amount of income received, or expected to be received, from the class of activities to which the limits will apply and the amount of money the games could generate for authorized charitable or nonprofit purposes absent such expenses. The commission may also take into account, in its discretion, other factors, including but not limited to, the local prevailing wage scale and whether charitable purposes are benefited by the activities;

(17) To authorize, require, and issue for a period not to exceed one year such licenses or permits, for which the commission may by rule provide, to any person to work for any operator of any gambling activity authorized by this chapter in connection with that activity, or any manufacturer, supplier, or distributor of devices for those activities in connection with such business. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission. The commission shall not require that persons working solely as volunteers in an authorized activity conducted by a bona fide charitable or bona fide nonprofit organization, who receive no compensation of any kind for any purpose from that organization, and who have no managerial or supervisory responsibility in connection with that activity, be licensed to do such work. The commission may require that licensees employing such unlicensed volunteers submit to the commission periodically a list of the names, addresses, and dates of birth of the volunteers. If any volunteer is not approved by the commission, the commission may require that the licensee not allow that person to work in connection with the licensed activity;

(18) To publish and make available at the office of the commission or elsewhere to anyone requesting it a list of the commission licensees, including the name, address, type of license, and license number of each licensee;

(19) To establish guidelines for determining what constitutes active membership in bona fide nonprofit or charitable organizations for the purposes of this chapter;

(20) To renew the license of every person who applies for renewal within six months after being ((~~honorably~~)) discharged, removed, or released from active military service in the armed forces of the United States with a qualifying discharge as defined in section 4 of this act, upon payment of the renewal fee applicable to the license period, if there is no cause for denial, suspension, or revocation of the license;

(21) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association, or organization that engages in any sports wagering-related services for use within this state for sports wagering activities authorized by this chapter. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(22) To issue licenses under subsections (1) through (4) of this section that are valid for a period of up to eighteen months, if it chooses to do so, in order to transition to the use of the business licensing services program through the department of revenue; and

(23) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

Sec. 10. RCW 28A.230.120 and 2022 c 224 s 2 are each amended to read as follows:

(1) School districts shall issue diplomas to students signifying graduation from high school upon the students' satisfactory completion of all local and state graduation requirements. Districts shall grant students the option of receiving a final transcript in addition to the regular diploma.

(2) School districts or schools of attendance shall establish policies and procedures to notify senior students of the transcript option and shall direct students to indicate their decisions in a timely manner. School districts shall make appropriate provisions to assure that students who choose to receive a copy of their final transcript shall receive such transcript after graduation.

(3)(a) A school district may issue a high school diploma to a person who:

(i) Is ((~~an honorably discharged member~~)) a veteran of the armed forces of the United States with a qualifying discharge as defined in section 4 of this act; and

(ii) Left high school before graduation to serve in World War II, the Korean conflict, or the Vietnam era as defined in RCW 41.04.005.

(b) A school district may issue a diploma to or on behalf of a person otherwise eligible under (a) of this subsection notwithstanding the fact that the person holds a high school equivalency certification or is deceased.

(c) The superintendent of public instruction shall adopt a form for a diploma application to be used by a veteran or a person acting on behalf of a deceased veteran under this subsection (3). The superintendent of public instruction shall specify what constitutes acceptable evidence of eligibility for a diploma.

(4)(a) A school district, at the request of the parent, guardian, or custodian, may issue a posthumous high school diploma for a deceased student if the student:

(i) Was enrolled in a public school of the district at the time of death;

(ii) Was deemed on-track for graduation before the time of death; and

(iii) Died after matriculating into high school.

(b) A high school diploma issued under this subsection (4) must bear the inscription "honoris causa" and may not be issued before the graduation date of the class in which the student was enrolled.

(c) Nothing in this subsection (4):

(i) Obligates school districts to award a diploma for a deceased student at the same ceremony or event as other graduating students; or

(ii) Limits the retroactive issuance of a high school diploma.

(d) Diplomas issued under this subsection (4) may not be applied toward student graduation counts or for any other purpose of federal and state accountability data collection.

Sec. 11. RCW 28B.15.012 and 2022 c 249 s 1 are each amended to read as follows:

Whenever used in this chapter:

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

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

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

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

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

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

(e) Any person who has completed and obtained a high school diploma, or a person who has received the equivalent of a diploma; who has continuously lived in the state of Washington for at least a year primarily for purposes other than postsecondary education before the individual is admitted to an institution of higher education under subsection (1) of this section; and who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses;

(f) Any person who has lived in Washington, primarily for purposes other than postsecondary education, for at least one year immediately before the date

on which the person has enrolled in an institution, and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec. (a)(15) (E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant status as the spouse or child of a person having nonimmigrant status under one of those subsections, or who, holding or having previously held such lawful nonimmigrant status as a principal or derivative, has filed an application for adjustment of status pursuant to 8 U.S.C. Sec. 1255(a);

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

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

(i) Entered service as a Washington resident;

(ii) Has maintained a Washington domicile; and

(iii) Is stationed out-of-state;

(i) A student who is on active military duty who is stationed out-of-state after having been stationed in Washington and is either:

(i) Admitted to an institution of higher education in Washington before the reassignment and enrolls in that institution for the term the student was admitted;

(ii) Enrolled in an institution of higher education in Washington and remains continuously enrolled at the institution; or

(iii) Enrolls in an institution of higher education in Washington within three years from the date of reassignment out-of-state;

(j) A student who is the spouse, state registered domestic partner, or a dependent as defined in Title 10 U.S.C. Sec. 1072(2) as it existed on January 18, 2022, or such subsequent date as the student achievement council may determine by rule of a person defined in (g) or (h) of this subsection. If the person defined in (g) of this subsection is reassigned out-of-state, the student maintains the status as a resident student so long as the student is either:

(i) Admitted to an institution before the reassignment and enrolls in that institution for the term the student was admitted;

(ii) Enrolled in an institution and remains continuously enrolled at the institution; or

(iii) Enrolled in an institution of higher education in Washington within three years from the date of reassignment out-of-state;

(k) A student who is eligible for veterans administration educational assistance or rehabilitation benefits under Title 38 U.S.C. or educational assistance under Title 10 U.S.C. chapter 1606 as the titles existed on January 18, 2022, or such subsequent date as the student achievement council may determine by rule;

(l) A student who has separated or retired from the uniformed services with at least 10 years of ((~~honorable~~)) service and at least 90 days of active duty service, with a qualifying discharge as defined in section 4 of this act, and who enters an institution of higher education in Washington within three years of the date of separation or retirement;

(m) A student who is the spouse, state registered domestic partner, or child under the age of 26 years of an individual who has separated or retired from the uniformed services with at least 10 years of ((~~honorable~~)) service and at least 90 days of active duty service, with a qualifying discharge as defined in section 4 of this act, and who enters an institution of higher education in Washington within three years of the service member's date of separation or retirement;

(n) A student who has separated from the uniformed services who was discharged ((~~due to the student's sexual orientation or gender identity or expression~~)) for a reason described in section 4(1)(d) of this act;

(o) A student who is defined as a covered individual in 38 U.S.C. Sec. 3679(c)(2) as it existed on January 18, 2022, or such subsequent date as the student achievement council may determine by rule;

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

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

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

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

(i) Admitted to an institution before the reassignment and enrolls in that institution for the term the student was admitted; or

(ii) Enrolled in an institution and remains continuously enrolled at the institution.

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

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

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

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter. This condition shall not apply to students from Columbia, Multnomah,

Clatsop, Clackamas, or Washington county, Oregon participating in the border county pilot project under RCW 28B.76.685, 28B.76.690, and 28B.15.0139.

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

(i) A lawful permanent resident;

(ii) A temporary resident;

(iii) A person who holds "refugee-parolee," "conditional entrant," or U or T nonimmigrant status with the United States citizenship and immigration services;

(iv) A person who has been issued an employment authorization document by the United States citizenship and immigration services that is valid as of the date the person's residency status is determined;

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

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

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

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

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

(a) The armed forces of the United States government; or

(b) The Washington national guard; or

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

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

(9) The term "uniformed services" is defined by Title 10 U.S.C.; subsequently structured and organized by Titles 14, 33, and 42 U.S.C.; consisting of the United States army, United States marine corps, United States

navy, United States air force, United States coast guard, United States space force, United States public health service commissioned corps, and the national oceanic and atmospheric administration commissioned officer corps.

(10) "Washington national guard" means that part of the military force of the state that is organized, equipped, and federally recognized under the provisions of the national defense act of the United States, and in the event the national guard is called into federal service or in the event the state guard or any part or individual member thereof is called into active state service by the commander-in-chief. National guard service includes being subject to call up for active duty under Title 32 U.S.C. or Title 10 U.S.C. status or when called to state active service by the governor under the provisions of RCW 38.08.040.

(11) "Child" includes, but is not limited to:

(a) A legitimate child;

(b) An adopted child;

(c) A stepchild;

(d) A foster child; and

(e) A legal dependent.

Sec. 12. RCW 28B.15.621 and 2022 c 45 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)(A) A surviving spouse or surviving domestic partner of the eligible veteran or national guard member has ten years to receive benefits under the waiver from whichever date occurs last:

(I) The date of the death;

(II) The date of total disability;

(III) Federal determination of service-connected death or total disability; or

(IV) Federal determination of prisoner of war or missing in action status.

(B) 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.

(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~~)) a qualifying discharge as defined in section 4 of this act.

(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.

Sec. 13. RCW 28B.102.020 and 2019 c 295 s 211 are each amended to read as follows:

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

(1) "Approved education program" means an education program in a common school as defined in RCW 28A.150.020.

(2) "Certificate" or "certificated" does not include a limited or conditioned certificate.

(3) "Certificated employee" has the definition in RCW 28A.150.203. "Certificated employee" does not include a paraeducator.

(4) "Conditional scholarship" means a loan that is forgiven in whole or in part in exchange for service as a certificated employee in an approved education program.

(5) "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 another location in support of those serving on foreign soil or in international waters, and if discharged from service, has ((~~received an honorable discharge~~)) a qualifying discharge as defined in section 4 of this act.

(6) "Forgiven" or "to forgive" or "forgiveness" means that all or part of a loan is canceled in exchange for service as a certificated employee in an approved education program.

(7) "Institution of higher education" or "institution" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the student achievement council.

(8) "Loan repayment" means a federal student loan that is repaid in whole or in part if the borrower serves as a certificated employee in an approved education program.

(9) "Office" means the office of student financial assistance.

(10) "Participant" means a person who has received a conditional scholarship or loan repayment under this chapter.

(11) "Public school" has the same meaning as in RCW 28A.150.010.

(12) "Shortage area" means an endorsement or geographic area as defined by the Washington professional educator standards board, in consultation with the office of the superintendent of public instruction, with a shortage of certificated employees. "Shortage area" must be defined biennially using quantitative and qualitative measures.

Sec. 14. RCW 41.04.010 and 2017 c 97 s 2 are each amended to read as follows:

In all competitive examinations, unless otherwise provided in this section, to determine the qualifications of applicants for public offices, positions, or employment, either the state, and all of its political subdivisions and all municipal corporations, or private companies or agencies contracted with by the state to give the competitive examinations shall give a scoring criteria status to all veterans as defined in RCW 41.04.007, by adding to the passing mark, grade or rating only, based upon a possible rating of one hundred points as perfect a percentage in accordance with the following:

(1) Ten percent to a veteran who served during a period of war or in an armed conflict as defined in RCW 41.04.005 and does not receive military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(2) Five percent to a veteran who did not serve during a period of war or in an armed conflict as defined in RCW 41.04.005 or is receiving military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(3) Five percent to a veteran who was called to active military service from employment with the state or any of its political subdivisions or municipal corporations. The percentage shall be added to promotional examinations until the first promotion only;

(4) All veterans' scoring criteria may be claimed:

(a) Upon release from active military service with ((~~an honorable discharge or a discharge for medical reasons with an honorable record, where applicable~~)) a qualifying discharge as defined in section 4 of this act; or

(b) Upon receipt of a United States department of defense discharge document DD form 214, NGB form 22, or their equivalent or successor discharge paperwork, that characterizes his or her ((~~service~~)) discharge as ((~~honorable~~)) a qualifying discharge as defined in section 4 of this act.

Sec. 15. RCW 41.06.133 and 2023 c 148 s 1 are each amended to read as follows:

(1) The director shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) The reduction, dismissal, suspension, or demotion of an employee;

(b) Training and career development;

(c) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except as follows:

(i) Entry-level state park rangers shall serve a probationary period of twelve months; and

(ii) The probationary period of campus police officer appointees who are required to attend the Washington state criminal justice training commission basic law enforcement academy shall extend from the date of appointment until twelve months from the date of successful completion of the basic law enforcement academy, or twelve months from the date of appointment if academy training is not required. The director shall adopt rules to ensure that employees promoting to campus police officer who are required to attend the Washington state criminal justice training commission basic law enforcement academy shall have the trial service period extend from the date of appointment until twelve months from the date of successful completion of the basic law enforcement academy, or twelve months from the date of appointment if academy training is not required;

(d) Transfers;

(e) Promotional preferences;

(f) Sick leaves and vacations;

(g) Hours of work;

(h) Layoffs when necessary and subsequent reemployment, except for the financial basis for layoffs;

(i) The number of names to be certified for vacancies;

(j) Subject to RCW 41.04.820, adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units;

(k) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

(l) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;

(m) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their

surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the director, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received ((~~an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given~~)) a qualifying discharge as defined in section 4 of this act. However, the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service. For the purposes of this section, "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month.

(2) Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

(3) Rules adopted by the director under this section may be superseded by the provisions of a collective bargaining agreement negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130. The supersession of such rules shall only affect employees in the respective collective bargaining units.

Sec. 16. RCW 41.08.040 and 1993 c 47 s 4 are each amended to read as follows:

Immediately after appointment the commission shall organize by electing one of its members chair and hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of their duties.

They shall appoint a secretary and chief examiner, who shall keep the records of the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe.

The secretary and chief examiner shall be appointed as a result of competitive examination which examination may be either original and open to all properly qualified citizens of the city, town or municipality, or promotional and limited to persons already in the service of the fire department or of the fire department and other departments of said city, town or municipality, as the commission may decide. The secretary and chief examiner may be subject to suspension, reduction or discharge in the same manner and subject to the same limitations as are provided in the case of members of the fire department. It shall be the duty of the civil service commission:

(1) To make suitable rules and regulations not inconsistent with the provisions of this chapter. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this chapter, or which may be found to be in the

interest of good personnel administration. Such rules and regulations may be changed from time to time. The rules and regulations and any amendments thereof shall be printed, mimeographed or multigraphed for free public distribution. Such rules and regulations may be changed from time to time.

(2) All tests shall be practical, and shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill.

(3) The rules and regulations adopted by the commission shall provide for a credit in accordance with RCW 41.04.010 in favor of all applicants for appointment under civil service, who, in time of war, or in any expedition of the armed forces of the United States, have served in and been ((~~honorably~~)) discharged from the armed forces of the United States, including the army, navy, and marine corps and the American Red Cross, with a qualifying discharge as defined in section 4 of this act. These credits apply to entrance examinations only.

(4) The commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions and employments affected by this chapter, and ascertain whether this chapter and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designated commissioner, or chief examiner, shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents and accounts appertaining to the investigation and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a superior court judge in his or her judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this chapter, and punishable as such.

(5) All hearings and investigations before the commission, or designated commissioner, or chief examiner, shall be governed by this chapter and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by the technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission: PROVIDED, HOWEVER, That no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect

whatsoever unless and until concurred in by at least one of the other two members.

(6) To hear and determine appeals or complaints respecting the administrative work of the personnel department; appeals upon the allocation of positions; the rejection of an examination, and such other matters as may be referred to the commission.

(7) Establish and maintain in card or other suitable form a roster of officers and employees.

(8) Provide for, formulate and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions, and to provide that persons laid off because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed.

(9) When a vacant position is to be filled, to certify to the appointing authority, on written request, the name of the person highest on the eligible list for the class. If there are no such lists, to authorize provisional or temporary appointment list of such class. Such temporary or provisional appointment shall not continue for a period longer than four months; nor shall any person receive more than one provisional appointment or serve more than four months as a provisional appointee in any one fiscal year.

(10) Keep such records as may be necessary for the proper administration of this chapter.

Sec. 17. RCW 41.12.040 and 1993 c 47 s 5 are each amended to read as follows:

Immediately after appointment the commission shall organize by electing one of its members chair and hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of their duties.

They shall appoint a secretary and chief examiner, who shall keep the records for the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe.

The secretary and chief examiner shall be appointed as a result of competitive examination which examination may be either original and open to all properly qualified citizens of the city, town, or municipality, or promotional and limited to persons already in the service of the police department or of the police department and other departments of the city, town, or municipality, as the commission may decide. The secretary and chief examiner may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the police department. It shall be the duty of the civil service commission:

(1) To make suitable rules and regulations not inconsistent with the provisions of this chapter. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions, and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this chapter, or which may be found to be in the

interest of good personnel administration. Such rules and regulations may be changed from time to time. The rules and regulations and any amendments thereof shall be printed, mimeographed, or multigraphed for free public distribution. Such rules and regulations may be changed from time to time;

(2) All tests shall be practical, and shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill;

(3) The rules and regulations adopted by the commission shall provide for a credit in accordance with RCW 41.04.010 in favor of all applicants for appointment under civil service, who, in time of war, or in any expedition of the armed forces of the United States, have served in and been ((~~honorably~~)) discharged from the armed forces of the United States, including the army, navy, and marine corps and the American Red Cross, with a qualifying discharge as defined in section 4 of this act. These credits apply to entrance examinations only;

(4) The commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions, and employments affected by this chapter, and ascertain whether this chapter and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission, but the commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designated commissioner, or chief examiner, shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents, and accounts appertaining to the investigation, and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a superior court judge in his or her judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this chapter, and punishable as such;

(5) Hearings and Investigations: How conducted. All hearings and investigations before the commission, or designated commissioner, or chief examiner, shall be governed by this chapter and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by the technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission: PROVIDED, HOWEVER, That no order, decision, rule or regulation made by any designated commissioner conducting

any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one of the other two members;

(6) To hear and determine appeals or complaints respecting the administrative work of the personnel department; appeals upon the allocation of positions; the rejection of an examination, and such other matters as may be referred to the commission;

(7) Establish and maintain in card or other suitable form a roster of officers and employees;

(8) Provide for, formulate and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions, and to provide that persons laid off because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed;

(9) When a vacant position is to be filled, to certify to the appointing authority, on written request, the name of the person highest on the eligible list for the class. If there are no such lists, to authorize provisional or temporary appointment list of such class. Such temporary or provisional appointment shall not continue for a period longer than four months; nor shall any person receive more than one provisional appointment or serve more than four months as provisional appointee in any one fiscal year;

(10) Keep such records as may be necessary for the proper administration of this chapter.

Sec. 18. RCW 41.16.220 and 2007 c 218 s 38 are each amended to read as follows:

Any person who was a member of the fire department and within the provisions of chapter 50, Laws of 1909, as amended, at the time he or she entered, and ((~~who is a veteran,~~)) is an honorably discharged veteran or received a discharge for physical reasons with an honorable record from the armed forces, and whose military service was during a period of war as defined in RCW 41.04.005, shall have added and accredited to his or her period of employment as a firefighter as computed under this chapter his or her period of war service in such armed forces upon payment by him or her of his or her contribution for the period of his or her absence, at the rate provided by chapter 50, Laws of 1909, as amended, for other members: PROVIDED, HOWEVER, Such accredited service shall not in any case exceed five years.

Sec. 19. RCW 41.20.050 and 2012 c 117 s 22 are each reenacted and amended to read as follows:

Whenever a person has been duly appointed, and has served honorably for a period of twenty-five years, as a member, in any capacity, of the regularly constituted police department of a city subject to the provisions of this chapter, the board, after hearing, if one is requested in writing, may order and direct that such person be retired, and the board shall retire any member so entitled, upon his or her written request therefor. The member so retired hereafter shall be paid from the fund during his or her lifetime a pension equal to fifty percent of the amount of salary at any time hereafter attached to the position held by the retired member for the year preceding the date of his or her retirement: PROVIDED, That, except as to a position higher than that of captain held for at least three

calendar years prior to date of retirement, no such pension shall exceed an amount equivalent to fifty percent of the salary of captain, and all existing pensions shall be increased to not less than three hundred dollars per month as of April 25, 1973: PROVIDED FURTHER, That a person hereafter retiring who has served as a member for more than twenty-five years, shall have his or her pension payable under this section increased by two percent of his or her salary per year for each full year of such additional service to a maximum of five additional years.

Any person who has served in a position higher than the rank of captain for a minimum of three years may elect to retire at such higher position and receive for his or her lifetime a pension equal to fifty percent of the amount of the salary at any time hereafter attached to the position held by such retired member for the year preceding his or her date of retirement: PROVIDED, That such person make the said election to retire at a higher position by September 1, 1969 and at the time of making the said election, pay into the relief and pension fund in addition to the contribution required by RCW 41.20.130: (1) an amount equal to six percent of that portion of all monthly salaries previously received upon which a sum equal to six percent has not been previously deducted and paid into the police relief and pension fund; (2) and such person agrees to continue paying into the police relief and pension fund until the date of retirement, in addition to the contributions required by RCW 41.20.130, an amount equal to six percent of that portion of monthly salary upon which a six percent contribution is not currently deducted pursuant to RCW 41.20.130.

Any person affected by this chapter who at the time of entering the armed services was a member of such police department and is ((~~a~~)) an honorably discharged veteran or received a discharge for physical reasons with an honorable record and whose military service was during a period of war as defined in RCW 41.04.005, shall have added to his or her period of employment as computed under this chapter, his or her period of war service in the armed forces, but such credited service shall not exceed five years and such period of service shall be automatically added to each member's service upon payment by him or her of his or her contribution for the period of his or her absence at the rate provided in RCW 41.20.130.

Sec. 20. RCW 41.40.170 and 2005 c 247 s 2 and 2005 c 64 s 1 are each reenacted and amended to read as follows:

(1) A member who has served or shall serve on active federal service in the military or naval forces of the United States and who left or shall leave an employer to enter such service shall be deemed to be on military leave of absence if he or she has resumed or shall resume employment as an employee within one year from termination thereof.

(2) If he or she has applied or shall apply for reinstatement of employment, within one year from termination of the military service, and is refused employment for reasons beyond his or her control, he or she shall, upon resumption of service within ten years have such service credited to him or her.

(3) In any event, after completing twenty-five years of creditable service, any member may have service in the armed forces credited to him or her as a member whether or not he or she left the employ of an employer to enter the armed service: PROVIDED, That in no instance, described in this section, shall military service in excess of five years be credited: AND PROVIDED

FURTHER, That in each instance the member must restore all withdrawn accumulated contributions, which restoration must be completed within five years of membership service following the first resumption of employment or complete twenty-five years of creditable service: AND PROVIDED FURTHER, That this section will not apply to any individual, not ((~~a~~)) an honorably discharged veteran ((~~within the meaning of~~)) or veteran who received a physical discharge from the armed forces with an honorable record. Furthermore, an individual must prove that their military service was during a period of war as defined in RCW 41.04.005.

(4)(a) A member, after completing twenty-five years of creditable service, who would have otherwise become eligible for a retirement benefit as defined under this chapter while serving honorably in the armed forces, and with service during a period of war as referenced in RCW 41.04.005, shall, upon application to the department, be eligible to receive credit for this service without returning to covered employment.

(b) Service credit granted under (a) of this subsection applies only to honorably discharged veterans or veterans who received a physical discharge with an honorable record whose military service was during a period of war as defined in RCW ((~~41.40.005~~)) 41.04.005.

(5) The surviving spouse or eligible child or children of a member who left the employ of an employer to enter the uniformed services of the United States and died while serving in the uniformed services may, on behalf of the deceased member, apply for retirement system service credit under this subsection up to the date of the member's death in the uniformed services. The department shall establish the deceased member's service credit if the surviving spouse or eligible child or children:

(a) Provides to the director proof of the member's death while serving in the uniformed services; and

(b) Provides to the director proof of the member's honorable service in the uniformed services prior to the date of death.

(6) A member who leaves the employ of an employer to enter the uniformed services of the United States and becomes totally incapacitated for continued employment by an employer while serving in the uniformed services is entitled to retirement system service credit under this subsection up to the date of discharge from the uniformed services if:

(a) The member obtains a determination from the director that he or she is totally incapacitated for continued employment due to conditions or events that occurred while serving in the uniformed services; and

(b) The member provides to the director proof of honorable discharge from the uniformed services.

Sec. 21. RCW 43.24.130 and 2012 c 45 s 1 are each amended to read as follows:

(1) Notwithstanding any provision of law to the contrary, the license of any person licensed by the director of licensing, or the boards and commissions listed in chapter 18.235 RCW, to practice a profession or engage in an occupation, if valid and in force and effect at the time the licensee entered service in the armed forces, the United States public health service commissioned corps, or the merchant marine of the United States, shall continue in full force and effect so long as such service continues, unless sooner

suspended, canceled, or revoked for cause as provided by law. The director, board, or commission shall renew the license of every such person who applies for renewal thereof within six months after being ((~~honorably~~)) discharged from service with a qualifying discharge as defined in section 4 of this act, upon payment of the renewal fee applicable to the then current year or other license period.

(2) If requested by the licensee, the license of a spouse or registered domestic partner of a service member in the United States armed forces, including the United States public health service commissioned corps, if valid and in force and effect at the time the service member is deployed or stationed in a location outside Washington state, must be placed in inactive military spouse or registered domestic partner status so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The director, board, or commission shall return to active status the license of every such person who applies for activation within six months after returning to Washington state, upon payment of the current renewal fee and meeting the current renewal conditions of the respective license.

(3) The director, board, or commission may adopt any rules necessary to implement this section.

Sec. 22. RCW 43.60A.190 and 2017 c 185 s 7 are each amended to read as follows:

(1) The department shall:

(a) Maintain a current list of certified veteran-owned businesses; and

(b) Make the list of certified veteran-owned businesses available on the department's public website.

(2) To qualify as a certified veteran-owned business, the business must:

(a) Be at least fifty-one percent owned and controlled by:

(i) A ((~~veteran as defined as every~~)) person who at the time he or she seeks certification ((~~has received a discharge with an honorable characterization or received a discharge for medical reasons with an honorable record, where applicable, and who has served in at least one of the capacities listed~~)) is a veteran as defined in RCW 41.04.007;

(ii) A person who is in receipt of disability compensation or pension from the department of veterans affairs; or

(iii) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves; and

(b) Be either an enterprise which is incorporated in the state of Washington as a Washington domestic corporation, or an enterprise whose principal place of business is located within the state of Washington for enterprises which are not incorporated.

(3) To participate in the linked deposit program under chapter 43.86A RCW, a veteran-owned business qualified under this section must be certified by the department as a business:

(a) In which the veteran owner possesses and exercises sufficient expertise specifically in the business's field of operation to make decisions governing the long-term direction and the day-to-day operations of the business;

(b) That is organized for profit and performing a commercially useful function; and

(c) That meets the criteria for a small business concern as established under chapter 39.19 RCW.

(4) The department shall create a logo for the purpose of identifying veteran-owned businesses to the public. The department shall put the logo on an adhesive sticker or decal suitable for display in a business window and distribute the stickers or decals to veteran-owned businesses listed with the department.

(5)(a) Businesses may submit an application on a form prescribed by the department to apply for certification under this section.

(b) The department must notify the state treasurer of veteran-owned businesses who have participated in the linked deposit program and are no longer certified under this section. The written notification to the state treasurer must contain information regarding the reasons for the decertification and information on financing provided to the veteran-owned business under RCW 43.86A.060.

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

Sec. 23. RCW 43.70.270 and 2012 c 45 s 2 are each amended to read as follows:

(1) Notwithstanding any provision of law to the contrary, the license of any person licensed by the secretary of health to practice a profession or engage in an occupation, if valid and in force and effect at the time the licensee entered service in the armed forces, the United States public health service commissioned corps, or the merchant marine of the United States, shall continue in full force and effect so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The secretary shall renew the license of every such person who applies for renewal thereof within six months after being ((~~honorably~~)) discharged from service with a qualifying discharge as defined in section 4 of this act, upon payment of the renewal fee applicable to the then current year or other license period.

(2) If requested by the licensee, the license of a spouse or registered domestic partner of a service member in the United States armed forces, including the United States public health service commissioned corps, if valid and in force and effect at the time the service member is deployed or stationed in a location outside Washington state, must be placed in inactive military spouse or registered domestic partner status so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The secretary shall return to active status the license of every such person who applies for renewal thereof within six months after the service member is ((~~honorably~~)) discharged from service with a qualifying discharge as defined in section 4 of this act, or sooner if requested by the licensee, upon payment of the renewal fee applicable to the then current year or other license period.

(3) The secretary may adopt any rules necessary to implement this section.

Sec. 24. RCW 46.18.210 and 2019 c 44 s 5 are each amended to read as follows:

(1) A registered owner may apply to the department for special armed forces license plates for vehicles representing the following:

(a) Air force;

(b) Army;

(c) Coast guard;

(d) Marine corps;
(e) National guard; or
(f) Navy.
(2) Armed forces license plates may be purchased by:
(a) Active duty military personnel;
(b) Families of veterans and service members;
(c) Members of the national guard;
(d) Reservists; or
(e) Veterans, as defined in RCW 41.04.007.
(3) A person who applies for special armed forces license plates shall provide:
(a) DD-214 or discharge papers if the applicant is a veteran;
(b) A military identification card or retired military identification card; or
(c) A declaration of fact attesting to the applicant's eligibility as required under this section.
(4) For the purposes of this section:
(a) "Child" includes stepchild, adopted child, foster child, grandchild, or son or daughter-in-law.
(b) "Family" or "families" includes an individual's spouse, child, parent, sibling, aunt, uncle, or cousin.
(c) "Parent" includes stepparent, grandparent, or in-laws.
(d) "Sibling" includes brother, half brother, stepbrother, sister, half sister, stepsister, or brother or sister-in-law.
(5) Armed forces license plates are not free of charge to disabled veterans, former prisoners of war, or spouses or domestic partners of deceased former prisoners of war under RCW 46.18.235.
(6) The department must implement the changes to veteran eligibility as established by chapter . . ., Laws of 2024 (this act) by April 1, 2025.

Sec. 25. RCW 46.18.270 and 2011 c 332 s 7 are each amended to read as follows:

(1) A registered owner who has survived the attack on Pearl Harbor on December 7, 1941, may apply to the department for special license plates for use on only one motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department, and owned by the qualified applicant. The applicant must:
(a) Be a resident of this state;
(b) Have been a member of the United States armed forces on December 7, 1941;
(c) Have been on station on December 7, 1941, between the hours of 7:55 a.m. and 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three miles;
(d) Have received ((~~an honorable~~)) a qualifying discharge, as defined in section 4 of this act, from the United States armed forces;
(e) Provide certification by a Washington state chapter of the Pearl Harbor survivors association showing that qualifications in (c) of this subsection have been met;
(f) Be recorded as the registered owner of the motor vehicle on which the Pearl Harbor survivor license plate or plates will be displayed; and

(g) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Pearl Harbor survivor license plates must be issued without the payment of any license plate fee.

(3) Pearl Harbor survivor license plates must be replaced, free of charge, if the license plates have become lost, stolen, damaged, defaced, or destroyed.

(4) Pearl Harbor survivor license plates may be issued to the surviving spouse or domestic partner of a Pearl Harbor survivor who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new domestic partnership, he or she must return the special license plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(5) A Pearl Harbor survivor license plate or plates may be transferred from one motor vehicle to another motor vehicle owned by the Pearl Harbor survivor or the surviving spouse or domestic partner as described in subsection (4) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

Sec. 26. RCW 46.18.280 and 2019 c 139 s 1 are each amended to read as follows:

(1) A registered owner who has been awarded a Purple Heart medal by any branch of the United States armed forces, including the merchant marines and the women's air forces service pilots may apply to the department for special license plates for use on a motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department, and owned by the qualified applicant. The applicant must:

(a) Be a resident of this state;

(b) Have been wounded during one of this nation's wars or conflicts identified in RCW 41.04.005;

(c) Have received ((~~an honorable~~)) a qualifying discharge, as defined in section 4 of this act, from the United States armed forces;

(d) Provide a copy of the armed forces document showing the recipient was awarded the Purple Heart medal; and

(e) Be recorded as the registered owner of the motor vehicle on which the Purple Heart license plate or plates will be displayed.

(2) Purple Heart license plates must be issued without the payment of any vehicle license fees, license plate fees, motor vehicle excise taxes, and special license plate fees for one motor vehicle. For other motor vehicles, qualified applicants may purchase Purple Heart license plates for the fee required under RCW 46.17.220(((~~17~~))) (18) and all other fees and taxes required by law for registering the motor vehicle.

(3) Purple Heart license plates may be issued to the surviving spouse or domestic partner of a Purple Heart recipient who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new domestic partnership, he or she must return the special license plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(4) A Purple Heart license plate or plates may be transferred from one motor vehicle to another motor vehicle owned by the Purple Heart recipient or the surviving spouse or domestic partner as described in subsection (3) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

Sec. 27. RCW 46.18.295 and 2012 c 69 s 1 are each amended to read as follows:

(1) Veterans ((~~discharged under honorable conditions (veterans)~~)) and ((~~individuals serving on active duty in the United States armed forces (~~))active duty military personnel((~~)~~)) may purchase a veterans remembrance emblem, campaign medal emblem, or military service award emblem. The emblem is to be displayed on license plates in the manner described by the department, existing vehicular registration procedures, and current laws.

(2) For purposes of this section:

(a) "Active duty military personnel" means an individual serving on active duty in the United States armed forces.

(b) "Veteran" has the meaning defined in RCW 41.04.007.

(3) Veterans and active duty military personnel who served during periods of war or armed conflict may purchase a remembrance emblem depicting campaign ribbons which they were awarded.

(((~~(3)~~))) (4) The following campaign ribbon remembrance emblems are available:

(a) World War I victory medal;

(b) World War II Asiatic-Pacific campaign medal;

(c) World War II European-African Middle East campaign medal;

(d) World War II American campaign medal;

(e) Korean service medal;

(f) Vietnam service medal;

(g) Armed forces expeditionary medal awarded after 1958; and

(h) Southwest Asia medal.

The director may issue additional campaign ribbon emblems by rule as authorized decorations by the United States department of defense.

(((~~(4)~~))) (5) The following military service award emblems are available:

(a) Distinguished Service Cross;

(b) Navy Cross;

(c) Air Force Cross;

(d) Silver Star medal; and

(e) Bronze Star medal.

(((~~(5)~~))) (6) Veterans or active duty military personnel requesting a veteran remembrance emblem, campaign medal emblem, or military service award emblem or emblems must:

(a) Pay a prescribed fee set by the department; and

(b) Show proof of eligibility through:

(i) Providing a DD-214 or discharge papers, as well as necessary documentation to prove eligibility as a veteran with an other than honorable characterization of service, if a veteran;

(ii) Providing a copy of orders awarding a campaign ribbon if an individual serving on military active duty;

(iii) Providing a copy of orders awarding a military service award; or

(iv) Attesting in a notarized affidavit of their eligibility as required under this section.

(((~~(6)~~))) (7) Veterans or active duty military personnel who purchase a veteran remembrance emblem, campaign medal emblem, or military service award emblem must be the legal or registered owner of the vehicle on which the emblem is to be displayed.

Sec. 28. RCW 46.20.027 and 2002 c 292 s 3 are each amended to read as follows:

A Washington state motor vehicle driver's license issued to any service member if valid and in force and effect while such person is serving in the armed forces, shall remain in full force and effect so long as such service continues unless the same is sooner suspended, canceled, or revoked for cause as provided by law and for not to exceed ninety days following the date on which the holder of such driver's license is ((~~honorably~~)) separated from service in the armed forces of the United States. A Washington state driver's license issued to the spouse or dependent child of such service member likewise remains in full force and effect if the person is residing with the service member.

For purposes of this section, "service member" means every person serving in the armed forces whose branch of service as of the date of application for the driver's license is included in the definition of veteran pursuant to RCW 41.04.007 or the person will meet the definition of veteran at the time of discharge.

Sec. 29. RCW 46.20.161 and 2021 c 158 s 7 are each amended to read as follows:

(1) The department, upon receipt of a fee of seventy-two dollars, unless the driver's license is issued for a period other than eight years, in which case the fee shall be nine dollars for each year that the license is issued, which includes the fee for the required photograph, shall issue to every qualifying applicant a driver's license. A driver's license issued to a person under the age of eighteen is an intermediate license, subject to the restrictions imposed under RCW 46.20.075, until the person reaches the age of eighteen.

(2) The license must include:

(a) A distinguishing number assigned to the licensee;

(b) The name of record;

(c) Date of birth;

(d) Washington residence address;

(e) Photograph;

(f) A brief description of the licensee;

(g) Either a facsimile of the signature of the licensee or a space upon which the licensee shall write the licensees' usual signature with pen and ink immediately upon receipt of the license;

(h) If applicable, the person's status as a veteran as provided in subsection (4) of this section; and

(i) If applicable, a medical alert designation as provided in subsection (5) of this section.

(3) No license is valid until it has been signed by the licensee.

(4)(a) A veteran, as defined in RCW 41.04.007, ((~~or an individual who otherwise meets the criteria of RCW 41.04.007 but who has received a general~~

~~discharge under honorable conditions,~~)) may apply to the department to obtain a veteran designation on a driver's license issued under this section by providing:

(i) A United States department of veterans affairs identification card or proof of service letter;

(ii) A United States department of defense discharge document, DD Form 214 or DD Form 215, as it exists on June 7, 2018, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, or equivalent or successor discharge paperwork, ((~~that shows a discharge status of "honorable" or "general under honorable conditions"~~)) that establishes the person's service in the armed forces of the United States and qualifying discharge as defined in section 4 of this act;

(iii) A national guard state-issued report of separation and military service, NGB Form 22, as it exists on June 7, 2018, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, or equivalent or successor discharge paperwork, ((~~that shows a discharge status of "honorable" or "general under honorable conditions"~~)) that establishes the person's active duty or reserve service in the national guard and qualifying discharge as defined in section 4 of this act; or

(iv) A United States uniformed services identification card, DD Form 2, that displays on its face that it has been issued to a retired member of any of the armed forces of the United States, including the national guard and armed forces reserves.

(b) The department may permit a veteran, as defined in RCW 41.04.007, ((~~or an individual who otherwise meets the criteria of RCW 41.04.007 but who has received a general discharge under honorable conditions,~~)) to submit ((~~an~~)) alternate forms of documentation to apply to obtain a veteran designation on a driver's license((~~, as specified by rule, that requires a discharge status of "honorable" or "general under honorable conditions" and that establishes the person's service as required under RCW 41.04.007~~)).

(5) Any person may apply to the department to obtain a medical alert designation, a developmental disability designation, or a deafness designation on a driver's license issued under this chapter by providing:

(a) Self-attestation that the individual:

(i) Has a medical condition that could affect communication or account for a driver health emergency;

(ii) Is deaf or hard of hearing; or

(iii) Has a developmental disability as defined in RCW 71A.10.020;

(b) A statement from the person that they have voluntarily provided the self-attestation and other information verifying the condition; and

(c) For persons under eighteen years of age or who have a developmental disability, the signature of a parent or legal guardian.

(6) A self-attestation or data contained in a self-attestation provided under this section:

(a) Shall not be disclosed;

(b) Is for the confidential use of the director, the chief of the Washington state patrol, and law enforcement and emergency medical service providers as designated by law; and

(c) Is subject to the privacy protections of the driver's privacy protection act, 18 U.S.C. Sec. 2725.

Sec. 30. RCW 72.36.030 and 2014 c 184 s 3 are each amended to read as follows:

All of the following persons who have been actual bona fide residents of this state at the time of their application may be admitted to a state veterans' home under rules as may be adopted by the director of the department, unless sufficient facilities and resources are not available to accommodate these people:

(1)(a) All ((~~honorably discharged~~)) veterans ((~~of a branch~~)) of the ((~~armed forces~~)) uniformed services of the United States or merchant marines who meet the discharge requirements under RCW 41.04.007 or are eligible for medical care provided by the United States department of veterans affairs; (b) members of the state militia disabled while in the line of duty; (c) Filipino World War II veterans who swore an oath to American authority and who participated in military engagements with American soldiers; (d) the spouses or the domestic partners of these veterans, merchant marines, and members of the state militia; and (e) parents any of whose children died while serving in the armed forces. However, it is required that the spouse was married to and living with the veteran, or that the domestic partner was in a domestic partnership and living with the veteran, three years prior to the date of application for admittance, or, if married to or in a domestic partnership with him or her since that date, was also a resident of a state veterans' home in this state or entitled to admission thereto;

(2) The spouses or domestic partners of: (a) All ((~~honorably discharged~~)) veterans of the United States ((~~armed forces~~)) uniformed services with a qualifying discharge as defined in section 4 of this act; (b) merchant marines; and (c) members of the state militia who were disabled while in the line of duty and who were residents of a state veterans' home in this state or were entitled to admission to one of this state's state veteran homes at the time of death. However, the included spouse or included domestic partner shall not have been married since the death of his or her spouse or domestic partner to a person who is not a resident of one of this state's state veterans' homes or entitled to admission to one of this state's state veterans' homes; and

(3) All applicants for admission to a state veterans' home shall apply for all federal and state benefits for which they may be eligible, including medical assistance under chapter 74.09 RCW.

NEW SECTION. **Sec. 31.** RCW 73.04.042 (Honorable discharge recorded—Veterans of Spanish-American War and World War I) and 1923 c 17 s 1 & 1919 c 86 s 1 are each repealed.

Sec. 32. RCW 73.08.005 and 2017 c 185 s 9 are each amended to read as follows:

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

(1) "Direct costs" includes those allowable costs that can be readily assigned to the statutory objectives of this chapter, consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(2) "Family" means the spouse or domestic partner, surviving spouse, surviving domestic partner, and dependent children of a living or deceased veteran, or a service member who was killed in the line of duty regardless of the number of days served.

(3) "Indigent" means a person who is defined as such by the county legislative authority using one or more of the following definitions:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, medical care services, or supplemental security income;

(b) Receiving an annual income, after taxes, of up to one hundred fifty percent or less of the current federally established poverty level, or receiving an annual income not exceeding a higher qualifying income established by the county legislative authority; or

(c) Unable to pay reasonable costs for shelter, food, utilities, and transportation because his or her available funds are insufficient.

(4) "Indirect costs" includes those allowable costs that are generally associated with carrying out the statutory objectives of this chapter, but the identification and tracking of those costs cannot be readily assigned to a specific statutory objective without an accounting effort that is disproportionate to the benefit received. A county legislative authority may allocate allowable indirect costs to its veterans' assistance fund if it is accomplished in a manner consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(5)(a) "Veteran" means:

(i) A person who served in the active military, naval, or air service; a member of the women's air forces service pilots during World War II; a United States documented merchant mariner with service aboard an oceangoing vessel operated by the war shipping administration; the office of defense transportation, or their agents, from December 7, 1941, through December 31, 1946; or a civil service crewmember with service aboard a United States army transport service or United States naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946, who meets one of the following criteria:

(A) Served on active duty for at least one hundred eighty days and who was released with ((~~an honorable discharge~~)) a qualifying discharge as defined in section 4 of this act;

(B) Received ((~~an honorable or general under honorable characterization of service~~)) a qualifying discharge as defined in section 4 of this act with a medical reason for separation for a condition listed as non-existed prior to service, regardless of number of days served; or

(C) Received ((~~an honorable discharge~~)) a qualifying discharge as defined in section 4 of this act and has received a rating for a service connected disability from the United States department of veterans affairs regardless of number of days served;

(ii) A current member honorably serving in the armed forces reserve or national guard who has been activated by presidential call up for purposes other than training;

(iii) A former member of the armed forces reserve or national guard who has fulfilled his or her initial military service obligation and was released with ((~~an honorable discharge~~)) a qualifying discharge as defined in section 4 of this act;

(iv) A former member of the armed forces reserve or national guard who does not have over one hundred seventy-nine days of active duty service, but meets the federal definition of a veteran having completed twenty years of service.

(b) At the discretion of the county legislative authority and in consultation with the veterans' advisory board, counties may expand eligibility for the veterans assistance fund as the county determines necessary, which may include serving veterans with additional discharge characterizations.

(6) "Veterans' advisory board" means a board established by a county legislative authority under the authority of RCW 73.08.035.

(7) "Veterans' assistance fund" means an account in the custody of the county auditor, or the chief financial officer in a county operating under a charter, that is funded by taxes levied under the authority of RCW 73.08.080.

(8) "Veterans' assistance program" means a program approved by the county legislative authority under the authority of RCW 73.08.010 that is fully or partially funded by the veterans' assistance fund authorized by RCW 73.08.080.

Sec. 33. RCW 73.16.010 and 1975 1st ex.s. c 198 s 1 are each amended to read as follows:

In every public department, and upon all public works of the state, and of any county thereof, ((~~honorably discharged~~)) soldiers, sailors, ((~~and~~)) guardians, marines and other members of the uniformed services who are veterans of any war of the United States, or of any military campaign for which a campaign ribbon shall have been awarded with a qualifying discharge as defined in section 4 of this act, and their widows or widowers, shall be preferred for appointment and employment. Age, loss of limb, or other physical impairment, which does not in fact incapacitate, shall not be deemed to disqualify them, provided they possess the capacity necessary to discharge the duties of the position involved: PROVIDED, That spouses of ((~~honorably discharged~~)) veterans with a qualifying discharge as defined in section 4 of this act and who have a service connected permanent and total disability shall also be preferred for appointment and employment.

Sec. 34. RCW 73.16.120 and 2015 c 57 s 2 are each amended to read as follows:

(1) The department of veterans affairs, employment security department, and department of commerce shall consult local chambers of commerce, associate development organizations, and businesses to initiate a demonstration campaign to increase veteran employment. This campaign may include partnerships with chambers of commerce that result in business owners sharing, with the local chamber of commerce, information on the number of veterans employed and the local chambers of commerce providing this information to the department of veterans affairs.

(2) Participants in the campaign are encouraged to work with the Washington state military transition council and county veterans' advisory boards as defined in RCW 73.08.035.

(3) Funding for the campaign shall be established from existing resources.

(4) For the purposes of this section, "veteran" ((~~means any veteran discharged under honorable conditions~~)) has the definition given in RCW 41.04.007.

Sec. 35. RCW 77.32.480 and 2016 c 78 s 1 are each amended to read as follows:

(1) Upon written application, a combination fishing license shall be issued at the reduced rate of five dollars and all hunting licenses shall be issued at the reduced rate of a youth hunting license fee for the following individuals:

(a) A resident sixty-five years old or older who ((~~is an honorably discharged veteran of~~)) has a qualifying discharge, as defined in section 4 of this act, from the United States armed forces ((~~having~~)) and has a service-connected disability;

(b) A resident who ((~~is an honorably discharged veteran of~~)) has a qualifying discharge, as defined in section 4 of this act, from the United States armed forces ((~~with~~)) and has a thirty percent or more service-connected disability;

(c) A resident with a disability who permanently uses a wheelchair;

(d) A resident who is blind or visually impaired; and

(e) A resident with a developmental disability as defined in RCW 71A.10.020 with documentation of the disability certified by a physician licensed to practice in this state.

(2) Upon department verification of eligibility, a nonstate resident veteran with a disability who otherwise satisfies the criteria of subsection (1)(a) and (b) of this section must be issued a combination fishing license or any hunting license at the same cost charged to a nondisabled Washington resident for the same license.

(3) Upon written application and department verification, the following recreational hunting licenses must be issued at no cost to a resident member of the state guard or national guard, as defined in RCW 38.04.010, as long as the state guard or national guard member is: An active full-time state guard or national guard employee; or a state guard or national guard member whose status requires the state guard or national guard member to participate in drill training on a part-time basis:

(a) A small game hunting license under RCW 77.32.460(1);

(b) A supplemental migratory bird permit under RCW 77.32.350; and

(c) A big game hunting license under RCW 77.32.450 (1) and (2).

Sec. 36. RCW 84.39.020 and 2020 c 139 s 54 are each amended to read as follows:

(1) Each claimant applying for assistance under RCW 84.39.010 must file a claim with the department, on forms prescribed by the department, no later than thirty days before the tax is due. The department may waive this requirement for good cause shown. The department must supply forms to the county assessor to allow persons to apply for the program at the county assessor's office.

(2) The claim must designate the property to which the assistance applies and must include a statement setting forth (a) a list of all members of the claimant's household, (b) facts establishing the eligibility under this section, and (c) any other relevant information required by the rules of the department. The claim must be signed by the claimant subject to the penalties as provided in chapter 9A.72 RCW for false swearing. The first claim must include proof of the claimant's age acceptable to the department.

(3) The following documentation must be filed with a claim along with any other documentation required by the department:

(a) The deceased veteran's DD 214 report of separation, or its equivalent, that must ((~~be under honorable conditions~~)) show qualification as a veteran under RCW 41.04.005. If the deceased veteran had an other than honorable characterization of service, the following is also required: (i) Proof that the decedent was, at any point, eligible for or received federal department of veterans affairs monetary benefits; or (ii) proof that the decedent's survivor is eligible for or has received federal department of veterans affairs monetary survivor benefits;

(b) A copy of the applicant's certificate of marriage to the deceased;

(c) A copy of the deceased veteran's death certificate; and

(d) A letter from the United States veterans' administration certifying that the death of the veteran meets the requirements of RCW 84.39.010(2).

(4) The department of veterans affairs must assist an eligible widow or widower in the preparation and submission of an application and the procurement of necessary substantiating documentation.

(5) The department must determine if each claimant is eligible each year. Any applicant aggrieved by the department's denial of assistance may petition the state board of tax appeals to review the denial and the board must consider any appeals to determine (a) if the claimant is entitled to assistance and (b) the amount or portion thereof.

NEW SECTION. **Sec. 37.** The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. **Sec. 38.** Sections 25 through 27 of this act take effect April 1, 2025.

NEW SECTION. **Sec. 39.** Section 24 of this act expires April 1, 2025.

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, 2024, in the omnibus appropriations act, this act is null and void.

Passed by the House February 10, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 147

[Substitute House Bill 2015]

ADULT FAMILY HOMES—APPLICATIONS TO INCREASE BED CAPACITY

AN ACT Relating to incentivizing adult family homes to increase bed capacity to seven or eight beds; amending RCW 70.128.066 and 70.128.070; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.128.066 and 2020 c 220 s 2 are each amended to read as follows:

(1) An applicant requesting to increase bed capacity to seven or eight beds must successfully demonstrate to the department financial solvency and management experience for the home under its ownership and the ability to meet other relevant safety, health, and operating standards pertaining to the operation of an eight bed home, including the ability to meet the needs of all current and

prospective residents and ways to mitigate the potential impact of vehicular traffic related to the operation of the home.

(2) The department may only accept and process an application to increase the bed capacity to seven or eight beds when:

(a) A period of no less than twenty-four months has passed since the issuance of the initial adult family home license;

(b) The home has been licensed for six residents for at least twelve months prior to application;

(c) The home has completed two full inspections that have resulted in no enforcement actions. For adult family homes applying to increase bed capacity under this section prior to January 1, 2026, the department may:

(i) Complete the first inspection upon receipt of an application to increase bed capacity if the home has otherwise met the requirements of this section.

(ii) Complete a second inspection upon receipt of an application to increase bed capacity if at least six months have passed since the first inspection;

(d) The home has submitted an attestation that an increase in the number of beds will not adversely affect the health, safety, or quality of life of current residents of the home;

(e) The home has demonstrated to the department the ability to comply with the emergency evacuation standards established by the department in rule;

(f) The home has a residential sprinkler system in place in order to serve residents who require assistance during an evacuation; and

(g) The home has paid any fees associated with licensure or additional inspections.

(3) The department shall accept and process applications under RCW 70.128.060(13) for a seven or eight bed adult family home only if:

(a) The new provider is a provider of a currently licensed adult family home that has been licensed for a period of no less than twenty-four months since the issuance of the initial adult family home license;

(b) The new provider's current adult family home has been licensed for six or more residents for at least twelve months prior to application; and

(c) The adult family home has completed at least two full inspections, and the most recent two full inspections have resulted in no enforcement actions.

(4) Prior to issuing a license to operate a seven or eight bed adult family home, the department shall:

(a) Notify the local jurisdiction in which the home is located, in writing, of the applicant's request to increase bed capacity, and allow the local jurisdiction to provide any recommendations to the department as to whether or not the department should approve the applicant's request to increase its bed capacity to seven or eight beds; and

(b) Conduct an inspection to determine compliance with licensing standards and the ability to meet the needs of eight residents.

(5) In addition to the consideration of other criteria established in this section, the department shall consider comments received from current residents of the adult family home related to the quality of care and quality of life offered by the home, as well as their views regarding the addition of one or two more residents.

(6) Upon application for an initial seven or eight bed adult family home, a home must provide at least sixty days' notice to all residents and the residents'

designated representatives that the home has applied for a license to admit up to seven or eight residents before admitting a seventh resident. The notice must be in writing and written in a manner or language that is understood by the residents and the residents' designated representatives.

(7) In the event of serious noncompliance in a seven or eight bed adult family home, in addition to, or in lieu of, the imposition of one or more actions listed in RCW 70.128.160(2), the department may revoke the adult family home's authority to accept more than six residents.

Sec. 2. RCW 70.128.070 and 2021 c 203 s 13 are each amended to read as follows:

(1) A license shall remain valid unless voluntarily surrendered, suspended, or revoked in accordance with this chapter.

(2)(a) Homes applying for a license shall be inspected at the time of licensure.

(b)(i) Homes licensed by the department shall be inspected at least every eighteen months, with an annual average of fifteen months. However, an adult family home may be allowed to continue without inspection for two years if the adult family home had no inspection citations for the past three consecutive inspections and has received no written notice of violations resulting from complaint investigations during that same time period.

(ii) For adult family homes applying to increase bed capacity under RCW 70.128.066 prior to January 1, 2026, the department may:

(A) Complete the first inspection upon receipt of an application to increase bed capacity if the home has otherwise met the requirements of RCW 70.128.066.

(B) Complete a second inspection upon receipt of an application to increase bed capacity if at least six months have passed since the first inspection.

(c) The department may make an unannounced inspection of a licensed home at any time to assure that the home and provider are in compliance with this chapter and the rules adopted under this chapter.

(d) If a pandemic, natural disaster, or other declared state of emergency prevents the department from completing inspections according to the timeline in this subsection, the department shall adopt rules to reestablish inspection timelines based on the length of time since last inspection, compliance history of each facility, and immediate health or safety concerns.

(i) Rules adopted under this subsection (2)(d) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all facility inspections are occurring according to time frames established in (b) of this subsection, whichever is later. Once the department determines a rule adopted under this subsection (2)(d) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(ii) Within 12 months of the termination of the pandemic, natural disaster, or declared state of emergency, the department shall conduct a review of inspection compliance with (b) of this subsection and provide the legislature with a report.

(3) If the department finds that the home is not in compliance with this chapter, it shall require the home to correct any violations as provided in this chapter.

***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.*

**Sec. 3 was vetoed. See message at end of chapter.*

Passed by the House January 29, 2024.

Passed by the Senate February 27, 2024.

Approved by the Governor March 18, 2024, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 19, 2024.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 3, Substitute House Bill No. 2015 entitled:

"AN ACT Relating to incentivizing adult family homes to increase bed capacity to seven or eight beds."

The language of this bill is permissive and does not require DSHS to undertake the inspections as described. Therefore, there is not the necessary justification for the emergency clause. The substance of the bill remains in place.

For these reasons I have vetoed Section 3 of Substitute House Bill No. 2015.

With the exception of Section 3, Substitute House Bill No. 2015 is approved."

CHAPTER 148

[House Bill 2032]

POLITICAL YARD SIGNS—NAME AND ADDRESS OF SPONSOR

AN ACT Relating to reducing the size of yard signs that are exempt from certain political advertising disclosure requirements; and amending RCW 42.17A.320.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 42.17A.320 and 2019 c 261 s 3 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

(2) In addition to the information required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party must include as part of the communication:

(a) The statement: "No candidate authorized this ad. It is paid for by (name, address, city, state)";

(b) If the sponsor is a political committee, the statement: "Top Five Contributors," followed by a listing of the names of the five persons making the largest contributions as determined by RCW 42.17A.350(1); and if necessary, the statement "Top Three Donors to PAC Contributors," followed by a listing of the names of the three individuals or entities, other than political committees, making the largest aggregated contributions as determined by RCW 42.17A.350(2); and

(c) If the sponsor is a political committee established, maintained, or controlled directly, or indirectly through the formation of one or more political committees, by an individual, corporation, union, association, or other entity, the full name of that individual or entity.

(3) The information required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written advertisement or communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process; and

(c) Be set apart from any other printed matter. No text may be before, after, or immediately adjacent to the information required by subsections (1) and (2) of this section.

(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height on a solid black background on the entire bottom one-third of the television or visual display screen, or bottom one-fourth of the screen if the sponsor does not have or is otherwise not required to list its top five contributors, and have a reasonable color contrast with the background: "No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons making the largest aggregate contributions as determined by RCW 42.17A.350(1); and if necessary, the statement "Top Three Donors to PAC Contributors," followed by a listing of the names of the three individuals or entities other than political committees making the largest aggregate contributions to political committees as determined by RCW 42.17A.350(2). Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons making the largest contributions as determined by RCW 42.17A.350(1); and if necessary, the statement "Top Three Donors to PAC Contributors," followed by a listing of the names of the three individuals or entities, other than political committees, making the largest

aggregate contributions to political committees as determined by RCW 42.17A.350(2). Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political advertising costing one thousand dollars or more supporting or opposing ballot measures sponsored by a political committee must include the information on the top five contributors and top three contributors, other than political committees, as required by RCW 42.17A.350. A series of political advertising sponsored by the same political committee, each of which is under one thousand dollars, must include the top five contributors and top three contributors, other than political committees, as required by RCW 42.17A.350 once their cumulative value reaches one thousand dollars or more.

(7) Political yard signs are exempt from the requirements of this section that ((~~the sponsor's name and address, and~~)) the top five contributors and top three PAC contributors as required by RCW 42.17A.350((~~,~~)) be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(8) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

Passed by the House March 5, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 149

[Substitute House Bill 2097]
WORKER WAGE RECOVERY WORK GROUP

AN ACT Relating to assisting workers in recovering wages owed; adding a new section to chapter 49.48 RCW; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 49.48 RCW to read as follows:

(1) The department of labor and industries shall convene a work group to develop and recommend strategies that help employees who are owed wages recover those wages and be made whole as quickly and as fully as possible when the employees' employers violate provisions under this chapter or the minimum wage act.

(2) The work group shall identify options to enhance the department of labor and industries' ability to provide swift relief to employees. Options the work group must explore include, but are not limited to:

(a) A wage recovery program or a wage recovery fund; and

(b) Procedures and mechanisms used in other states that ensure full and timely recovery for employees and that deter future violations.

(3)(a) Recommendations from the work group must be made by consensus, if possible. If consensus cannot be reached, recommendations of the work group

must reflect the view of the majority of the members. Members with dissenting views may include their recommendations or feedback as a supplement to the report required by this section.

(b) For each recommendation, the work group must identify and address implementation issues and assess feasibility.

(4) The work group must include representatives from the following:

(a) Two representatives from employee advocacy organizations;

(b) Two representatives from employer and business advocacy organizations, with one of the members representing small employers;

(c) One representative from a civil legal aid organization; and

(d) One expert in employment and wage and hour law from a Washington state postsecondary education institution.

(5) The department shall provide staff support to the work group as needed. The work group may consult with additional representatives from other organizations and experts specializing in the subject matter, as needed.

(6) The work group must submit a report with recommendations to the appropriate committees of the legislature by December 1, 2025.

(7) This section expires December 1, 2026.

Passed by the House February 7, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 150

[Substitute House Bill 2102]

PAID FAMILY AND MEDICAL LEAVE—CERTIFICATION OF A SERIOUS HEALTH CONDITION

AN ACT Relating to establishing requirements for the disclosure of health care information for qualifying persons to receive paid family and medical leave benefits; amending RCW 70.02.030; and adding a new section to chapter 70.02 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 70.02 RCW to read as follows:

(1) A health care provider shall provide a certification of a serious health condition required by chapter 50A.15 RCW for qualifying a patient for paid family or medical leave, including any required documentation of a serious health condition, within seven calendar days of receipt of a request and authorization from the patient. Nothing in this section requires a provider to complete a certification for a serious health condition for which the provider does not have the necessary patient information.

(2) If a health care facility requires administrative review of information or documentation required by chapter 50A.15 RCW prior to allowing a provider to submit the certification of a serious health condition, then the facility shall implement and maintain policies and practices in conformance with subsection (1) of this section.

(3) A health care provider or health care facility may not charge a fee for the execution of a certification of a serious health condition under this section. This

does not prohibit or limit the ability of a health care provider to charge a fee associated with any office visit necessary for evaluating the patient.

Sec. 2. RCW 70.02.030 and 2018 c 87 s 1 are each amended to read as follows:

(1) A patient may authorize a health care provider or health care facility to disclose the patient's health care information. A health care provider or health care facility shall honor an authorization and, if requested, provide a copy of the recorded health care information unless the health care provider or health care facility denies the patient access to health care information under RCW 70.02.090.

(2)(a) Except as provided in (b) of this subsection and section 1 of this act, a health care provider or health care facility may charge a reasonable fee for providing the health care information and is not required to honor an authorization until the fee is paid.

(b) Upon request of a patient or a patient's personal representative, a health care facility or health care provider shall provide the patient or representative with one copy of the patient's health care information free of charge if the patient is appealing the denial of federal supplemental security income or social security disability benefits. The patient or representative may complete a disclosure authorization specifying the health care information requested and provide it to the health care facility or health care provider. The health care facility or health care provider may provide the health care information in either paper or electronic format. A health care facility or health care provider is not required to provide a patient or a patient's personal representative with a free copy of health care information that has previously been provided free of charge pursuant to a request within the preceding two years.

(3) To be valid, a disclosure authorization to a health care provider or health care facility shall:

(a) Be in writing, dated, and signed by the patient;

(b) Identify the nature of the information to be disclosed;

(c) Identify the name and institutional affiliation of the person or class of persons to whom the information is to be disclosed;

(d) Identify the provider or class of providers who are to make the disclosure;

(e) Identify the patient; and

(f) Contain an expiration date or an expiration event that relates to the patient or the purpose of the use or disclosure.

(4) Unless disclosure without authorization is otherwise permitted under RCW 70.02.050 or the federal health insurance portability and accountability act of 1996 and its implementing regulations, an authorization may permit the disclosure of health care information to a class of persons that includes:

(a) Researchers if the health care provider or health care facility obtains the informed consent for the use of the patient's health care information for research purposes; or

(b) Third-party payors if the information is only disclosed for payment purposes.

(5) Except as provided by this chapter, the signing of an authorization by a patient is not a waiver of any rights a patient has under other statutes, the rules of evidence, or common law.

(6) When an authorization permits the disclosure of health care information to a financial institution or an employer of the patient for purposes other than payment, the authorization as it pertains to those disclosures shall expire one year after the signing of the authorization, unless the authorization is renewed by the patient.

(7) A health care provider or health care facility shall retain the original or a copy of each authorization or revocation in conjunction with any health care information from which disclosures are made.

(8) Where the patient is under the supervision of the department of corrections, an authorization signed pursuant to this section for health care information related to mental health or drug or alcohol treatment expires at the end of the term of supervision, unless the patient is part of a treatment program that requires the continued exchange of information until the end of the period of treatment.

Passed by the House February 8, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 151

[House Bill 2246]

STATE EMPLOYEE VACATION LEAVE ACCRUAL

AN ACT Relating to vacation leave accrual for state employees; amending RCW 43.01.044, 41.40.010, and 43.43.120; and reenacting and amending RCW 43.01.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.01.040 and 2017 c 168 s 1 and 2017 c 167 s 1 are each reenacted and amended to read as follows:

Each subordinate officer and employee of the several offices, departments, and institutions of the state government shall be entitled under their contract of employment with the state government to not less than eight hours of vacation leave with full pay for each month of employment.

Each such subordinate officer and employee shall be entitled under such contract of employment to not less than eight additional hours of vacation with full pay each year for satisfactorily completing the first two, three, and five continuous years of employment respectively.

Such part-time officers or employees of the state government who are employed on a regular schedule of duration of not less than one year shall be entitled under their contract of employment to that fractional part of the vacation leave that the total number of hours of such employment bears to the total number of hours of full-time employment.

Each subordinate officer and employee of the several offices, departments, and institutions of the state government shall be entitled under his or her contract of employment with the state government to accrue unused vacation leave not to exceed ((~~two hundred forty~~)) 280 hours. However, employees of the Washington state ferries covered by collective bargaining agreements containing provisions in effect on June 30, 2017, allowing accrual of unused vacation leave not to exceed three hundred twenty hours shall be allowed to continue the higher

accrual limit until such time as those provisions are modified through collective bargaining, or the bargaining unit changes its exclusive representative or is decertified. Officers and employees transferring within the several offices, departments, and institutions of the state government shall be entitled to transfer such accrued vacation leave to each succeeding state office, department, or institution. All vacation leave shall be taken at the time convenient to the employing office, department, or institution: PROVIDED, That if a subordinate officer's or employee's request for vacation leave is deferred by reason of the convenience of the employing office, department, or institution, and a statement of the necessity therefor is retained by the agency, then the aforesaid maximum ((~~two hundred forty~~)) 280 hours of accrued unused vacation leave shall be extended for each month said leave is so deferred.

Sec. 2. RCW 43.01.044 and 2017 c 167 s 2 are each amended to read as follows:

As an alternative, in addition to the provisions of RCW 43.01.040 authorizing the accumulation of vacation leave in excess of ((~~two hundred forty~~)) 280 hours with the filing of a statement of necessity, vacation leave in excess of ((~~two hundred forty~~)) 280 hours may also be accumulated as provided in this section but without the filing of a statement of necessity. The accumulation of leave under this alternative method shall be governed by the following provisions:

(1) Each subordinate officer and employee of the several offices, departments, and institutions of state government may accumulate the vacation leave hours between the time ((~~two hundred forty~~)) 280 hours is accrued and his or her anniversary date of state employment.

(2) All vacation hours accumulated under this section shall be used by the anniversary date and at a time convenient to the employing office, department, or institution. If an officer or employee does not use the excess leave by the anniversary date, then such leave shall be automatically extinguished and considered to have never existed.

(3) This section shall not result in any increase in a retirement allowance under any public retirement system in this state.

(4) Should the legislature revoke any benefits or rights provided under this section, no affected officer or employee shall be entitled thereafter to receive such benefits or exercise such rights as a matter of contractual right.

(5) Vacation leave credit acquired and accumulated under this section shall never, regardless of circumstances, be deferred by the employing office, department, or institution by filing a statement of necessity under the provisions of RCW 43.01.040.

(6) Notwithstanding any other provision of this chapter, on or after July 24, 1983, a statement of necessity for excess leave shall, ((~~as [at]~~)) at a minimum, include the following: (a) The specific number of hours of excess leave; and (b) the date on which it was authorized. A copy of any such authorization shall be sent to the department of retirement systems.

Sec. 3. RCW 41.40.010 and 2022 c 71 s 8 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(3) "Adjustment ratio" means the value of index A divided by index B.

(4) "Annual increase" means, initially, ((~~fifty-nine~~)) 59 cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(5) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(6)(a) "Average final compensation" for plan 1 members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan 2 and plan 3 members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2) or (c) of this subsection.

(c) In calculating average final compensation under this subsection for a member of plan 1, 2, or 3, the department of retirement systems shall include:

(i) Any compensation forgone by the member during the 2009-2011 fiscal biennium as a result of reduced work hours, voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary furloughs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer;

(ii) Any compensation forgone by a member employed by the state or a local government during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases; and

(iii) Any compensation forgone by a member during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(7)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(8)(a) "Compensation earnable" for plan 1 members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable and the individual shall receive the equivalent service credit;

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of 240 hours ((~~as authorized by RCW 43.01.044 and 43.01.041~~)).

(b) "Compensation earnable" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Compensation earnable" for plan 2 and plan 3 members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the

equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(9) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(10) "Director" means the director of the department.

(11) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor, or appointed by the chief justice of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which compensation is paid.

(12) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(13)(a) "Employer" for plan 1 members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such

labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan 2 and plan 3 members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2.

(c) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an "employer." The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an "employer," but is based solely on the relationship between a government contractor's employee and an "employer" under this chapter.

(d) "Employer" does not include a comprehensive cancer center participating in a collaborative arrangement as defined in RCW 28B.10.930 that is operated in conformance with RCW 28B.10.930.

(14) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(15) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(16) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(17) "Index B" means the index for the year prior to index A.

(18) "Index year" means the earliest calendar year in which the index is more than ((~~sixty~~)) 60 percent of index A.

(19) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (11) of this section.

(20) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(21) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

(22) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(23) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer

contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(24) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(25) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the ((~~twelve~~)) 12-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ((~~ten~~)) 10 years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age ((~~seventy~~)) 70 as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age ((~~seventy~~)) 70 as found in RCW 41.40.190(4) shall not apply to the member.

(26) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(27) "Plan 1" means the public employees' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(28) "Plan 2" means the public employees' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and are not included in plan 3.

(29) "Plan 3" means the public employees' retirement system, plan 3 providing the benefits and funding provisions covering persons who:

(a) First become a member on or after:

(i) March 1, 2002, and are employed by a state agency or institute of higher education and who did not choose to enter plan 2; or

(ii) September 1, 2002, and are employed by other than a state agency or institute of higher education and who did not choose to enter plan 2; or

(b) Transferred to plan 3 under RCW 41.40.795.

(30) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(31) "Regular interest" means such rate as the director may determine.

(32) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(33) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(34) "Retirement allowance" means the sum of the annuity and the pension.

(35) "Retirement system" means the public employees' retirement system provided for in this chapter.

(36) "Separation from service" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.40.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination. Mere expressions or inquiries about postretirement employment by an employer or employee that do not constitute a commitment to reemploy the employee after retirement are not an agreement under this subsection.

(37)(a) "Service" for plan 1 members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for ((~~seventy~~)) 70 hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than ((~~seventy~~)) 70 hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not

be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of ((~~twelve~~)) 12 service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to ((~~forty-five~~)) 45 days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than ((~~forty-five~~)) 45 days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than ((~~twenty-two~~)) 22 days equals one-quarter service credit month;

(B) ((~~Twenty-two~~)) 22 days equals one service credit month;

(C) More than ((~~twenty-two~~)) 22 days but less than ((~~forty-five~~)) 45 days equals one and one-quarter service credit month.

(iv) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (6)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ((~~ninety~~)) 90 or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least ((~~seventy~~)) 70 hours but less than ((~~ninety~~)) 90 hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than ((~~seventy~~)) 70 hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the Washington school employees' retirement system, teachers' retirement system, public safety employees' retirement system, or law enforcement officers' and firefighters' retirement system at the time of election or appointment to such position may elect to continue membership in the Washington school employees' retirement system, teachers' retirement system, public safety employees' retirement system, or law enforcement officers' and firefighters' retirement system.

(ii) A member shall receive a total of not more than ((~~twelve~~)) 12 service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no

more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(iii) Up to ((~~forty-five~~)) 45 days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than ((~~forty-five~~)) 45 days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than ((~~eleven~~)) 11 days equals one-quarter service credit month;

(B) ((~~Eleven~~)) 11 or more days but less than ((~~twenty-two~~)) 22 days equals one-half service credit month;

(C) ((~~Twenty-two~~)) 22 days equals one service credit month;

(D) More than ((~~twenty-two~~)) 22 days but less than ((~~thirty-three~~)) 33 days equals one and one-quarter service credit month;

(E) ((~~Thirty-three~~)) 33 or more days but less than ((~~forty-five~~)) 45 days equals one and one-half service credit month.

(iv) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (6)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(38) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(39) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(40) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(41) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(42) "State treasurer" means the treasurer of the state of Washington.

(43) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

Sec. 4. RCW 43.43.120 and 2021 c 12 s 8 are each amended to read as follows:

As used in this section and RCW 43.43.130 through 43.43.320, unless a different meaning is plainly required by the context:

(1) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(2) "Annual increase" means as of July 1, 1999, seventy-seven cents per month per year of service which amount shall be increased each subsequent July 1st by three percent, rounded to the nearest cent.

(3)(a) "Average final salary," for members commissioned prior to January 1, 2003, shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol;

or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

(b) "Average final salary," for members commissioned on or after January 1, 2003, shall mean the average monthly salary received by a member for the highest consecutive sixty service credit months; or if the member has less than sixty months of service, then the average monthly salary received by the member during the member's total months of service.

(c) In calculating average final salary under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by the member during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief;

(ii) Any compensation forgone by a member during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief. Reductions to current pay shall not include elimination of previously agreed upon future salary reductions; and

(iii) Any compensation forgone by a member during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(4) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(5)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet, patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrol officers; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehouse workers.

(6) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under chapter 41.45 RCW.

(7) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(8) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(9) "Director" means the director of the department of retirement systems.

(10) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.040.

(11) "Employee" means any commissioned employee of the Washington state patrol.

(12) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(13) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(14) "Member" means any person included in the membership of the retirement fund.

(15) "Plan 2" means the Washington state patrol retirement system plan 2, providing the benefits and funding provisions covering commissioned employees who first become members of the system on or after January 1, 2003.

(16) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(17) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(18) "Retirement board" means the board provided for in this chapter.

(19) "Retirement fund" means the Washington state patrol retirement fund.

(20) "Retirement system" means the Washington state patrol retirement system.

(21)(a) "Salary," for members commissioned prior to July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040, or any voluntary overtime, earned on or after July 1, 2001, and prior to July 1, 2017, and lump sum payments for unused accumulated vacation or annual leave in excess of 240 hours, plus hours earned since the member's anniversary date. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(b) "Salary," for members commissioned from July 1, 2001, to December 31, 2002, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, earned prior to July 1, 2017, lump sum payments for deferred annual sick leave, or any form of severance pay. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(c) "Salary," for members commissioned on or after January 1, 2003, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, earned prior to July 1, 2017, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or any form of severance pay. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(d) The addition of overtime earnings related to RCW 47.46.040 or any voluntary overtime earned on or after July 1, 2017, in chapter 181, Laws of 2017 is a benefit improvement that increases the member maximum contribution rate under RCW 41.45.0631(1) by 1.10 percent.

(22)(a) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(b) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (3)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(23) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(24) "State treasurer" means the treasurer of the state of Washington.

Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender.

Passed by the House February 12, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 152

[Engrossed Substitute House Bill 2321]

MINIMUM RESIDENTIAL DENSITY—MIDDLE HOUSING—VARIOUS PROVISIONS

AN ACT Relating to modifying middle housing requirements and the definitions of transit stop; amending RCW 36.70A.635; and reenacting and amending RCW 36.70A.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.70A.030 and 2023 c 332 s 2 and 2023 c 228 s 14 are each reenacted and amended to read as follows:

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

(1) "Active transportation" means forms of pedestrian mobility including walking or running, the use of a mobility assistive device such as a wheelchair, bicycling and cycling irrespective of the number of wheels, and the use of small personal devices such as foot scooters or skateboards. Active transportation includes both traditional and electric assist bicycles and other devices. Planning for active transportation must consider and address accommodation pursuant to the Americans with disabilities act and the distinct needs of each form of active transportation.

(2) "Active transportation facilities" means facilities provided for the safety and mobility of active transportation users including, but not limited to, trails, as defined in RCW 47.30.005, sidewalks, bike lanes, shared-use paths, and other facilities in the public right-of-way.

(3) "Administrative design review" means a development permit process whereby an application is reviewed, approved, or denied by the planning director or the planning director's designee based solely on objective design and development standards without a public predecision hearing, unless such review is otherwise required by state or federal law, or the structure is a designated landmark or historic district established under a local preservation ordinance. A city may utilize public meetings, hearings, or voluntary review boards to consider, recommend, or approve requests for variances from locally established design review standards.

(4) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(5) "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, 60 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, 80 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.

(6) "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.

(7) "City" means any city or town, including a code city.

(8) "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.

(9) "Cottage housing" means residential units on a lot with a common open space that either: (a) Is owned in common; or (b) has units owned as condominium units with property owned in common and a minimum of 20 percent of the lot size as open space.

(10) "Courtyard apartments" means ((~~up to four~~)) attached dwelling units arranged on two or three sides of a yard or court.

(11) "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.

(12) "Department" means the department of commerce.

(13) "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.

(14) "Emergency housing" means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

(15) "Emergency shelter" means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

(16) "Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities and the equitable distribution of resources and benefits.

(17) "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.

(18) "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.

(19) "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.

(20) "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.

(21) "Green infrastructure" means a wide array of natural assets and built structures within an urban growth area boundary, including parks and other areas with protected tree canopy, and management practices at multiple scales that manage wet weather and that maintain and restore natural hydrology by storing, infiltrating, evapotranspiring, and harvesting and using stormwater.

(22) "Green space" means an area of land, vegetated by natural features such as grass, trees, or shrubs, within an urban context and less than one acre in size that creates public value through one or more of the following attributes:

(a) Is accessible to the public;

(b) Promotes physical and mental health of residents;

(c) Provides relief from the urban heat island effects;

(d) Promotes recreational and aesthetic values;

(e) Protects streams or water supply; or

(f) Preserves visual quality along highway, road, or street corridors.

(23) "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.

(24) "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.

(25) "Major transit stop" means:

(a) A stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems; or

(d) Stops on bus rapid transit routes, including those stops that are under construction.

(26) "Middle housing" means buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.

(27) "Minerals" include gravel, sand, and valuable metallic substances.

(28) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120

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.

(29) "Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020.

(30) "Per capita vehicle miles traveled" means the number of miles traveled using cars and light trucks in a calendar year divided by the number of residents in Washington. The calculation of this value excludes vehicle miles driven conveying freight.

(31) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

(32) "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.

(33) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(34) "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.

(35) "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.

(36) "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.

(37) "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 and fire and police protection services 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).

(38) "Short line railroad" means those railroad lines designated class II or class III by the United States surface transportation board.

(39) "Single-family zones" means those zones where single-family detached housing is the predominant land use.

(40) "Stacked flat" means dwelling units in a residential building of no more than three stories on a residential zoned lot in which each floor may be separately rented or owned.

(41) "Townhouses" means buildings that contain three or more attached single-family dwelling units that extend from foundation to roof and that have a yard or public way on not less than two sides.

(42) "Transportation system" means all infrastructure and services for all forms of transportation within a geographical area, irrespective of the responsible jurisdiction or transportation provider.

(43) "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.

(44) "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.

(45) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(46) "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.

(47)(a) "Vulnerable populations" means population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to: (i) Adverse socioeconomic factors, such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and (ii) sensitivity factors, such as low birth weight and higher rates of hospitalization.

(b) "Vulnerable populations" includes, but is not limited to:

(i) Racial or ethnic minorities;

(ii) Low-income populations; and

(iii) Populations disproportionately impacted by environmental harms.

(48) "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.

(49) "Wildland urban interface" means the geographical area where structures and other human development meets or intermingles with wildland vegetative fuels.

Sec. 2. RCW 36.70A.635 and 2023 c 332 s 3 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, any city that is required or chooses to plan under RCW 36.70A.040 must provide by ordinance and incorporate into its development regulations, zoning regulations, and other official controls, authorization for the following:

(a) For cities with a population of at least 25,000 but less than 75,000 based on office of financial management population estimates:

(i) The development of at least two units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies;

(ii) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, within one-quarter mile walking distance of a major transit stop; and

(iii) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, if at least one unit is affordable housing.

(b) For cities with a population of at least 75,000 based on office of financial management population estimates:

(i) The development of at least four units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies;

(ii) The development of at least six units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, within one-quarter mile walking distance of a major transit stop; and

(iii) The development of at least six units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies, if at least two units are affordable housing.

(c) For cities with a population of less than 25,000, that are within a contiguous urban growth area with the largest city in a county with a population of more than 275,000, based on office of financial management population estimates the development of at least two units per lot on all lots zoned predominantly for residential use, unless zoning permitting higher densities or intensities applies.

(2)(a) To qualify for the additional units allowed under subsection (1) of this section, the applicant must commit to renting or selling the required number of units as affordable housing. The units must be maintained as affordable for a term of at least 50 years, and the property must satisfy that commitment and all required affordability and income eligibility conditions adopted by the local government under this chapter. A city must require the applicant to record a covenant or deed restriction that ensures the continuing rental of units subject to these affordability requirements consistent with the conditions in chapter 84.14 RCW for a period of no less than 50 years. The covenant or deed restriction must also address criteria and policies to maintain public benefit if the property is converted to a use other than which continues to provide for permanently affordable housing.

(b) The units dedicated as affordable must be provided in a range of sizes comparable to other units in the development. To the extent practicable, the number of bedrooms in affordable units must be in the same proportion as the number of bedrooms in units within the entire development. The affordable units must generally be distributed throughout the development and have substantially the same functionality as the other units in the development.

(c) If a city has enacted a program under RCW 36.70A.540, the terms of that program govern to the extent they vary from the requirements of this subsection.

(3) If a city has enacted a program under RCW 36.70A.540, subsection (1) of this section does not preclude the city from requiring any development, including development described in subsection (1) of this section, to provide affordable housing, either on-site or through an in-lieu payment, nor limit the city's ability to expand such a program or modify its requirements.

(4)(a) As an alternative to the density requirements in subsection (1) of this section, a city may implement the density requirements in subsection (1) of this

section for at least 75 percent of lots in the city that are primarily dedicated to single-family detached housing units.

(b) The 25 percent of lots for which the requirements of subsection (1) of this section are not implemented must include but are not limited to:

(i) Any areas within the city for which the department has certified an extension of the implementation timelines under RCW 36.70A.637 due to the risk of displacement;

(ii) Any areas within the city for which the department has certified an extension of the implementation timelines under RCW 36.70A.638 due to a lack of infrastructure capacity;

(iii) Any lots, parcels, and tracts designated with critical areas or their buffers that are exempt from the density requirements as provided in subsection (8) of this section;

(iv) Any portion of a city within a one-mile radius of a commercial airport with at least 9,000,000 annual enplanements that is exempt from the parking requirements under subsection (7)(b) of this section; and

(v) Any areas subject to sea level rise, increased flooding, susceptible to wildfires, or geological hazards over the next 100 years.

(c) Unless identified as at higher risk of displacement under RCW 36.70A.070(2)(g), the 25 percent of lots for which the requirements of subsection (1) of this section are not implemented may not include:

(i) Any areas for which the exclusion would further racially disparate impacts or result in zoning with a discriminatory effect;

(ii) Any areas within one-half mile walking distance of a major transit stop; or

(iii) Any areas historically covered by a covenant or deed restriction excluding racial minorities from owning property or living in the area, as known to the city at the time of each comprehensive plan update.

(5) A city subject to the requirements of subsection (1)(a) or (b) of this section must allow at least six of the nine types of middle housing to achieve the unit density required in subsection (1) of this section. A city may allow accessory dwelling units to achieve the unit density required in subsection (1) of this section. Cities are not required to allow accessory dwelling units or middle housing types beyond the density requirements in subsection (1) of this section. A city must also allow zero lot line short subdivision where the number of lots created is equal to the unit density required in subsection (1) of this section.

(6) Any city subject to the requirements of this section:

(a) If applying design review for middle housing, only administrative design review shall be required;

(b) Except as provided in (a) of this subsection, shall not require through development regulations any standards for middle housing that are more restrictive than those required for detached single-family residences, but may apply any objective development regulations that are required for detached single-family residences, including, but not limited to, set-back, lot coverage, stormwater, clearing, and tree canopy and retention requirements ((~~to ensure compliance with existing ordinances intended to protect critical areas and public health and safety~~));

(c) Shall apply to middle housing the same development permit and environmental review processes that apply to detached single-family residences,

unless otherwise required by state law including, but not limited to, shoreline regulations under chapter 90.58 RCW, building codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW, or electrical codes under chapter 19.28 RCW;

(d) Shall not require off-street parking as a condition of permitting development of middle housing within one-half mile walking distance of a major transit stop;

(e) Shall not require more than one off-street parking space per unit as a condition of permitting development of middle housing on lots ((~~smaller than~~)) no greater than 6,000 square feet before any zero lot line subdivisions or lot splits;

(f) Shall not require more than two off-street parking spaces per unit as a condition of permitting development of middle housing on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits; and

(g) Are not required to achieve the per unit density under chapter 332, Laws of 2023 on lots after subdivision below 1,000 square feet unless the city chooses to enact smaller allowable lot sizes.

(7) The provisions of subsection (6)(d) through (f) of this section do not apply:

(a) If a local government submits to the department an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and the department finds and certifies, that the application of the parking limitations of subsection (6)(d) through (f) of this section for middle housing will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location for the same number of detached houses. The department must develop guidance to assist cities on items to include in the study; or

(b) To portions of cities within a one-mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements.

(8) The provisions of this section do not apply to:

(a) ((~~Lots~~)) Portions of a lot, parcel, or tract designated with critical areas designated under RCW 36.70A.170 or their buffers as required by RCW 36.70A.170, except for critical aquifer recharge areas where a single-family detached house is an allowed use provided that any requirements to maintain aquifer recharge are met;

(b) Areas designated as sole-source aquifers by the United States environmental protection agency on islands in the Puget Sound;

(c) A watershed serving a reservoir for potable water if that watershed is or was listed, as of July 23, 2023, as impaired or threatened under section 303(d) of the federal clean water act (33 U.S.C. Sec. 1313(d)); ((~~or~~

~~(c)~~)) (d) Lots that have been designated urban separators by countywide planning policies as of July 23, 2023; or

(e) A lot that was created through the splitting of a single residential lot.

(9) Nothing in this section prohibits a city from permitting detached single-family residences.

(10) Nothing in this section requires a city to issue a building permit if other federal, state, and local requirements for a building permit are not met.

(11) A city must comply with the requirements of this section on the latter of:

(a) Six months after its next periodic comprehensive plan update required under RCW 36.70A.130 if the city meets the population threshold based on the 2020 office of financial management population data; or

(b) 12 months after their next implementation progress report required under RCW 36.70A.130 after a determination by the office of financial management that the city has reached a population threshold established under this section.

(12) A city complying with this section and not granted a timeline extension under RCW 36.70A.638 does not have to update its capital facilities plan element required by RCW 36.70A.070(3) to accommodate the increased housing required by chapter 332, Laws of 2023 until the first periodic comprehensive plan update required for the city under RCW 36.70A.130(5) that occurs on or after June 30, 2034.

(13) Until June 30, 2026, for cities subject to a growth target adopted under RCW 36.70A.210 that limit the maximum residential capacity of the jurisdiction, any additional residential capacity required by this section for lots, parcels, and tracts with critical areas or critical area buffers outside of critical areas or their buffers may not be considered an inconsistency with the countywide planning policies, multicounty planning policies, or growth targets adopted under RCW 36.70A.210.

Passed by the House March 4, 2024.

Passed by the Senate February 27, 2024.

Approved by the Governor March 18, 2024.

Filed in Office of Secretary of State March 19, 2024.

CHAPTER 153

[Substitute House Bill 2368]

OFFICE OF REFUGEE AND IMMIGRANT ASSISTANCE

AN ACT Relating to assisting refugees and immigrants by describing the role of the office of refugee and immigrant assistance within the department of social and health services in administering federal funding regarding refugee support services and authorizing the office of refugee and immigrant assistance within the department of social and health services to administer services to immigrants; and adding a new chapter to Title 74 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The purpose of this chapter is to establish the scope of refugee and immigrant assistance administered by the office of refugee and immigrant assistance within the department.

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

(1) "Department" means the department of social and health services.

(2) "Federal act" means Title IV of the federal immigration and nationality act, 8 U.S.C. Sec. 1521 et seq. as amended, including any federal rules adopted pursuant to the federal act.

(3) "Immigrant" means a person who has arrived in the United States and the state of Washington from another country seeking residence who is not a naturalized citizen.

(4) "Refugee" means a person admitted into the United States under section 207 of the immigration and nationality act and others who are eligible for federal refugee resettlement services under the federal act.

(5) "State plan" means the Washington state plan for refugee resettlement described in section 4 of this act.

NEW SECTION. **Sec. 3.** The department shall coordinate statewide efforts to support the economic and social integration and basic needs of immigrants and refugees arriving and resettling in Washington. The department shall coordinate with local, state, and federal government agencies and other stakeholders.

NEW SECTION. **Sec. 4.** The department is designated as the lead state agency responsible for the development, review, and administration of the Washington state plan for refugee resettlement. The department shall submit the state plan to and seek approval from the federal office of refugee resettlement within the federal department of health and human services according to the federal act.

NEW SECTION. **Sec. 5.** (1) The department shall provide refugee cash assistance, refugee medical assistance, and refugee support services in accordance with the federal act and the state plan.

(2) The refugee support services described in this section may include:

(a) Employment services;

(b) English language instruction;

(c) Case management; and

(d) Other services or assistance consistent with the federal act.

NEW SECTION. **Sec. 6.** (1) The department may administer services to immigrants who are ineligible for federal services described in section 5 of this act.

(2) The department may contract with external entities, including community-based organizations, to provide the services authorized under this section. In contracting with community-based organizations, the department must engage communities impacted to determine an equitable funding distribution and contracting process.

NEW SECTION. **Sec. 7.** The department may adopt rules in order to achieve the purposes of this chapter.

NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute a new chapter in Title 74 RCW.

Passed by the House February 13, 2024.

Passed by the Senate February 28, 2024.

Approved by the Governor March 18, 2024.

Filed in Office of Secretary of State March 19, 2024.

CHAPTER 154

[House Bill 2415]

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES—DIVERSION CASH ASSISTANCE—MAXIMUM AMOUNT

AN ACT Relating to expanding economic assistance for individuals who are eligible for temporary assistance for needy families; amending RCW 74.08A.210; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.08A.210 and 2011 1st sp.s. c 36 s 30 are each amended to read as follows:

(1) In order to prevent some families from developing dependency on temporary assistance for needy families, the department shall make available to qualifying applicants a diversion program designed to provide brief, emergency assistance for families in crisis whose income and assets would otherwise qualify them for temporary assistance for needy families.

(2) Diversion assistance may include cash or vouchers in payment for the following needs:

(a) Child care;

(b) Housing assistance;

(c) Transportation-related expenses;

(d) Food;

(e) Medical costs for the recipient's immediate family;

(f) Employment-related expenses which are necessary to keep or obtain paid unsubsidized employment.

(3) Diversion assistance is available once in each ((~~twelve-month~~)) 12-month period for each adult applicant. Recipients of diversion assistance are not included in the temporary assistance for needy families program.

(4) Diversion assistance may not exceed ((~~one thousand five hundred dollars~~)) $2,000 for each instance.

(5) To be eligible for diversion assistance, a family must otherwise be eligible for temporary assistance for needy families.

(6) Families ineligible for temporary assistance for needy families ((~~or benefits under RCW 74.62.030~~)) due to sanction, noncompliance, the lump sum income rule, or any other reason are not eligible for diversion assistance.

(7) Families must provide evidence showing that a bona fide need exists according to subsection (2) of this section in order to be eligible for diversion assistance.

An adult applicant may receive diversion assistance of any type no more than once per ((~~twelve-month~~)) 12-month period. If the recipient of diversion assistance is placed on the temporary assistance for needy families program within ((~~twelve~~)) 12 months of receiving diversion assistance, the prorated dollar value of the assistance shall be treated as a loan from the state, and recovered by deduction from the recipient's cash grant.

NEW SECTION. **Sec. 2.** Section 1 of this act takes effect January 1, 2025.

Passed by the House February 8, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 155

[Second Engrossed Substitute Senate Bill 5150]

BEEF COMMISSION—VARIOUS PROVISIONS

AN ACT Relating to the beef commission; amending RCW 16.67.120 and 16.67.200; and adding new sections to chapter 16.67 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 16.67.120 and 2002 c 313 s 83 are each amended to read as follows:

(1) There is hereby levied an assessment of ((~~one dollar~~)) up to $2.50 per head to be implemented as prescribed in subsection (2) of this section on all Washington cattle sold in this state or elsewhere to be paid by the seller at the time of sale: PROVIDED, That if such sale is accompanied by a brand inspection by the department such an assessment may be collected at the same time, place and in the same manner as brand inspection fees. Such fees may be collected by the livestock ((~~services division~~)) identification program of the department and transmitted to the commission: PROVIDED FURTHER, That, if such sale is made without a brand inspection by the department the assessment shall be paid by the seller and transmitted directly to the commission by the ((~~fifteenth~~)) 15th day of the month following the month the transaction occurred.

(2)(a) Beginning July 1, 2024, the assessment must be $1.50 per head. $0.50 of the $1.50 assessment levied under this subsection may not be collected at the first point of sale of any calf identified with a green tag as identified in RCW 16.57.160.

(b) Beginning January 1, 2025, the assessment must be $2.00 per head. $1.00 of the $2.00 assessment levied under this subsection may not be collected at the first point of sale of any calf identified with a green tag as identified in RCW 16.57.160.

(c) Beginning January 1, 2026, the assessment must be $2.50 per head. $1.50 of the $2.50 assessment levied under this subsection may not be collected at the first point of sale of any calf identified with a green tag as identified in RCW 16.57.160.

(3) The procedures for collecting all state and federal assessments under this chapter shall be as required by the federal order and as described by rules adopted by the commission.

(4) The commission shall hold meetings in different geographic regions of the state throughout the year, with at least two meetings held east of the crest of the Cascade mountains. Geographic regions must include the northeast, southeast, central southwest, and northwest regions of the state.

NEW SECTION. **Sec. 2.** A new section is added to chapter 16.67 RCW to read as follows:

The commission may fund, conduct, or otherwise participate in scientific research related to beef including, without limitation, to improve production, quality, transportation, processing, distribution, and environmental stewardship.

NEW SECTION. **Sec. 3.** A new section is added to chapter 16.67 RCW to read as follows:

(1) Of the assessments levied in RCW 16.67.120, a producer or owner of cattle from whom an assessment is collected, except for assessments collected at the first point of sale of green tag calves not subject to the assessment increases provided in RCW 16.67.120(2), has the right to request a refund of not more than $1.00 per head beginning July 1, 2024, not more than $1.50 per head beginning January 1, 2025, and not more than $2.00 per head beginning January 1, 2026. Refund requests must be mailed to the commission within 90 calendar days of the assessment.

(2) The commission must process the requested refunds on a calendar quarterly basis. Any refund request that is received by the commission less than 15 days from the end of the calendar quarter must be paid at the end of the next quarter.

Sec. 4. RCW 16.67.200 and 2017 c 256 s 5 are each amended to read as follows:

(1) The budget required in RCW 16.67.090(8) must set forth the complete and detailed financial program of the commission, showing the revenues and expenditures of the commission. The budget must be explanatory, describing how the funding is used to administer and implement the commission's programs and priorities, and include the reasons for salient changes from the previous fiscal period in expenditure or revenue items. The budget must explain any major changes to financial policy and contain an outline of the proposed financial policies of the commission for the ensuing fiscal period and describe performance indicators that demonstrate measurable progress toward the commission's priorities.

(2) The budget must be sufficiently detailed to provide transparency for the commission's actions on behalf of the industry.

(3) The commission must submit to the legislature, in compliance with RCW 43.01.036, a concise yet detailed report of the commission's activities and expenditures after the completion of each fiscal year. The report must include an accounting of assessments collected pursuant to RCW 16.67.120 for the previous fiscal year, including a record of the amount collected, the amount spent, and the purposes for which the funds were used.

Passed by the Senate March 4, 2024.

Passed by the House February 29, 2024.

Approved by the Governor March 18, 2024.

Filed in Office of Secretary of State March 19, 2024.

CHAPTER 156

[Senate Bill 5419]

WASHINGTON STATE INSTITUTE FOR PUBLIC POLICY—FOSTER FAMILIES OUTCOME EVALUATION

AN ACT Relating to removing the requirement that the Washington state institute of public policy conduct an outcome evaluation of case aides who provide short-term relief for certain foster families; and amending RCW 74.13.270.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.13.270 and 2019 c 470 s 29 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 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 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, 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)~~))) (c) 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)~~))).

Passed by the Senate February 2, 2024.
Passed by the House March 1, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 157

[Engrossed Senate Bill 5462]

PUBLIC SCHOOLS—INCLUSIVE LEARNING STANDARDS AND INSTRUCTIONAL MATERIALS

AN ACT Relating to promoting inclusive learning standards and instructional materials in public schools; amending RCW 28A.320.230 and 28A.655.070; adding a new section to chapter 28A.345 RCW; adding new sections to chapter 28A.300 RCW; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature recognizes that Washington state law prohibits discrimination in public schools for certain protected classes. The legislature also acknowledges that school districts are required to adopt a policy related to the selection or removal of instructional materials. Under state rule, the instructional materials policy of each school district must establish and use appropriate screening criteria to identify and eliminate bias pertaining to protected classes.

(2) The legislature intends to expand these requirements by requiring school districts to adopt policies and procedures that incorporate adopting inclusive curricula and selecting inclusive instructional materials that include the histories, contributions, and perspectives of historically marginalized and underrepresented groups. The legislature recognizes that inclusive curricula have been shown to often improve the mental health, academic performance, attendance rates, and graduation rates of historically marginalized and underrepresented communities. Research on students' sense of belonging and community in the school setting confirms that inclusive curricula and learning environments contribute to increased school motivation, participation, and achievement.

(3) The legislature intends to promote culturally and experientially representative learning opportunities for all students by directing the office of the superintendent of public instruction, when revising or developing state learning standards, to screen for inappropriate bias in the proposed state learning standards and to ensure that the histories, contributions, and perspectives of historically marginalized and underrepresented peoples and communities are included in the standards.

(4) The legislature believes that promoting inclusive learning standards, curricula, and instructional materials will improve student achievement, attendance, parent and family engagement, and other dimensions that contribute to student success.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.345 RCW to read as follows:

(1) By June 1, 2025, the Washington state school directors' association, with the assistance of the office of the superintendent of public instruction, must review and update a model policy and procedure regarding course design, selection, and adoption of instructional materials.

(2) The model policy and procedure must require that school district boards of directors, within available materials, adopt inclusive curricula and select diverse, equitable, inclusive, age-appropriate instructional materials that include the histories, contributions, and perspectives of historically marginalized and underrepresented groups including, but not limited to, people from various racial, ethnic, and religious backgrounds, people with differing learning needs, people with disabilities, LGBTQ people as the term is defined in RCW 43.114.010, and people with various socioeconomic and immigration backgrounds.

(3) The model policy and procedure must require that, in adopting curricula and selecting instructional materials in accordance with this section, school district boards of directors must seek curricula and instructional materials that are as culturally and experientially diverse as possible, recognizing that the availability of materials that include the histories, contributions, and perspectives of historically marginalized and underrepresented groups may vary.

(4) By October 1, 2025, school district boards of directors must amend the policy and procedures required under RCW 28A.320.230 to conform with the model policy and procedure required by this section. Additionally, by October 1, 2025, charter school boards and schools subject to state-tribal education compacts must adopt or amend their policies and procedures governing curricula adoption and the selection of instructional materials to conform with the model policy and procedure required by this section. For the purpose of documenting compliance with this section and assisting school districts in accordance with section 6 of this act, school district boards of directors, within 10 days of completing the policy and procedure updates required by this subsection (4), shall provide notice of the completed actions and electronic copies of the applicable policies and procedures to the office of the superintendent of public instruction.

(5) This section governs school operation and management under RCW 28A.710.040 and 28A.715.020, and applies to charter schools established under chapter 28A.710 RCW and state-tribal education compact schools subject to chapter 28A.715 RCW to the same extent as it applies to school districts.

Sec. 3. RCW 28A.320.230 and 1989 c 371 s 1 are each amended to read as follows:

Every board of directors, unless otherwise specifically provided by law, shall:

(1) ((~~Prepare~~)) In accordance with section 2 of this act, prepare, negotiate, set forth in writing and adopt, policy relative to the selection or deletion of instructional materials. Such policy shall:

(a) State the school district's goals and principles relative to instructional materials;

(b) Delegate responsibility for the preparation and recommendation of teachers' reading lists and specify the procedures to be followed in the selection of all instructional materials including text books;

(c) Establish an instructional materials committee to be appointed, with the approval of the school board, by the school district's chief administrative officer. This committee shall consist of representative members of the district's professional staff, including representation from the district's curriculum development committees, and, in the case of districts which operate elementary school(s) only, the educational service district superintendent, one of whose responsibilities shall be to assure the correlation of those elementary district adoptions with those of the high school district(s) which serve their children. The committee may include parents at the school board's discretion: PROVIDED, That parent members shall make up less than one-half of the total membership of the committee;

(d) Provide for reasonable notice to parents of the opportunity to serve on the committee and for terms of office for members of the instructional materials committee;

(e) Provide a system for receiving, considering and acting upon written complaints regarding instructional materials used by the school district;

(f) Provide free text books, supplies and other instructional materials to be loaned to the pupils of the school, when, in its judgment, the best interests of the district will be subserved thereby and prescribe rules and regulations to preserve such books, supplies and other instructional materials from unnecessary damage.

Recommendation of instructional materials shall be by the district's instructional materials committee in accordance with district policy. Approval or disapproval shall be by the local school district's board of directors.

Districts may pay the necessary travel and subsistence expenses for expert counsel from outside the district. In addition, the committee's expenses incidental to visits to observe other districts' selection procedures may be reimbursed by the school district.

Districts may, within limitations stated in board policy, use and experiment with instructional materials for a period of time before general adoption is formalized.

Within the limitations of board policy, a school district's chief administrator may purchase instructional materials to meet deviant needs or rapidly changing circumstances.

(2) Establish a depreciation scale for determining the value of texts which students wish to purchase.

Sec. 4. RCW 28A.655.070 and 2019 c 252 s 119 are each amended to read as follows:

(1) The superintendent of public instruction shall develop state learning standards that identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, develop student assessments, and implement the accountability

recommendations and requests regarding assistance, rewards, and recognition of the state board of education.

(2) The superintendent of public instruction shall:

(a) Periodically revise the state learning standards, as needed, based on the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the state learning standards; ((~~and~~))

(b) Include a screening for biased content in each development or revision of a state learning standard and ensure that the concepts of diversity, equity, and inclusion, as those terms are defined in RCW 28A.415.443, are incorporated into each new or revised state learning standard. In meeting the requirements of this subsection (2)(b), the superintendent of public instruction shall consult with the applicable commissions established in Title 43 RCW and other persons and organizations with relevant expertise; and

(c) Review and prioritize the state learning standards and identify, with clear and concise descriptions, the grade level content expectations to be assessed on the statewide student assessment and used for state or federal accountability purposes. The review, prioritization, and identification shall result in more focus and targeting with an emphasis on depth over breadth in the number of grade level content expectations assessed at each grade level. Grade level content expectations shall be articulated over the grades as a sequence of expectations and performances that are logical, build with increasing depth after foundational knowledge and skills are acquired, and reflect, where appropriate, the sequential nature of the discipline. The office of the superintendent of public instruction, within seven working days, shall post on its website any grade level content expectations provided to an assessment vendor for use in constructing the statewide student assessment.

(3)(a) In consultation with the state board of education, the superintendent of public instruction shall maintain and continue to develop and revise a statewide academic assessment system in the content areas of reading, writing, mathematics, and science for use in the elementary, middle, and high school years designed to determine if each student has mastered the state learning standards identified in subsection (1) of this section. School districts shall administer the assessments under guidelines adopted by the superintendent of public instruction. The academic assessment system may include a variety of assessment methods, including criterion-referenced and performance-based measures.

(b) Effective with the 2009 administration of the Washington assessment of student learning and continuing with the statewide student assessment, the superintendent shall redesign the assessment in the content areas of reading, mathematics, and science in all grades except high school by shortening test administration and reducing the number of short answer and extended response questions.

(c) By the 2014-15 school year, the superintendent of public instruction, in consultation with the state board of education, shall modify the statewide student assessment system to transition to assessments developed with a multistate consortium, as provided in this subsection:

(i) The assessments developed with a multistate consortium to assess student proficiency in English language arts and mathematics shall be administered beginning in the 2014-15 school year, and beginning with the graduating class of 2020, the assessments must be administered to students in the tenth grade. The reading and writing assessments shall not be administered by the superintendent of public instruction or schools after the 2013-14 school year.

(ii) The high school assessments in English language arts and mathematics in (c)(i) of this subsection shall be used for the purposes of federal and state accountability and for assessing student career and college readiness.

(d) The statewide academic assessment system must also include the Washington access to instruction and measurement assessment for students with significant cognitive challenges.

(4) If the superintendent proposes any modification to the state learning standards or the statewide assessments, then the superintendent shall, upon request, provide opportunities for the education committees of the house of representatives and the senate to review the assessments and proposed modifications to the state learning standards before the modifications are adopted.

(5) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the state learning standards at the appropriate periods in the student's educational development.

(6) By September 2007, the results for reading and mathematics shall be reported in a format that will allow parents and teachers to determine the academic gain a student has acquired in those content areas from one school year to the next.

(7) To assist parents and teachers in their efforts to provide educational support to individual students, the superintendent of public instruction shall provide as much individual student performance information as possible within the constraints of the assessment system's item bank. The superintendent shall also provide to school districts:

(a) Information on classroom-based and other assessments that may provide additional achievement information for individual students; and

(b) A collection of diagnostic tools that educators may use to evaluate the academic status of individual students. The tools shall be designed to be inexpensive, easily administered, and quickly and easily scored, with results provided in a format that may be easily shared with parents and students.

(8) To the maximum extent possible, the superintendent shall integrate knowledge and skill areas in development of the assessments.

(9) Assessments for goals three and four of RCW 28A.150.210 shall be integrated in the state learning standards and assessments for goals one and two.

(10) The superintendent shall develop assessments that are directly related to the state learning standards, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender.

(11) The superintendent shall review available and appropriate options for competency-based assessments that meet the state learning standards. In accordance with the review required by this subsection, the superintendent shall

provide a report and recommendations to the education committees of the house of representatives and the senate by November 1, 2019.

(12) The superintendent shall consider methods to address the unique needs of special education students when developing the assessments under this section.

(13) The superintendent shall consider methods to address the unique needs of highly capable students when developing the assessments under this section.

(14) The superintendent shall post on the superintendent's website lists of resources and model assessments in social studies, the arts, and health and fitness.

(15) The superintendent shall integrate financial education skills and content knowledge into the state learning standards pursuant to RCW 28A.300.460(2)(d).

(16)(a) The superintendent shall notify the state board of education in writing before initiating the development or revision of the state learning standards under subsections (1) and (2) of this section. The notification must be provided to the state board of education in advance for review at a regularly scheduled or special board meeting and must include the following information:

(i) The subject matter of the state learning standards;

(ii) The reason or reasons the superintendent is initiating the development or revision; and

(iii) The process and timeline that the superintendent intends to follow for the development or revision.

(b) The state board of education may provide a response to the superintendent's notification for consideration in the development or revision process in (a) of this subsection.

(c) Prior to adoption by the superintendent of any new or revised state learning standards, the superintendent shall submit the proposed new or revised state learning standards to the state board of education in advance in writing for review at a regularly scheduled or special board meeting. The state board of education may provide a response to the superintendent's proposal for consideration prior to final adoption.

(17) The state board of education may propose new or revised state learning standards to the superintendent. The superintendent must respond to the state board of education's proposal in writing.

(18) The superintendent shall produce and post on its website a schedule for the revision of state learning standards under subsection (2) of this section by September 1, 2025. In addition to notifying parents, schools, and the public of the revision schedules and timelines, the website posting must be updated as necessary to inform persons of the status of any pending revisions, and of any plans or actions related to developing new state learning standards under subsection (1) of this section.

NEW SECTION. **Sec. 5.** 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, in collaboration with the statewide association of educational service districts, the legislative youth advisory council established under RCW 43.15.095, and the Washington state school directors' association, must create an open collection of educational

resources for inclusive curricula. The office of the superintendent of public instruction must consult with the Washington state office of equity established in RCW 43.06D.020 and any other relevant state agencies when creating the open collection of educational resources.

(2) The open collection of educational resources must include resources that include the histories, contributions, and perspectives of historically marginalized and underrepresented groups.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction shall, as soon as is practicable, compile information received under section 2(4) of this act and, based on the received materials, prepare best practices and other informative materials to support school districts, charter schools, and state-tribal education compact schools in meeting the requirements of section 2 of this act.

(2) This section expires June 30, 2028.

Passed by the Senate March 4, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 18, 2024.
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CHAPTER 158

[Substitute Senate Bill 5667]

FORESTRY RIPARIAN EASEMENT PROGRAM—SMALL FORESTLAND OWNERS

AN ACT Relating to eligibility, enrollment, and compensation of small forestland owners volunteering for participation in the forestry riparian easement program; and amending RCW 76.13.120 and 76.13.140.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 76.13.120 and 2017 c 140 s 1 are each amended to read as follows:

(1) The legislature finds that the state should acquire easements primarily along riparian and other sensitive aquatic areas from qualifying small forestland owners willing to sell or donate easements to the state provided that the state will not be required to acquire the easements if they are subject to unacceptable liabilities. Therefore the legislature establishes a forestry riparian easement program.

(2) The definitions in this subsection apply throughout this section and RCW 76.13.100, 76.13.110, 76.13.140, and 76.13.160 unless the context clearly requires otherwise.

(a) "Forestry riparian easement" means an easement covering qualifying timber granted voluntarily to the state by a qualifying small forestland owner.

(b) "Qualifying small forestland owner" means a landowner meeting all of the following characteristics as of the date the department offers compensation for a forestry riparian easement:

(i) Is a small forestland owner as defined in (d) of this subsection; and

(ii) Is an individual, partnership, corporation, or other nongovernmental for-profit legal entity.

(c) "Qualifying timber" means those forest trees on land owned by a qualifying small forestland owner for which the small forestland owner is willing to grant the state a forestry riparian easement and meets all of the following:

(i) The forest trees are covered by a forest practices application that the small forestland owner is required to leave unharvested under the rules adopted under RCW 76.09.040, 76.09.055, and 76.09.370 or that is made uneconomic to harvest by those rules;

(ii) The forest trees are within or bordering a commercially reasonable harvest unit as determined under rules adopted by the forest practices board, or for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules;

(iii) The forest trees are located within, or affected by forest practices rules pertaining to any one, or all, of the following:

(A) Riparian or other sensitive aquatic areas;

(B) Channel migration zones; or

(C) Areas of potentially unstable slopes or landforms, verified by the department, and must meet all of the following:

(I) Are addressed in a forest practices application;

(II) Are adjacent to a commercially reasonable harvest area; and

(III) Have the potential to deliver sediment or debris to a public resource or threaten public safety.

(d) "Small forestland owner" means a landowner meeting all of the following characteristics:

(i) A forestland owner as defined in RCW 76.09.020 whose interest in the land and timber is in fee or who has rights to the timber to be included in the forestry riparian easement that extend at least ((~~fifty~~)) 40 years from the date the completed forestry riparian easement application associated with the easement is submitted;

(ii) An entity that has harvested from its own lands in this state during the three years prior to the year of application an average timber volume that would qualify the owner as a small harvester under RCW 84.33.035; and

(iii) An entity that certifies at the time of application that it does not expect to harvest from its own lands more than the volume allowed by RCW 84.33.035 during the ((~~ten~~)) 10 years following application. If a landowner's prior three-year average harvest exceeds the limit of RCW 84.33.035, or the landowner expects to exceed this limit during the ((~~ten~~)) 10 years following application, and that landowner establishes to the department's reasonable satisfaction that the harvest limits were or will be exceeded to raise funds to pay estate taxes or equally compelling and unexpected obligations such as court-ordered judgments or extraordinary medical expenses, the landowner shall be deemed to be a small forestland owner. For purposes of determining whether a person qualifies as a small forestland owner, the small forestland owner office, created in RCW 76.13.110, shall evaluate the landowner under this definition, pursuant to RCW 76.13.160, as of the date that the forest practices application is submitted and the date that the department offers compensation for the forestry riparian easement. A small forestland owner can include an individual, partnership, corporation, or other nongovernmental legal entity. If a landowner grants timber rights to another entity for less than five years, the landowner may still qualify as a small

forestland owner under this section. If a landowner is unable to obtain an approved forest practices application for timber harvest for any of his or her land because of restrictions under the forest practices rules, the landowner may still qualify as a small forestland owner under this section.

(e) "Completion of harvest" means that the trees have been commercially harvested from an area and that further entry into that area by mechanized logging or slash treating equipment is not expected.

(3) Nothing in the eligibility limit identified in subsection (2)(c)(i) through (iii) of this section precludes inclusion of land in future mitigation programs.

(4) The department is authorized and directed to accept and hold in the name of the state of Washington forestry riparian easements granted by qualifying small forestland owners covering qualifying timber and to pay compensation to the landowners in accordance with this section. The department may not transfer the easements to any entity other than another state agency.

(((~~(4)~~))) (5) Forestry riparian easements shall be effective for ((~~fifty~~)) 40 years from the date of the completed forestry riparian easement application, unless the easement is voluntarily terminated earlier by the department, based on a determination that termination is in the best interest of the state, or under the terms of a termination clause in the easement.

(((~~(5)~~))) (6) Forestry riparian easements shall be restrictive of the timber only, and shall preserve all lawful uses of the easement premises by the landowner that are consistent with the terms of the easement and the requirement to protect riparian functions during the term of the easement, subject to the restriction that the leave trees required by the rules to be left on the easement premises may not be cut during the term of the easement. No right of public access to or across, or any public use of the easement premises is created by this statute or by the easement. Forestry riparian easements shall not be deemed to trigger the compensating tax of or otherwise disqualify land from being taxed under chapter 84.33 or 84.34 RCW.

(((~~(6)~~))) (7) The small forestland owner office shall determine what constitutes a completed application for a forestry riparian easement. An application shall, at a minimum, include documentation of the owner's status as a qualifying small forestland owner, identification of location and the types of qualifying timber, and notification of completion of harvest, if applicable.

(((~~(7)~~))) (8) Upon receipt of the qualifying small forestland owner's forestry riparian easement application, and subject to the availability of amounts appropriated for this specific purpose, the following must occur:

(a) The small forestland owner office must determine the compensation to be offered to the qualifying small forestland owner for qualifying timber after the department accepts the completed forestry riparian easement application and the landowner has completed marking the boundary of the area containing the qualifying timber. The legislature recognizes that there is not readily available market transaction evidence of value for easements of the nature required by this section, and thus establishes the methodology provided in this subsection to ascertain the value for forestry riparian easements. Values so determined may not be considered competent evidence of value for any other purpose.

(b) The small forestland owner office, subject to the availability of amounts appropriated for this specific purpose, is responsible for assessing the volume of qualifying timber. However, no more than ((~~fifty~~)) 50 percent of the total

amounts appropriated for the forestry riparian easement program may be applied to determine the volume of qualifying timber for completed forestry riparian easement applications. Based on the volume established by the small forestland owner office and using data obtained or maintained by the department of revenue under RCW 84.33.074 and 84.33.091, the small forestland owner office shall attempt to determine the fair market value of the qualifying timber as of the date of the ((~~complete forestry riparian easement application is~~)) completed harvest. To the extent reasonably possible, the forestry riparian easement applications should be processed in the order received. Removal of any qualifying timber before the expiration of the easement must be in accordance with the forest practices rules and the terms of the easement. There shall be no reduction in compensation for reentry.

(((~~(8)~~))) (9)(a) ((~~Except as provided in subsection (9) of this section and subject~~)) Subject to the availability of amounts appropriated for this specific purpose, the small forestland owner office shall offer compensation for qualifying timber to the qualifying small forestland owner in the amount of ((~~fifty~~)) 90 percent of the value determined by the small forestland owner office, plus the compliance and reimbursement costs as determined in accordance with RCW 76.13.140. However, compensation for any qualifying small forestland owner for qualifying timber located on potentially unstable slopes or landforms may not exceed a total of ((~~fifty thousand dollars~~)) $150,000 during any biennial funding period.

(b) If the landowner accepts the offer for qualifying timber, the department shall pay the compensation promptly upon:

(i) Completion of harvest in the area within a commercially reasonable harvest unit with which the forestry riparian easement is associated under an approved forest practices application, unless an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules;

(ii) Verification that the landowner has no outstanding violations under chapter 76.09 RCW or any associated rules; and

(iii) Execution and delivery of the easement to the department.

(c) Upon donation or payment of compensation, the department may record the easement.

(((~~(9) For approved forest practices applications for which the regulatory impact is greater than the average percentage impact for all small forestland owners as determined by an analysis by the department under the regulatory fairness act, chapter 19.85 RCW, the compensation offered will be increased to one hundred percent for that portion of the regulatory impact that is in excess of the average. Regulatory impact includes all trees identified as qualifying timber. A separate average or high impact regulatory threshold shall be established for western and eastern Washington. Criteria for these measurements and payments shall be established by the small forestland owner office.~~)))

(10)(a) The forest practices board shall adopt rules under the administrative procedure act, chapter 34.05 RCW, to implement the forestry riparian easement program, including the following:

(((~~(a)~~))) (i) A standard version of a forestry riparian easement application as well as all additional documents necessary or advisable to create the forestry riparian easements as provided for in this section;

((~~(b)~~)) (ii) Standards for descriptions of the easement premises with a degree of precision that is reasonable in relation to the values involved;

((~~(c)~~)) (iii) Methods and standards for cruises and valuation of forestry riparian easements for purposes of establishing the compensation. The department shall perform the timber cruises of forestry riparian easements required under this chapter and chapter 76.09 RCW. Timber cruises are subject to amounts appropriated for this purpose. However, no more than ((~~fifty~~)) 50 percent of the total appropriated funding for the forestry riparian easement program may be applied to determine the volume of qualifying timber for completed forestry riparian easement applications. Any rules concerning the methods and standards for valuations of forestry riparian easements shall apply only to the department, qualifying small forestland owners, and the small forestland owner office;

((~~(d)~~)) (iv) A method to determine that a forest practices application involves a commercially reasonable harvest, and adopt criteria for entering into a forestry riparian easement where a commercially reasonable harvest is not possible or a forest practices application that has been submitted cannot be approved because of restrictions under the forest practices rules;

((~~(e)~~)) (v) A method to address blowdown of qualified timber falling outside the easement premises;

((~~(f)~~)) (vi) A formula for sharing of proceeds in relation to the acquisition of qualified timber covered by an easement through the exercise or threats of eminent domain by a federal or state agency with eminent domain authority, based on the present value of the department's and the landowner's relative interests in the qualified timber;

((~~(g) High impact regulatory thresholds;~~

~~(h)~~)) (vii) A method to determine timber that is qualifying timber because it is rendered uneconomic to harvest by the rules adopted under RCW 76.09.055 and 76.09.370;

((~~(i)~~)) (viii) A method for internal department review of small forestland owner office compensation decisions under this section; and

((~~(j)~~)) (ix) Consistent with RCW 76.13.180, a method to collect reimbursement from landowners who received compensation for a forestry riparian easement and who, within the first ((~~ten~~)) 10 years after receipt of compensation for a forestry riparian easement, sells the land on which an easement is located to a nonqualifying landowner.

(b) At least semiannually, the department shall consult with the small forestland owner advisory committee established in RCW 76.13.110(4) to review landowner complaints, administrative processes, rule recommendations, and related issues where the department is actively seeking the small forestland owner advisory committee's advice on potential improved efficiencies and effectiveness.

(11) The legislature finds that the overall societal benefits of economically viable working forests are multiple, and include the protection of clean, cold water, the provision of wildlife habitat, the sheltering of cultural resources from development, and the natural carbon storage potential of growing trees. As such, working forests and the ((~~forest [forestry]~~)) forestry riparian easement program may be part of the state's overall carbon sequestration strategy. If the state creates a climate strategy, the department must share information regarding the

carbon sequestration benefits of the ((~~forest [forestry]~~)) forestry riparian easement program with other state programs using methods and protocols established in the state climate strategy that attempt to quantify carbon storage or account for carbon emissions. The department must promote the expansion of funding for the ((~~forest [forestry]~~)) forestry riparian easement program and the ecosystem services supported by the program based on the findings stated in RCW 76.13.100. Nothing in this subsection allows a landowner to be reimbursed by the state more than once for the same forest riparian easement application.

(12) It is the intent of the legislature that the small forestland owner office complete forestry riparian easement program application transactions within two years of the application receipt consistent with the goals of RCW 70A.65.270(2)(b)(iii).

Sec. 2. RCW 76.13.140 and 2011 c 218 s 2 are each amended to read as follows:

In order to assist small forestland owners to remain economically viable, the legislature intends that the qualifying small forestland owners be able to net ((~~fifty~~)) 90 percent of the value of the trees left in the buffer areas. The small forestland owner office may utilize landowners' actual mill receipts to help determine fair market value but may not require these documents in any valuation process. The amount of compensation offered in RCW 76.13.120 shall also include the compliance costs for participation in the forestry riparian easement program, including the cost of preparing and recording the forestry riparian easement, and any business and occupation tax and real estate excise tax imposed because of entering into the forestry riparian easement. The small forestland owner office may contract with private consultants that the office finds qualified to perform timber cruises of forestry riparian easements or to lay out streamside buffers and comply with other forest practices regulatory requirements related to the forestry riparian easement program. The department shall reimburse qualifying small forestland owners for the actual costs incurred for laying out the streamside buffers and marking the qualifying timber once a contract has been executed for the forestry riparian easement program. Reimbursement is subject to the work being acceptable to the department. The small forestland owner office shall determine how the reimbursement costs will be calculated.

Passed by the Senate February 12, 2024.
Passed by the House March 1, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 159

[Engrossed Second Substitute Senate Bill 5670]

RUNNING START PROGRAM—SUMMER FOLLOWING 10TH GRADE

AN ACT Relating to summer running start for rising juniors; amending RCW 28A.600.310 and 28A.600.320; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature believes it is in the best interest of the state to create opportunities to help ease students into running start prior to their 11th grade academic year. Affirming the opportunity for running start during the summer term following the 10th grade academic year will improve access to higher education opportunities and increase the likelihood of postsecondary degree attainment.

Sec. 2. RCW 28A.600.310 and 2023 c 350 s 2 are each amended to read as follows:

(1) Every school district must allow eligible students as described in subsection (2) of this section to participate in the running start program.

(2) ((~~Student~~)) In addition to the eligibility provided for in subsection (6) of this section, student eligibility for the running start program is as follows: Eleventh and 12th 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 11th or 12th grade, including students receiving home-based instruction under chapter 28A.200 RCW and students attending private schools approved under chapter 28A.195 RCW, may apply to a participating institution of higher education to enroll in courses or programs offered by the institution of higher education.

(3) Students receiving home-based instruction under chapter 28A.200 RCW 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.

(4) Participating institutions of higher education, in consultation with school districts, may establish admission standards for eligible students. If the institution of higher education accepts a secondary school student for enrollment under this section, the institution of higher education shall send written notice to the student and the student's school district within 10 days of acceptance. The notice shall indicate the course and hours of enrollment for that student.

(5) The course sections and programs offered as running start courses must 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.

(6) Rising 11th grade students, defined as students who have completed their 10th grade year and not yet begun their 11th grade year, may enroll for up to 10 quarter credits, or the semester equivalent, during the summer academic term.

(7)(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 10 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 10 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 ((~~(6)~~)) (7) shall be prorated based on credit load.

(c) Students may pay fees under this subsection ((~~(6)~~)) (7) 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.

((~~(7)~~)) (8)(a) The institutions of higher education must make available fee waivers for low-income running start students. A student shall be considered low income and eligible for a fee waiver upon proof that the student meets federal eligibility requirements for free or reduced-price school meals. 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 websites, 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.

((~~(8)~~)) (9) The student'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.

((~~(9)~~)) (10) This section governs school operation and management under RCW 28A.710.040 and 28A.715.020 and applies to charter schools established under chapter 28A.710 RCW and state-tribal education compact schools established under chapter 28A.715 RCW to the same extent as it applies to school districts.

Sec. 3. RCW 28A.600.320 and 2009 c 524 s 4 are each amended to read as follows:

A school district shall provide general information about the program to all pupils in grades ((~~ten~~)) 10, ((~~eleven~~)) 11, and ((~~twelve~~)) 12 and the parents and guardians of those pupils, including information about the opportunity to enroll in the program through online courses available at community and technical colleges and other state institutions of higher education, enrollment opportunities during the summer academic term, and including the college high school diploma options under RCW 28B.50.535. To assist the district in planning, a pupil shall inform the district of the pupil's intent to enroll in courses at an institution of higher education for credit. Students are responsible for applying for admission to the institution of higher education.

Passed by the Senate February 2, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 160

[Substitute Senate Bill 5785]

DEPARTMENT OF FISH AND WILDLIFE—COLLABORATION WITH NONPROFIT AND VOLUNTEER ORGANIZATIONS

AN ACT Relating to department of fish and wildlife authority with regard to certain nonprofit and volunteer organizations; and adding a new section to chapter 77.12 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 77.12 RCW to read as follows:

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

(a) "Nonprofit organization" means any:

(i) Organization described in section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) and exempt from tax under section 501(a) of the internal revenue code; or

(ii) Not-for-profit organization that is organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(b)(i) "Volunteer" or "volunteer organization" means an individual or entity performing services for a nonprofit organization or a governmental entity who does not receive compensation, other than reasonable reimbursement or allowances for expenses actually incurred, or any other thing of value, in excess of $500 per year.

(ii) "Volunteer" includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

(2) The director is authorized to enter into those contracts, agreements, or other arrangements as are necessary to collaborate with volunteer organizations and nonprofit organizations to maintain, protect, and enhance department lands including, but not limited to, entering into:

(a) Agreements with nonprofit organizations and volunteer organizations for work; and

(b) Master agreements with nonprofit organizations and volunteer organizations, allowing for the issuing of work orders as needed pursuant to the terms of those master agreements.

(3) Agreements under this section are limited to a duration of five years and work valued at less than $250,000 per year.

(4) The requirements of chapter 39.04 RCW do not apply to contracts, agreements, or other arrangements between the department and nonprofit organizations, volunteers, and volunteer organizations, for the purposes set forth in this section.

(5) Whenever volunteers or volunteer organizations are authorized to perform activities or carry out projects under this section or agreements entered into pursuant to this section, the volunteers or members of the volunteer organization may not be considered employees or agents of the department and the department is not subject to any liability whatsoever arising out of volunteer activities or projects. The liability of the department to volunteers and members of the volunteer organizations is limited in the same manner as provided for in RCW 4.24.210.

(6)(a) Nothing in this section shall diminish the responsibility of the department to protect the resources and access guaranteed to federally recognized Indian tribes in certain treaties made with the United States.

(b) Nothing in this section shall alter, diminish, or expand the rights of any federally recognized Indian tribe with treaty reserved rights.

Passed by the Senate March 4, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 161

[Engrossed Substitute Senate Bill 5788]

SERVICE ANIMAL TRAINING—PLACES OF PUBLIC ACCOMMODATION

AN ACT Relating to accessibility for service animals in training; amending RCW 49.60.214 and 49.60.215; and reenacting and amending RCW 49.60.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 49.60.040 and 2020 c 85 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) "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur.

(2) "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution<u>: PROVIDED FURTHER, That this definition, as it relates to "service animal trainers" and "service animal trainees" as those terms are defined in this section, shall not include those places of public accommodation conducted for housing or lodging of transient guests</u>.

(3) "Commission" means the Washington state human rights commission.

(4) "Complainant" means the person who files a complaint in a real estate transaction.

(5) "Covered multifamily dwelling" means: (a) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and (b) ground floor dwelling units in other buildings consisting of four or more dwelling units.

(6) "Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to transactions by

banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred.

(7)(a) "Disability" means the presence of a sensory, mental, or physical impairment that:

(i) Is medically cognizable or diagnosable; or

(ii) Exists as a record or history; or

(iii) Is perceived to exist whether or not it exists in fact.

(b) A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.

(c) For purposes of this definition, "impairment" includes, but is not limited to:

(i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, ((~~genitor-urinary [genitourinary]~~)) genitourinary, hemic and lymphatic, skin, and endocrine; or

(ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(d) Only for the purposes of qualifying for reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:

(i) The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or

(ii) The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

(e) For purposes of (d) of this subsection, a limitation is not substantial if it has only a trivial effect.

(8) "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons.

(9) "Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(10) "Employee" does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person.

(11) "Employer" includes any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons, and does not include any religious or sectarian organization not organized for private profit.

(12) "Employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees for an employer.

(13) "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.

(14) "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, sexual orientation, national origin, or with any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, to be treated as not welcome, accepted, desired, or solicited.

(15) "Honorably discharged veteran or military status" means a person who is:

(a) A veteran, as defined in RCW 41.04.007; or

(b) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.

(16) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment.

(17) "Marital status" means the legal status of being married, single, separated, divorced, or widowed.

(18) "National origin" includes "ancestry."

(19) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof.

(20) "Premises" means the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building.

(21) "Race" is inclusive of traits historically associated or perceived to be associated with race including, but not limited to, hair texture and protective hairstyles. For purposes of this subsection, "protective hairstyles" includes, but is not limited to, such hairstyles as afros, braids, locks, and twists.

(22) "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property, transacting or applying for a real estate loan, or the provision of brokerage services.

(23) "Real property" includes buildings, structures, dwellings, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

(24) "Respondent" means any person accused in a complaint or amended complaint of an unfair practice in a real estate transaction.

(25) "Service animal" means any dog or miniature horse((~~, as discussed in RCW 49.60.214,~~)) that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by the service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks. This subsection does not apply to RCW 49.60.222 through 49.60.227 with respect to housing accommodations or real estate transactions.

(26) "Service animal trainee" means any dog or miniature horse that is undergoing training to become a service animal.

(27) "Service animal trainer" means an individual exercising care, custody, and control over a service animal trainee during a course of training designed to develop the service animal trainee into a service animal.

(28) "Sex" means gender.

(((~~(27)~~))) (29) "Sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "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.

Sec. 2. RCW 49.60.214 and 2018 c 176 s 4 are each amended to read as follows:

(1) It shall be a civil infraction under chapter 7.80 RCW for any person to misrepresent an animal as a service animal or service animal trainee. A violation of this section occurs when a person:

(a) Expressly or impliedly represents that an animal is a service animal ((~~as defined in RCW 49.60.040~~)) or service animal trainee for the purpose of securing the rights or privileges afforded disabled persons accompanied by service animals set forth in state or federal law; and

(b) Knew or should have known that the animal in question did not meet the definition of a service animal or service animal trainee.

(2)(a) An enforcement officer as defined under RCW 7.80.040 may investigate and enforce this section by making an inquiry of the person accompanied by the animal in question and issuing a civil infraction. Refusal to answer the questions allowable under (b) of this subsection shall create a presumption that the animal is not a service animal or service animal trainee and the enforcement officer may issue a civil infraction and require the person to remove the animal from the place of public accommodation.

(b) An enforcement officer or place of public accommodation shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal or service animal trainee. An enforcement officer or place of public accommodation may ask if the animal is required because of a disability and what work or task the animal has been trained or is in training to perform. An enforcement officer or place of public accommodation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, or require that the service animal demonstrate its task. Generally, an enforcement officer or place of public accommodation may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for a person with a disability, such as a dog is observed guiding a person who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to a person with an observable mobility disability.

~~(((3) A place of public accommodation shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability in accordance with RCW 49.60.040(24) if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a facility, a place of public accommodation shall act in accordance with all applicable laws and regulations.~~))

Sec. 3. RCW 49.60.215 and 2020 c 52 s 13 are each amended to read as follows:

(1) It shall be an unfair practice for any person or the person's agent or employee to ((~~commit~~)):

(a) Commit an act which directly or indirectly results in any distinction, restriction, or discrimination((~~, or the requiring of~~));

(b) Require any person to pay a larger sum than the uniform rates charged other persons((~~, or the refusing or withholding~~));

(c) Refuse or withhold from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement((~~, except for~~)).

(2) Notwithstanding subsection (1) of this section, a person or the person's agent or employee may enforce conditions and limitations established by law and applicable to all persons, regardless of race, creed, color, national origin, citizenship or immigration status, sexual orientation, sex, honorably discharged veteran or military status, status as a mother breastfeeding her child, the presence of any sensory, mental, or physical disability, or the use of a trained dog

guide or service animal by a person with a disability: PROVIDED, That this section shall not be construed to require structural changes, modifications, or additions to make any place accessible to a person with a disability except as otherwise required by law: PROVIDED, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice.

(3) A place of public accommodation must make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability in accordance with RCW 49.60.040(25) if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a facility, a place of public accommodation must act in accordance with all applicable laws and regulations.

(4) If a place of public accommodation customarily charges a person for damages that the person causes to the place, the place may charge a service animal trainer for damages that a service animal trainee causes to the place.

(5) A service animal trainer must maintain control of a service animal trainee. Except as provided in this subsection, control must be exerted by means of a harness, leash, or other tether. If the use of a harness, leash, or other tether would interfere with the ability of the animal to do the work or perform the tasks for which the animal is being trained, control may be exerted by the effective use of voice commands, signals, or other means. If an animal is not under control as required in this subsection, a place of public accommodation may consider the animal to be out of control for purposes of subsection (6) of this section.

(6)(a) Except as provided in this subsection, a place of public accommodation may not deny a service animal trainer the right to be accompanied by a service animal trainee in any area of the place that is open to the public or to business invitees. A place of public accommodation may require a service animal trainer to remove a service animal trainee if:

(i) The animal is not trained to urinate and defecate outside of the facility or only in an appropriate place; or

(ii) The animal is out of control and effective action is not taken to control the animal.

(b) A place of public accommodation may impose legitimate requirements necessary for the safe operation of the place of public accommodation. The place of public accommodation must ensure that the safety requirements are based on actual risks, not on speculation, stereotypes, or generalizations about persons with disabilities.

(c) A place of public accommodation may post signage indicating the misrepresentation of an animal as a service animal or service animal trainee may result in a civil infraction of up to $500 pursuant to chapter 7.80 RCW.

(7) A place of public accommodation must make reasonable modifications as necessary to allow an opportunity for a person with a disability who is benefited by the use of a dog guide or service animal to obtain goods, services, and the use of the advantages, facilities, and privileges of the place. For purposes of this subsection, except as provided in subsection (6) of this section, in addition to any other applicable accommodation requirement, allowing the presence of the service animal is a reasonable modification.

(8) A place of public accommodation is not required to provide care or supervision for a service animal or service animal trainee.

(9) The protection granted under this section to a person with a disability or service animal trainer does not invalidate or limit the remedies, rights, and procedures of any other federal, state, or local laws that provide equal or greater protection of the rights of a person with a disability, service animal trainer, or individuals associated with a person with a disability.

Passed by the Senate January 24, 2024.
Passed by the House March 1, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 162

[Senate Bill 5800]

DEPARTMENT OF LICENSING DOCUMENTS—VARIOUS PROVISIONS

AN ACT Relating to improving access to department of licensing issued documents by clarifying the application requirements for a minor, modifying the requirements for at-cost identicards, and studying the feasibility of reduced-fee identicards; amending RCW 46.20.075, 46.20.100, and 46.20.117; creating a new section; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.20.075 and 2023 c 445 s 2 are each amended to read as follows:

(1) An intermediate license authorizes the holder to drive a motor vehicle under the conditions specified in this section. An applicant for an intermediate license must be at least 16 years of age and:

(a) Have possessed a valid instruction permit for a period of not less than six months;

(b) Have passed a driver licensing examination administered by the department;

(c) Have passed a course of driver's education in accordance with the standards established in RCW 46.20.100;

(d) Present certification by his or her parent, guardian, ((~~or~~)) employer, or responsible adult to the department stating (i) that the applicant has had at least 50 hours of driving experience, 10 of which were at night, during which the driver was supervised by a person at least 21 years of age who has had a valid driver's license for at least three years, and (ii) that the applicant has not been issued a notice of traffic infraction or cited for a traffic violation that is pending at the time of the application for the intermediate license;

(e) Not have been convicted of or found to have committed a traffic violation within the last six months before the application for the intermediate license; and

(f) Not have been adjudicated for an offense involving the use of alcohol or drugs during the period the applicant held an instruction permit.

(2) For the first six months after the issuance of an intermediate license or until the holder reaches 18 years of age, whichever occurs first, the holder of the license may not operate a motor vehicle that is carrying any passengers under the age of 20 who are not members of the holder's immediate family. For the

remaining period of the intermediate license, the holder may not operate a motor vehicle that is carrying more than three passengers who are under the age of 20 who are not members of the holder's immediate family.

(3) The holder of an intermediate license may not operate a motor vehicle between the hours of 1 a.m. and 5 a.m. except (a) when the holder is accompanied by a licensed driver who is at least 25 years of age, or (b) for school, religious, or employment activities for the holder or a member of the holder's immediate family as defined in this section.

(4) The holder of an intermediate license may not operate a moving motor vehicle while using a wireless communications device unless the holder is using the device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property.

(5) It is a traffic infraction for the holder of an intermediate license to operate a motor vehicle in violation of the restrictions imposed under this section.

(6) Except for a violation of subsection (4) of this section, enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of this title or an equivalent local ordinance or some other offense.

(7) An intermediate licensee may drive at any hour without restrictions on the number of passengers in the vehicle if necessary for agricultural purposes.

(8) An intermediate licensee may drive at any hour without restrictions on the number of passengers in the vehicle if, for the 12-month period following the issuance of the intermediate license, he or she:

(a) Has not been involved in an accident involving only one motor vehicle;

(b) Has not been involved in an accident where he or she was cited in connection with the accident or was found to have caused the accident;

(c) Has not been involved in an accident where no one was cited or was found to have caused the accident; and

(d) Has not been convicted of or found to have committed a traffic offense described in chapter 46.61 RCW or violated restrictions placed on an intermediate licensee under this section.

(9) For the purposes of this section, ((~~"immediate~~)) the following definitions apply:

(a) "Immediate family" means an individual's spouse or domestic partner, child, stepchild, grandchild, parent, stepparent, grandparent, brother, half-brother, sister, or half-sister of the individual, including foster children living in the household, and the spouse or the domestic partner of any such person, and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half-brother, sister, or half-sister of the individual's spouse or domestic partner, and the spouse or the domestic partner of any such person.

(b) "Responsible adult" means a person specifically authorized by the department who is over the age of 21 and:

(i) Has a familial, kinship, or caretaker relationship to a minor;

(ii) Is an educational, medical, legal, social service, or Washington state licensed mental health professional who provides support directly to a minor in a professional capacity; or

(iii) Is an employee of a government entity and provides support to a minor in a professional capacity.

Sec. 2. RCW 46.20.100 and 2017 c 197 s 7 are each amended to read as follows:

(1) **Application**. The application of a person under the age of ((~~eighteen~~)) 18 years for a driver's license or a motorcycle endorsement must be signed by a parent ((~~or~~)), guardian ((~~with custody of the minor. If the person under the age of eighteen has no father, mother, or guardian, then the application must be signed by the minor's~~)), employer, or responsible adult as defined in RCW 46.20.075.

(2) **Traffic safety education requirement**. For a person under the age of ((~~eighteen~~)) 18 years to obtain a driver's license, he or she must meet the traffic safety education requirements of this subsection.

(a) To meet the traffic safety education requirement for a driver's license, the applicant must satisfactorily complete a driver training education course as defined in RCW 28A.220.020 for a course offered by a school district or approved private school, or as defined by the department of licensing for a course offered by a driver training school licensed under chapter 46.82 RCW. The course offered by a school district or an approved private school must be part of a traffic safety education program authorized by the office of the superintendent of public instruction and certified under chapter 28A.220 RCW. The course offered by a driver training school must meet the standards established by the department of licensing under chapter 46.82 RCW. The driver training education course may be provided by:

(i) A secondary school within a school district or approved private school that establishes and maintains an approved and certified traffic safety education program under chapter 28A.220 RCW; or

(ii) A driver training school licensed under chapter 46.82 RCW that is annually approved by the department of licensing.

(b) To meet the traffic safety education requirement for a motorcycle endorsement, the applicant must successfully complete a motorcycle safety education course that meets the standards established by the department of licensing.

(c) The department may waive the driver training education course requirement for a driver's license if the applicant demonstrates to the department's satisfaction that:

(i) He or she was unable to take or complete a driver training education course;

(ii) A need exists for the applicant to operate a motor vehicle; and

(iii) He or she has the ability to operate a motor vehicle in such a manner as not to jeopardize the safety of persons or property.

The department may adopt rules to implement this subsection (2)(c) in concert with the supervisor of the traffic safety education section of the office of the superintendent of public instruction.

(d) The department may waive the driver training education course requirement if the applicant was licensed to drive a motor vehicle or motorcycle outside this state and provides proof that he or she has had education equivalent to that required under this subsection.

Sec. 3. RCW 46.20.117 and 2021 c 158 s 5 are each amended to read as follows:

(1) **Issuance**. The department shall issue an identicard, containing a picture, if the applicant:

(a) Does not hold a valid Washington driver's license;

(b) Proves the applicant's identity as required by RCW 46.20.035; and

(c) Pays the required fee. Except as provided in subsection (7) of this section, the fee is ((~~seventy-two dollars~~)) $72, unless an applicant is:

(i) A recipient of continuing public assistance grants under Title 74 RCW, ((~~who is referred in writing by the secretary of social and health services or by the secretary of children, youth, and families~~)) or a participant in the Washington women, infants, and children program. Any applicant under this subsection must be verified by documentation sufficient to demonstrate eligibility;

(ii) Under the age of ((~~twenty-five~~)) 25 and does not have a permanent residence address as determined by the department by rule; or

(iii) An individual who is scheduled to be released from an institution as defined in RCW 13.40.020, a community facility as defined in RCW 72.05.020, or other juvenile rehabilitation facility operated by the department of social and health services or the department of children, youth, and families; or an individual who has been released from such an institution or facility within ((~~thirty~~)) 30 calendar days before the date of the application.

For those persons under (c)(i) through (iii) of this subsection, the fee must be the actual cost of production of the identicard.

(2)(a) **Design and term**. The identicard must:

(i) Be distinctly designed so that it will not be confused with the official driver's license; and

(ii) Except as provided in subsection (7) of this section, expire on the eighth anniversary of the applicant's birthdate after issuance.

(b) The identicard may include the person's status as a veteran, consistent with RCW 46.20.161(4).

(c) If applicable, the identicard may include a medical alert designation as provided in subsection (5) of this section.

(3) **Renewal**. An application for identicard renewal may be submitted by means of:

(a) Personal appearance before the department;

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew the identicard by mail or by electronic commerce when it last expired; or

(c) From January 1, 2022, to June 30, 2024, electronic commerce, if permitted by rule of the department.

An identicard may not be renewed by mail or by electronic commerce unless the renewal issued by the department includes a photograph of the identicard holder.

(4) **Cancellation**. The department may cancel an identicard if the holder of the identicard used the card or allowed others to use the card in violation of RCW 46.20.0921.

(5) Any person may apply to the department to obtain a medical alert designation, a developmental disability designation, or a deafness designation on an identicard issued under this chapter by providing:

(a) Self-attestation that the individual:

(i) Has a medical condition that could affect communication or account for a health emergency;

(ii) Is deaf or hard of hearing; or

(iii) Has a developmental disability as defined in RCW 71A.10.020;

(b) A statement from the person that they have voluntarily provided the self-attestation and other information verifying the condition; and

(c) For persons under ((~~eighteen~~)) 18 years of age or who have a developmental disability, the signature of a parent or legal guardian.

(6) A self-attestation or data contained in a self-attestation provided under this section:

(a) Shall not be disclosed; and

(b) Is for the confidential use of the director, the chief of the Washington state patrol, and law enforcement and emergency medical service providers as designated by law.

(7) **Alternative issuance/renewal/extension**. The department may issue or renew an identicard for a period other than eight years, or may extend by mail or electronic commerce an identicard that has already been issued. The fee for an identicard issued or renewed for a period other than eight years, or that has been extended by mail or electronic commerce, is ((~~nine dollars~~)) $9 for each year that the identicard is issued, renewed, or extended. The department must offer the option to issue or renew an identicard for six years in addition to the eight year issuance. The department may adopt any rules as are necessary to carry out this subsection.

(8) Identicard photos must be updated in the same manner as driver's license photos under RCW 46.20.120(5).

NEW SECTION. **Sec. 4.** (1) The department of licensing must conduct a study on the feasibility of offering a reduced-fee identicard. In completing this study, the department shall:

(a) Examine the current cost of identicards and its impact on families and customers with limited resources;

(b) Conduct a review of additional states and how they handle pricing of their identity credentials;

(c) Review parameters of eligibility for identicards issued under RCW 46.20.117(1)(c);

(d) Recommend improvements to accessing identicards for the public;

(e) Identify any changes in revenue associated with expanded eligibility for reduced-fee identicards; and

(f) Identify any costs associated with administering and promoting a reduced-fee identicard program.

(2) A report of the study findings and any recommendations are due to the governor and the transportation committees of the legislature by December 1, 2025.

(3) This section expires December 1, 2025.

NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act take effect January 1, 2025.

Passed by the Senate March 4, 2024.
Passed by the House February 28, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 163

[Engrossed Second Substitute Senate Bill 5838]
ARTIFICIAL INTELLIGENCE TASK FORCE

AN ACT Relating to establishing an artificial intelligence task force; creating new sections; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that artificial intelligence is a fast-evolving technology that holds extraordinary potential and has a myriad of uses for both the public and private sectors. Advances in artificial intelligence technology have led to programs that are capable of creating text, audio, and media that are difficult to distinguish from media created by a human. This technology has the potential to provide great benefits to people if used well and to cause great harm if used irresponsibly.

The legislature further finds that generative artificial intelligence has become widely available to consumers and has great potential to become a versatile tool for a wide audience. It can streamline tasks, save time and money for users, and facilitate further innovation. Artificial intelligence has the potential to help solve urgent challenges, while making our world more prosperous, productive, innovative, and secure when used responsibly.

Washington state is in a unique position to become a center for artificial intelligence and machine learning. When used irresponsibly, artificial intelligence has the potential to further perpetuate bias and harm to historically excluded groups. It is vital that the fundamental rights to privacy and freedom from discrimination are properly safeguarded as society explores this emerging technology.

The federal government has not yet enacted binding regulations, however in July 2023, the federal government announced voluntary commitments by seven leading artificial intelligence companies, including three companies headquartered in Washington, to move toward safe, secure, and transparent development of artificial intelligence technology. The October 2023 executive order on the safe, secure, and trustworthy development and use of artificial intelligence builds on this work by directing developers of artificial intelligence systems to share their safety test results for certain highly capable models with the United States government.

Numerous businesses and agencies have developed principles for artificial intelligence. In Washington, Washington technology solutions (WaTech) developed guiding principles for artificial intelligence use by state agencies. These principles share common themes: Accountability, transparency, human control, privacy and security, advancing equity, and promoting innovation and economic development.

The legislature finds that the possible impacts of advancements in generative artificial intelligence for Washingtonians requires careful

consideration in order to mitigate risks and potential harms, while promoting transparency, accountability, equity, and innovation that drives technological breakthroughs. On January 30, 2024, governor Inslee issued Executive Order 24-01 directing WaTech to identify generative artificial intelligence initiatives that could be implemented in state operations and issue guidelines for public sector procurement and usage.

NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts appropriated for this specific purpose, a task force to assess current uses and trends and make recommendations to the legislature regarding guidelines and potential legislation for the use of artificial intelligence systems is established.

(2) The task force is composed of an executive committee consisting of members as provided in this subsection.

(a) The president of the senate shall appoint one member from each of the two largest caucuses of the senate.

(b) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(c) The attorney general shall appoint the following members, selecting only individuals with experience in technology policy:

(i) One member from the office of the governor;

(ii) One member from the office of the attorney general;

(iii) One member from Washington technology solutions;

(iv) One member from the Washington state auditor;

(v) One member representing universities or research institutions that are experts in the design and effect of an algorithmic system;

(vi) One member representing private technology industry groups;

(vii) One member representing business associations;

(viii) Three members representing community advocate organizations that represent communities that are disproportionately vulnerable to being harmed by algorithmic bias;

(ix) One member representing the LGBTQ+ community;

(x) One member representing the retail industry;

(xi) One member representing the hospitality industry;

(xii) One member representing statewide labor organizations; and

(xiii) One member representing public safety.

(d) The task force may meet in person or by telephone conference call, videoconference, or other similar telecommunications method, or a combination of such methods.

(e) The executive committee may convene subcommittees to advise the task force on the recommendations and findings set out in subsection (4) of this section.

(i) The executive committee shall define the scope of activity and subject matter focus required of the subcommittees including, but not limited to: Education and workforce development; public safety and ethics; health care and accessibility; labor; government and public sector efficiency; state security and cybersecurity; consumer protection and privacy; and industry and innovation.

(ii) Subcommittees and their members may be invited to participate on an ongoing, recurring, or one-time basis.

(iii) The executive committee in collaboration with the attorney general shall appoint members to the subcommittees that must be comprised of industry

participants, subject matter experts, representatives of federally recognized tribes, or other relevant stakeholders.

(iv) Each subcommittee must contain at least one member possessing relevant industry expertise and at least one member from an advocacy organization that represents communities that are disproportionately vulnerable to being harmed by algorithmic bias including, but not limited to: African American; Hispanic American; Native American; Asian American; Native Hawaiian and Pacific Islander communities; religious minorities; individuals with disabilities; and other vulnerable communities.

(v) Meeting summaries and reports delivered by the subcommittees to the executive committee must be made available on the attorney general's website within 30 days of delivery.

(3) The office of the attorney general must administer and provide staff support for the task force. The office of the attorney general may, when deemed necessary by the task force, retain consultants to provide data analysis, research, recommendations, training, and other services to the task force for the purposes provided in subsection (4) of this section. The office of the attorney general may work with the task force to determine appropriate subcommittees as needed.

(4) The executive committee and subcommittees of the task force shall examine the development and use of artificial intelligence by private and public sector entities and make recommendations to the legislature regarding guidelines and potential legislation for the use and regulation of artificial intelligence systems to protect Washingtonians' safety, privacy, and civil and intellectual property rights. The task force findings and recommendations must include:

(a) A literature review of public policy issues with artificial intelligence, including benefits and risks to the public broadly, historically excluded communities, and other identifiable groups, racial equity considerations, workforce impacts, and ethical concerns;

(b) A review of existing protections under state and federal law for individual data and privacy rights, safety, civil rights, and intellectual property rights, and how federal, state, and local laws relating to artificial intelligence align, differ, conflict, and interact across levels of government;

(c) A recommended set of guiding principles for artificial intelligence use informed by standards established by relevant bodies, including recommending a definition for ethical artificial intelligence and guiding principles;

(d) Identification of high-risk uses of artificial intelligence, including those that may negatively affect safety or fundamental rights;

(e) Opportunities to support and promote the innovation of artificial intelligence technologies through grants and incentives;

(f) Recommendations on appropriate uses of and limitations on the use of artificial intelligence by state and local governments and the private sector;

(g) Recommendations relating to the appropriate and legal use of training data;

(h) Algorithmic discrimination issues which may occur when artificial intelligence systems are used and contribute to unjustified differential treatment or impacts disfavoring people on the basis of race, color, national origin, citizen or immigration status, families with children, creed, religious belief or affiliation, sex, marital status, the presence of any sensory, mental, or physical disability, age, honorably discharged veteran or military status, sexual

orientation, gender expression or gender identity, or any other protected class under RCW 49.60.010 and recommendations to mitigate and protect against algorithmic discrimination;

(i) Recommendations on minimizing unlawful discriminatory or biased outputs or applications;

(j) Recommendations on prioritizing transparency so that the behavior and functional components artificial intelligence can be understood in order to enable the identification of performance issues, safety and privacy concerns, biases, exclusionary practices, and unintended outcomes;

(k) Racial equity issues posed by artificial intelligence systems and ways to mitigate the concerns to build equity into the systems;

(l) Civil liberties issues posed by artificial intelligence systems and civil rights and civil liberties protections to be incorporated into artificial intelligence systems;

(m) Recommendations as to how the state should educate the public on the development and use of artificial intelligence, including information about data privacy and security, data collection and retention practices, use of individual data in machine learning, and intellectual property considerations regarding generative artificial intelligence;

(n) A review of protections of personhood, including replicas of voice or likeness, in typical contract structures, and a review of artificial intelligence tools used to support employment decisions;

(o) Proposed state guidelines for the use of artificial intelligence to inform the development, deployment, and use of artificial intelligence systems to:

(i) Retain appropriate human agency and oversight;

(ii) Be subject to internal and external security testing of systems before public release for high-risk artificial intelligence systems;

(iii) Protect data privacy and security;

(iv) Promote appropriate transparency for consumers when they interact with artificial intelligence systems or products created by artificial intelligence; and

(v) Ensure accountability, considering oversight, impact assessment, auditability, and due diligence mechanisms;

(p) A review of existing civil and criminal remedies for addressing potential harms resulting from the use of artificial intelligence systems and recommendations, if needed, for new means of enforcement and remedies; and

(q) Recommendations for establishing an ongoing committee that must study emerging technologies not limited to artificial technology.

(5) The executive committee of the task force must hold its first meeting within 45 days of final appointments to the task force and must meet at least twice each year thereafter. The task force must submit reports to the governor and the appropriate committees of the legislature detailing its findings and recommendations. A preliminary report must be delivered by December 31, 2024, an interim report by December 1, 2025, and a final report by July 1, 2026. Meeting summaries must be posted to the website of the attorney general's office within 30 days of any meeting by the task force.

(6) Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are

participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(7) To ensure that the task force has diverse and inclusive representation of those affected by its work, task force members, including subcommittee members, whose participation in the task force may be hampered by financial hardship and may be compensated as provided in RCW 43.03.220.

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

(a) "Artificial intelligence" means the use of machine learning and related technologies that use data to train statistical models for the purpose of enabling computer systems to perform tasks normally associated with human intelligence or perception, such as computer vision, speech or natural language processing, and content generation.

(b) "Generative artificial intelligence" means an artificial intelligence system that generates novel data or content based on a foundation model.

(c) "Machine learning" means the process by which artificial intelligence is developed using data and algorithms to draw inferences therefrom to automatically adapt or improve its accuracy without explicit programming.

(d) "Training data" means labeled data that is used to teach artificial intelligence models or machine learning algorithms to make proper decisions. Training data may include, but is not limited to, annotated text, images, video, or audio.

(9) This section expires June 30, 2027.

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.

Passed by the Senate March 4, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 164

[Substitute Senate Bill 5857]

CAMPAIGN DISCLOSURE AND CONTRIBUTION—STATUTORY REORGANIZATION

AN ACT Relating to reorganizing statutes on campaign disclosure and contribution; amending RCW 42.17A.001, 42.17A.010, 42.17A.020, 42.17A.055, 42.17A.060, 42.17A.065, 42.17A.100, 42.17A.105, 42.17A.110, 42.17A.120, 42.17A.125, 42.17A.135, 42.17A.140, 42.17A.145, 42.17A.150, 42.17A.160, 42.17A.200, 42.17A.205, 42.17A.207, 42.17A.210, 42.17A.215, 42.17A.220, 42.17A.225, 42.17A.230, 42.17A.235, 42.17A.240, 42.17A.250, 42.17A.255, 42.17A.260, 42.17A.265, 42.17A.270, 42.17A.300, 42.17A.305, 42.17A.310, 42.17A.315, 42.17A.320, 42.17A.330, 42.17A.335, 42.17A.340, 42.17A.345, 42.17A.350, 42.17A.400, 42.17A.405, 42.17A.410, 42.17A.415, 42.17A.417, 42.17A.418, 42.17A.420, 42.17A.425, 42.17A.430, 42.17A.435, 42.17A.440, 42.17A.442, 42.17A.445, 42.17A.450, 42.17A.455, 42.17A.460, 42.17A.465, 42.17A.470, 42.17A.475, 42.17A.480, 42.17A.485, 42.17A.490, 42.17A.495, 42.17A.500, 42.17A.550, 42.17A.555, 42.17A.565, 42.17A.570, 42.17A.575, 42.17A.603, 42.17A.610, 42.17A.615, 42.17A.620, 42.17A.625, 42.17A.630, 42.17A.635, 42.17A.640, 42.17A.645, 42.17A.650, 42.17A.655, 42.17A.700, 42.17A.705, 42.17A.710, 42.17A.715, 42.17A.750, 42.17A.755, 42.17A.760, 42.17A.765, 42.17A.770, 42.17A.775, 42.17A.780, 42.17A.785, 42.62.040, 15.89.070, 19.09.020, 28A.600.027, 28B.15.610, 28B.133.030,

29A.32.031, 29A.84.250, 35.02.130, 35.21.759, 36.70A.200, 42.36.040, 42.52.150, 42.52.180, 42.52.185, 42.52.380, 42.52.560, 42.52.806, 43.03.305, 43.17.320, 43.52A.030, 43.59.156, 43.60A.175, 43.166.030, 43.167.020, 43.384.060, 44.05.020, 44.05.080, 53.57.060, 68.52.220, 70A.02.120, 79A.25.830, and 82.04.759; reenacting and amending RCW 42.17A.130, 42.17A.560, 42.17A.600, 42.17A.605, 15.65.280, 15.66.140, 15.115.140, and 42.52.010; adding a new title to the Revised Code of Washington to be codified as Title 29B RCW; creating new sections; recodifying RCW 42.17A.001, 42.17A.010, 42.17A.020, 42.17A.055, 42.17A.060, 42.17A.065, 42.17A.100, 42.17A.105, 42.17A.110, 42.17A.120, 42.17A.125, 42.17A.130, 42.17A.135, 42.17A.140, 42.17A.145, 42.17A.150, 42.17A.160, 42.17A.200, 42.17A.205, 42.17A.207, 42.17A.210, 42.17A.215, 42.17A.220, 42.17A.225, 42.17A.230, 42.17A.235, 42.17A.240, 42.17A.250, 42.17A.255, 42.17A.260, 42.17A.265, 42.17A.270, 42.17A.300, 42.17A.305, 42.17A.310, 42.17A.315, 42.17A.320, 42.17A.330, 42.17A.335, 42.17A.340, 42.17A.345, 42.17A.350, 42.17A.400, 42.17A.405, 42.17A.410, 42.17A.415, 42.17A.417, 42.17A.418, 42.17A.420, 42.17A.425, 42.17A.430, 42.17A.435, 42.17A.440, 42.17A.442, 42.17A.445, 42.17A.450, 42.17A.455, 42.17A.460, 42.17A.465, 42.17A.470, 42.17A.475, 42.17A.480, 42.17A.485, 42.17A.490, 42.17A.495, 42.17A.500, 42.17A.550, 42.17A.555, 42.17A.560, 42.17A.565, 42.17A.570, 42.17A.575, 42.17A.600, 42.17A.603, 42.17A.605, 42.17A.610, 42.17A.615, 42.17A.620, 42.17A.625, 42.17A.630, 42.17A.635, 42.17A.640, 42.17A.645, 42.17A.650, 42.17A.655, 42.17A.700, 42.17A.705, 42.17A.710, 42.17A.715, 42.17A.750, 42.17A.755, 42.17A.760, 42.17A.765, 42.17A.770, 42.17A.775, 42.17A.780, 42.17A.785, 42.62.020, 42.62.030, and 42.62.040; repealing RCW 42.17A.005 and 42.62.010; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

PART I
NEW TITLE CREATED

NEW SECTION. **Sec. 101.** This act is intended to make technical amendments to certain codified statutes that involve campaign disclosure and contribution. Any statutory changes made by this act should be interpreted as technical in nature and not interpreted to have any substantive, policy implications.

NEW SECTION. **Sec. 102.** A rule adopted under authority provided in chapter 42.17A RCW remains valid and is not affected by the recodification in this act.

NEW SECTION. **Sec. 103.** A new title is added to the Revised Code of Washington to be codified as Title 29B RCW.

PART II
DEFINITIONS SPLIT

NEW SECTION. **Sec. 201.** Words and phrases as defined in this chapter, wherever used in this title, shall have the meaning as in this chapter ascribed to them, unless where used the context thereof shall clearly indicate to the contrary or unless otherwise defined in the chapter of which they are a part.

NEW SECTION. **Sec. 202.** "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

NEW SECTION. **Sec. 203.** "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency. "Agency" does not include a comprehensive cancer center participating in a collaborative

arrangement as defined in RCW 28B.10.930 that is operated in conformance with RCW 28B.10.930.

NEW SECTION. **Sec. 204.** "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

NEW SECTION. **Sec. 205.** "Ballot proposition" means any "measure" as defined by RCW 29A.04.091, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency before its circulation for signatures.

NEW SECTION. **Sec. 206.** "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

NEW SECTION. **Sec. 207.** "Bona fide political party" means:

(1) An organization that has been recognized as a minor political party by the secretary of state;

(2) The governing body of the state organization of a major political party, as defined in RCW 29A.04.086, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(3) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

NEW SECTION. **Sec. 208.** "Books of account" means:

(1) In the case of a campaign or political committee, a ledger or similar listing of contributions, expenditures, and debts, such as a campaign or committee is required to file regularly with the commission, current as of the most recent business day; or

(2) In the case of a commercial advertiser, details of political advertising or electioneering communications provided by the advertiser, including the names and addresses of persons from whom it accepted political advertising or electioneering communications, the exact nature and extent of the services rendered, and the total cost and the manner of payment for the services.

NEW SECTION. **Sec. 209.** "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when the individual first:

(1) Receives contributions or makes expenditures or reserves space or facilities with intent to promote the individual's candidacy for office;

(2) Announces publicly or files for office;

(3) Purchases commercial advertising space or broadcast time to promote the individual's candidacy; or

(4) Gives consent to another person to take on behalf of the individual any of the actions in subsection (1) or (3) of this section.

NEW SECTION. **Sec. 210.** "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

NEW SECTION. **Sec. 211.** "Commercial advertiser" means any person that sells the service of communicating messages or producing material for broadcast or distribution to the general public or segments of the general public whether through brochures, fliers, newspapers, magazines, television, radio, billboards, direct mail advertising, printing, paid internet or digital communications, or any other means of mass communication used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

NEW SECTION. **Sec. 212.** "Commission" means the agency established under RCW 42.17A.100 (as recodified by this act).

NEW SECTION. **Sec. 213.** "Committee" unless the context indicates otherwise, includes a political committee such as a candidate, ballot proposition, recall, political, or continuing political committee.

NEW SECTION. **Sec. 214.** "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind. For the purpose of compliance with RCW 42.17A.710 (as recodified by this act), "compensation" does not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

NEW SECTION. **Sec. 215.** "Continuing political committee" means a political committee that is an organization of continuing existence not limited to participation in any particular election campaign or election cycle.

NEW SECTION. **Sec. 216.** (1) "Contribution" includes:

(a) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds, or anything of value, including personal and professional services for less than full consideration;

(b) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political or incidental committee, the person or persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents;

(c) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, digital, or other form of political advertising or electioneering communication prepared by a candidate, a political or incidental committee, or its authorized agent;

(d) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(2) "Contribution" does not include:

(a) Accrued interest on money deposited in a political or incidental committee's account;

(b) Ordinary home hospitality;

(c) A contribution received by a candidate or political or incidental committee that is returned to the contributor within 10 business days of the date on which it is received by the candidate or political or incidental committee;

(d) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of interest to the public, that is in a news medium controlled

by a person whose business is that news medium, and that is not controlled by a candidate or a political or incidental committee;

(e) An internal political communication primarily limited to the members of or contributors to a political party organization or political or incidental committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(f) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of $50 personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person;

(g) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts toward any applicable contribution limit of the person providing the facility;

(h) Legal or accounting services rendered to or on behalf of:

(i) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(ii) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws; or

(i) The performance of ministerial functions by a person on behalf of two or more candidates or political or incidental committees either as volunteer services defined in (f) of this subsection or for payment by the candidate or political or incidental committee for whom the services are performed as long as:

(i) The person performs solely ministerial functions;

(ii) A person who is paid by two or more candidates or political or incidental committees is identified by the candidates and political committees on whose behalf services are performed as part of their respective statements of organization under RCW 42.17A.205 (as recodified by this act); and

(iii) The person does not disclose, except as required by law, any information regarding a candidate's or committee's plans, projects, activities, or needs, or regarding a candidate's or committee's contributions or expenditures that is not already publicly available from campaign reports filed with the commission, or otherwise engage in activity that constitutes a contribution under subsection (1)(b) of this section.

A person who performs ministerial functions under this subsection (2)(i) is not considered an agent of the candidate or committee as long as the person has no authority to authorize expenditures or make decisions on behalf of the candidate or committee.

(3) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

NEW SECTION. **Sec. 217.** "Depository" means a bank, mutual savings bank, savings and loan association, or credit union doing business in this state.

NEW SECTION. **Sec. 218.** "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

NEW SECTION. **Sec. 219.** "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters. An election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this title.

NEW SECTION. **Sec. 220.** "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

NEW SECTION. **Sec. 221.** "Election cycle" means the period beginning on the first day of January after the date of the last previous general election for the office that the candidate seeks and ending on December 31st after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on December 31st after the special election.

NEW SECTION. **Sec. 222.** (1) "Electioneering communication" means any broadcast, cable, or satellite television, radio transmission, digital communication, United States postal service mailing, billboard, newspaper, or periodical that:

(a) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;

(b) Is broadcast, transmitted electronically or by other means, mailed, erected, distributed, or otherwise published within 60 days before any election for that office in the jurisdiction in which the candidate is seeking election; and

(c) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the 60 days before an election, has a fair market value or cost of $1,000 or more.

(2) "Electioneering communication" does not include:

(a) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least 12 months preceding the candidate becoming a candidate;

(b) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as two or more candidates for the same position have been invited to participate in the debate or forum;

(c) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

(i) Of interest to the public;

(ii) In a news medium controlled by a person whose business is that news medium; and

(iii) Not a medium controlled by a candidate or a political or incidental committee;

(d) Slate cards and sample ballots;

(e) Advertising for books, films, dissertations, or similar works (i) written by a candidate when the candidate entered into a contract for such publications or media at least 12 months before becoming a candidate, or (ii) written about a candidate;

(f) Public service announcements;

(g) An internal political communication primarily limited to the members of or contributors to a political party organization or political or incidental committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(h) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

(i) Any other communication exempted by the commission through rule consistent with the intent of this title.

NEW SECTION. **Sec. 223.** "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. "Expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this title, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. "Expenditure" shall not include the partial or complete repayment by a candidate or political or incidental committee of the principal of a loan, the receipt of which loan has been properly reported.

NEW SECTION. **Sec. 224.** "Final report" means the report described as a final report in RCW 42.17A.235(11)(a) (as recodified by this act).

NEW SECTION. **Sec. 225.** "Foreign national" means:

(1) An individual who is not a citizen of the United States and is not lawfully admitted for permanent residence;

(2) A government, or subdivision, of a foreign country;

(3) A foreign political party; and

(4) Any entity, such as a partnership, association, corporation, organization, or other combination of persons, that is organized under the laws of or has its principal place of business in a foreign country.

NEW SECTION. **Sec. 226.** "General election," for the purposes of RCW 42.17A.405 (as recodified by this act), means the election that results in the election of a person to a state or local office. It does not include a primary.

NEW SECTION. **Sec. 227.** "Gift" has the definition in RCW 42.52.010.

NEW SECTION. **Sec. 228.** "Immediate family" includes the spouse or domestic partner, dependent children, and other dependent relatives, if living in the household. For the purposes of the definition of "intermediary" in section

232 of this act, "immediate family" means an individual's spouse or domestic partner, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse or the domestic partner of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse or domestic partner and the spouse or the domestic partner of any such person.

NEW SECTION. **Sec. 229.** "Incidental committee" means any nonprofit organization not otherwise defined as a political committee but that may incidentally make a contribution or an expenditure in excess of the reporting thresholds in RCW 42.17A.235 (as recodified by this act), directly or through a political committee. Any nonprofit organization is not an incidental committee if it is only remitting payments through the nonprofit organization in an aggregated form and the nonprofit organization is not required to report those payments in accordance with this title.

NEW SECTION. **Sec. 230.** "Incumbent" means a person who is in present possession of an elected office.

NEW SECTION. **Sec. 231.** (1) "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not:

(i) A candidate for that office;

(ii) An authorized committee of that candidate for that office; and

(iii) A person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) It is made in support of or in opposition to a candidate for office by a person with whom the candidate has not collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(c) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(d) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of $1,000 or more. A series of expenditures, each of which is under $1,000, constitutes one independent expenditure if their cumulative value is $1,000 or more.

(2) "Independent expenditure" does not include: Ordinary home hospitality; communications with journalists or editorial staff designed to elicit a news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, controlled by a person whose business is that news medium, and not controlled by a candidate or a political committee; participation in the creation of a publicly funded voters' pamphlet statement in written or video form; an internal political communication primarily limited to contributors to a political party organization or political action committee, the

officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers or incidental expenses personally incurred by volunteer campaign workers not in excess of $250 personally paid for by the worker.

NEW SECTION. **Sec. 232.** (1) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family, or an association to which the individual belongs.

(2) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(3) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(4) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

NEW SECTION. **Sec. 233.** "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

NEW SECTION. **Sec. 234.** "Legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

NEW SECTION. **Sec. 235.** "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state administrative procedure act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

NEW SECTION. **Sec. 236.** "Lobbyist" includes any person who lobbies either on the person's own or another's behalf.

NEW SECTION. **Sec. 237.** "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom the lobbyist is compensated for acting as a lobbyist.

NEW SECTION. **Sec. 238.** "Ministerial functions" means an act or duty carried out as part of the duties of an administrative office without exercise of personal judgment or discretion.

NEW SECTION. **Sec. 239.** "Participate" means that, with respect to a particular election, an entity:

(1) Makes either a monetary or in-kind contribution to a candidate;

(2) Makes an independent expenditure or electioneering communication in support of or opposition to a candidate;

(3) Endorses a candidate before contributions are made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent;

(4) Makes a recommendation regarding whether a candidate should be supported or opposed before a contribution is made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent; or

(5) Directly or indirectly collaborates or consults with a subsidiary corporation or local unit on matters relating to the support of or opposition to a candidate including, but not limited to, the amount of a contribution, when a contribution should be given, and what assistance, services, or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

NEW SECTION. **Sec. 240.** "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

NEW SECTION. **Sec. 241.** "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, digital communication, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

NEW SECTION. **Sec. 242.** "Political committee" means any person (except a candidate or an individual dealing with the candidate's or individual's own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

NEW SECTION. **Sec. 243.** "Primary," for the purposes of RCW 42.17A.405 (as recodified by this act), means the procedure for nominating a candidate to state or local office under chapter 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29A.52 RCW.

NEW SECTION. **Sec. 244.** "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

NEW SECTION. **Sec. 245.** "Public record" has the definition in RCW 42.56.010.

NEW SECTION. **Sec. 246.** "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29A.56.120 and ending 30 days after the recall election.

NEW SECTION. **Sec. 247.** "Remediable violation" means any violation of this title that:

(1) Involved expenditures or contributions totaling no more than the contribution limits set out under RCW 42.17A.405(2) (as recodified by this act) per election, or $1,000 if there is no statutory limit;

(2) Occurred:

(a) More than 30 days before an election, where the commission entered into an agreement to resolve the matter; or

(b) At any time where the violation did not constitute a material violation because it was inadvertent and minor or otherwise has been cured and, after consideration of all the circumstances, further proceedings would not serve the purposes of this title;

(3) Does not materially harm the public interest, beyond the harm to the policy of this title inherent in any violation; and

(4) Involved:

(a) A person who:

(i) Took corrective action within five business days after the commission first notified the person of noncompliance, or where the commission did not provide notice and filed a required report within 21 days after the report was due to be filed; and

(ii) Substantially met the filing deadline for all other required reports within the immediately preceding 12-month period; or

(b) A candidate who:

(i) Lost the election in question; and

(ii) Did not receive contributions over 100 times the contribution limit in aggregate per election during the campaign in question.

NEW SECTION. **Sec. 248.** (1) "Sponsor," for purposes of an electioneering communications, independent expenditures, or political advertising, means the person paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(2) "Sponsor," for purposes of a political or incidental committee, means any person, except an authorized committee, to whom any of the following applies:

(a) The committee receives 80 percent or more of its contributions either from the person or from the person's members, officers, employees, or shareholders;

(b) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

NEW SECTION. **Sec. 249.** "Sponsored committee" means a committee, other than an authorized committee, that has one or more sponsors.

NEW SECTION. **Sec. 250.** "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

NEW SECTION. **Sec. 251.** "State official" means a person who holds a state office.

NEW SECTION. **Sec. 252.** "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts or expenses incurred by the committee or candidate with respect to that election. In the case of a continuing political

committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts or expenses when it makes its final report under RCW 42.17A.255 (as recodified by this act).

NEW SECTION. **Sec. 253.** "Technical correction" means the correction of a minor or ministerial error in a required report that does not materially harm the public interest and needs to be corrected for the report to be in full compliance with the requirements of this title.

NEW SECTION. **Sec. 254.** "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political or incidental committee, pursuant to RCW 42.17A.210 (as recodified by this act), to perform the duties specified in that section.

NEW SECTION. **Sec. 255.** "Violation" means a violation of this title that is not a remediable violation, minor violation, or an error classified by the commission as appropriate to address by a technical correction.

NEW SECTION. **Sec. 256.** Sections 201 through 255 of this act are each added to a new chapter in the new title created in section 103 of this act.

NEW SECTION. **Sec. 257.** RCW 42.17A.005 (Definitions) and 2022 c 71 s 14, 2020 c 152 s 2, & 2019 c 428 s 3 are each repealed.

PART III
RECODIFICATION

NEW SECTION. **Sec. 301.** GENERAL PROVISIONS. RCW 42.17A.001, 42.17A.010, and 42.17A.020 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. **Sec. 302.** ELECTRONIC ACCESS. RCW 42.17A.055, 42.17A.060, and 42.17A.065 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. **Sec. 303.** ADMINISTRATION. RCW 42.17A.100, 42.17A.105, 42.17A.110, 42.17A.120, 42.17A.125, 42.17A.130, 42.17A.135, 42.17A.140, 42.17A.145, 42.17A.150, and 42.17A.160 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. **Sec. 304.** CAMPAIGN FINANCE REPORTING. RCW 42.17A.200, 42.17A.205, 42.17A.207, 42.17A.210, 42.17A.215, 42.17A.220, 42.17A.225, 42.17A.230, 42.17A.235, 42.17A.240, 42.17A.250, 42.17A.255, 42.17A.260, 42.17A.265, and 42.17A.270 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. **Sec. 305.** POLITICAL ADVERTISING AND ELECTIONEERING COMMUNICATIONS. RCW 42.17A.300, 42.17A.305, 42.17A.310, 42.17A.315, 42.17A.320, 42.17A.330, 42.17A.335, 42.17A.340, 42.17A.345, and 42.17A.350 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. **Sec. 306.** CAMPAIGN CONTRIBUTION LIMITS AND OTHER RESTRICTIONS. RCW 42.17A.400, 42.17A.405, 42.17A.410, 42.17A.415, 42.17A.417, 42.17A.418, 42.17A.420, 42.17A.425, 42.17A.430, 42.17A.435, 42.17A.440, 42.17A.442, 42.17A.445, 42.17A.450, 42.17A.455, 42.17A.460, 42.17A.465, 42.17A.470, 42.17A.475, 42.17A.480, 42.17A.485,

42.17A.490, 42.17A.495, 42.17A.500, and 42.17A.550 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. **Sec. 307.** PUBLIC OFFICIALS', EMPLOYEES', AND AGENCIES' CAMPAIGN RESTRICTIONS AND PROHIBITIONS—REPORTING. RCW 42.17A.555, 42.17A.560, 42.17A.565, 42.17A.570, and 42.17A.575 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. **Sec. 308.** LOBBYING DISCLOSURE AND RESTRICTIONS. RCW 42.17A.600, 42.17A.603, 42.17A.605, 42.17A.610, 42.17A.615, 42.17A.620, 42.17A.625, 42.17A.630, 42.17A.635, 42.17A.640, 42.17A.645, 42.17A.650, and 42.17A.655 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. **Sec. 309.** PERSONAL FINANCIAL AFFAIRS REPORTING BY CANDIDATES AND PUBLIC OFFICIALS. RCW 42.17A.700, 42.17A.705, 42.17A.710, and 42.17A.715 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. **Sec. 310.** ENFORCEMENT. RCW 42.17A.750, 42.17A.755, 42.17A.760, 42.17A.765, 42.17A.770, 42.17A.775, 42.17A.780, and 42.17A.785 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. **Sec. 311.** RCW 42.62.020, 42.62.030, and 42.62.040 are recodified as a new chapter in the new title created in section 103 of this act.

NEW SECTION. **Sec. 312.** RCW 42.62.010 and 2023 c 360 s 1 are each repealed.

PART IV
CONFORMING AMENDMENTS

Sec. 401. RCW 42.17A.001 and 2019 c 428 s 2 are each amended to read as follows:

It is hereby declared by the sovereign people to be the public policy of the state of Washington:

(1) That political campaign and lobbying contributions and expenditures be fully disclosed to the public and that secrecy is to be avoided.

(2) That the people have the right to expect from their elected representatives at all levels of government the utmost of integrity, honesty, and fairness in their dealings.

(3) That the people shall be assured that the private financial dealings of their public officials, and of candidates for those offices, present no conflict of interest between the public trust and private interest.

(4) That our representative form of government is founded on a belief that those entrusted with the offices of government have nothing to fear from full public disclosure of their financial and business holdings, provided those officials deal honestly and fairly with the people.

(5) That public confidence in government at all levels is essential and must be promoted by all possible means.

(6) That public confidence in government at all levels can best be sustained by assuring the people of the impartiality and honesty of the officials in all public transactions and decisions.

(7) That the concept of attempting to increase financial participation of individual contributors in political campaigns is encouraged by the passage of the Revenue Act of 1971 by the Congress of the United States, and in consequence thereof, it is desirable to have implementing legislation at the state level.

(8) That the concepts of disclosure and limitation of election campaign financing are established by the passage of the Federal Election Campaign Act of 1971 by the Congress of the United States, and in consequence thereof it is desirable to have implementing legislation at the state level.

(9) That small contributions by individual contributors are to be encouraged, and that not requiring the reporting of small contributions may tend to encourage such contributions.

(10) That the public's right to know of the financing of political campaigns and lobbying and the financial affairs of elected officials and candidates far outweighs any right that these matters remain secret and private.

(11) That, mindful of the right of individuals to privacy and of the desirability of the efficient administration of government, full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to the sound governance of a free society.

The provisions of this ((~~chapter~~)) title shall be liberally construed to promote complete disclosure of all information respecting the financing of political campaigns and lobbying, and the financial affairs of elected officials and candidates, and full access to public records so as to assure continuing public confidence of fairness of elections and governmental processes, and so as to assure that the public interest will be fully protected. In promoting such complete disclosure, however, this ((~~chapter~~)) title shall be enforced so as to ensure that the information disclosed will not be misused for arbitrary and capricious purposes and to ensure that all persons reporting under this ((~~chapter~~)) title will be protected from harassment and unfounded allegations based on information they have freely disclosed.

Sec. 402. RCW 42.17A.010 and 2002 c 43 s 4 are each amended to read as follows:

Elections of conservation district supervisors held pursuant to chapter 89.08 RCW shall not be considered general or special elections for purposes of the campaign disclosure and personal financial affairs reporting requirements of this ((~~chapter~~)) title. Elected conservation district supervisors are not considered elected officials for purposes of the annual personal financial affairs reporting requirement of this ((~~chapter~~)) title.

Sec. 403. RCW 42.17A.020 and 1973 c 1 s 44 are each amended to read as follows:

All statements and reports filed under this ((~~chapter~~)) title shall be public records of the agency where they are filed, and shall be available for public inspection and copying during normal business hours at the expense of the person requesting copies, provided that the charge for such copies shall not exceed actual cost to the agency.

Sec. 404. RCW 42.17A.055 and 2019 c 428 s 4 are each amended to read as follows:

(1) For each required report, as technology permits, the commission shall make an electronic reporting tool available to all those who are required to file that report under this ((~~chapter~~)) title.

(2) All persons required to file reports under this ((~~chapter~~)) title must file them electronically where the commission has provided an electronic option. The executive director may make exceptions on a case-by-case basis for persons who lack the technological ability to file reports electronically.

(3) If the electronic filing system provided by the commission is inoperable for any period of time, the commission must keep a record of the date and time of each instance and post outages on its website. If a report is due on a day the electronic filing system is inoperable, it is not late if filed the first business day the system is back in operation. The commission must provide notice to all reporting entities when the system is back in operation.

(4) All persons required to file reports under this ((~~chapter~~)) title shall, at the time of initial filing, provide the commission an email address, or other electronic contact information, that shall constitute the official address for purposes of all communications from the commission. The person required to file one or more reports must provide any new electronic contact information to the commission within ((~~ten~~)) 10 days, if the address has changed from that listed on the most recent report. Committees must provide the committee treasurer's electronic contact information to the commission. Committees must also provide any new electronic contact information for the committee's treasurer to the commission within ((~~ten~~)) 10 days of the change. The executive director may waive the electronic contact information requirement and allow use of a postal address, upon the showing of hardship.

Sec. 405. RCW 42.17A.060 and 2011 1st sp.s. c 43 s 732 are each amended to read as follows:

It is the intent of the legislature to ensure that the commission provide the general public timely access to all contribution and expenditure reports submitted by candidates, continuing political committees, bona fide political parties, lobbyists, and lobbyists' employers. The legislature finds that failure to meet goals for full and timely disclosure threatens to undermine our electoral process.

Furthermore, the legislature intends for the commission to consult with the office of the chief information officer as it seeks to implement chapter 401, Laws of 1999, and that the commission follow the standards and procedures established by the office of the chief information officer in chapter 43.105 RCW as they relate to information technology.

Sec. 406. RCW 42.17A.065 and 2019 c 428 s 5 are each amended to read as follows:

By July 1st of each year, the commission shall calculate the following performance measures, provide a copy of the performance measures to the governor and appropriate legislative committees, and make the performance measures available to the public:

(1) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17A.205 (as recodified by this act),

42.17A.225 (as recodified by this act), 42.17A.235 (as recodified by this act), 42.17A.255 (as recodified by this act), 42.17A.265 (as recodified by this act), 42.17A.600 (as recodified by this act), 42.17A.615 (as recodified by this act), 42.17A.625 (as recodified by this act), and 42.17A.630 (as recodified by this act) and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's website;

(2) The percentage of filers pursuant to RCW 42.17A.055 (as recodified by this act) who have used: (a) Hard copy paper format; or (b) electronic format.

Sec. 407. RCW 42.17A.100 and 2019 c 428 s 6 are each amended to read as follows:

(1) The public disclosure commission is established. The commission shall be composed of five commissioners appointed by the governor, with the consent of the senate. The commission shall have the authority and duties as set forth in this ((~~chapter~~)) title. All appointees shall be persons of the highest integrity and qualifications. No more than three commissioners shall have an identification with the same political party.

(2) The term of each commissioner shall be five years, which may continue until a successor is appointed, but may not exceed an additional ((~~twelve~~)) 12 months. No commissioner is eligible for appointment to more than one full term. Any commissioner may be removed by the governor, but only upon grounds of neglect of duty or misconduct in office.

(3)(a) During a commissioner's tenure, the commissioner is prohibited from engaging in any of the following activities, either within or outside the state of Washington:

(i) Holding or campaigning for elective office;

(ii) Serving as an officer of any political party or political committee;

(iii) Permitting the commissioner's name to be used in support of or in opposition to a candidate or proposition;

(iv) Soliciting or making contributions to a candidate or in support of or in opposition to any candidate or proposition;

(v) Participating in any way in any election campaign; or

(vi) Lobbying, employing, or assisting a lobbyist, except that a commissioner or the staff of the commission may lobby to the limited extent permitted by RCW 42.17A.635 (as recodified by this act) on matters directly affecting this ((~~chapter~~)) title.

(b) This subsection is not intended to prohibit a commissioner from participating in or supporting nonprofit or other organizations, in the commissioner's private capacity, to the extent such participation is not prohibited under (a) of this subsection.

(c) The provisions of this subsection do not relieve a commissioner of any applicable disqualification and recusal requirements.

(4) A vacancy on the commission shall be filled within ((~~thirty~~)) 30 days of the vacancy by the governor, with the consent of the senate, and the appointee shall serve for the remaining term of the appointee's predecessor. A vacancy shall not impair the powers of the remaining commissioners to exercise all of the powers of the commission.

(5) Three commissioners shall constitute a quorum. The commission shall elect its own chair and adopt its own rules of procedure in the manner provided in chapter 34.05 RCW.

(6) Commissioners shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for travel expenses incurred while engaged in the business of the commission as provided in RCW 43.03.050 and 43.03.060. The compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created under the laws of this state.

Sec. 408. RCW 42.17A.105 and 2010 c 204 s 302 are each amended to read as follows:

The commission shall:

(1) Develop and provide forms for the reports and statements required to be made under this ((~~chapter~~)) title;

(2) Prepare and publish a manual setting forth recommended uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this ((~~chapter~~)) title;

(3) Compile and maintain a current list of all filed reports and statements;

(4) Investigate whether properly completed statements and reports have been filed within the times required by this ((~~chapter~~)) title;

(5) Upon complaint or upon its own motion, investigate and report apparent violations of this ((~~chapter~~)) title to the appropriate law enforcement authorities;

(6) Conduct a sufficient number of audits and field investigations to provide a statistically valid finding regarding the degree of compliance with the provisions of this ((~~chapter~~)) title by all required filers. Any documents, records, reports, computer files, papers, or materials provided to the commission for use in conducting audits and investigations must be returned to the candidate, campaign, or political committee from which they were received within one week of the commission's completion of an audit or field investigation;

(7) Prepare and publish an annual report to the governor as to the effectiveness of this ((~~chapter~~)) title and its enforcement by appropriate law enforcement authorities;

(8) Enforce this ((~~chapter~~)) title according to the powers granted it by law;

(9) Adopt rules governing the arrangement, handling, indexing, and disclosing of those reports required by this ((~~chapter~~)) title to be filed with a county auditor or county elections official. The rules shall:

(a) Ensure ease of access by the public to the reports; and

(b) Include, but not be limited to, requirements for indexing the reports by the names of candidates or political committees and by the ballot proposition for or against which a political committee is receiving contributions or making expenditures;

(10) Adopt rules to carry out the policies of chapter 348, Laws of 2006. The adoption of these rules is not subject to the time restrictions of RCW 42.17A.110(1) (as recodified by this act);

(11) Adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports; and

(12) Maintain and make available to the public and political committees of this state a toll-free telephone number.

Sec. 409. RCW 42.17A.110 and 2019 c 428 s 8 are each amended to read as follows:

In addition to the duties in RCW 42.17A.105 (as recodified by this act), the commission may:

(1) Adopt, amend, and rescind suitable administrative rules to carry out the policies and purposes of this ((~~chapter~~)) title, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint an executive director and set, within the limits established by the office of financial management under RCW 43.03.028, the executive director's compensation. The executive director shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this ((~~chapter~~)) title efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor may it delegate authority to determine that a violation of this ((~~chapter~~)) title has occurred or to assess penalties for such violations;

(3) Prepare and publish reports and technical studies as in its judgment will tend to promote the purposes of this ((~~chapter~~)) title, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this ((~~chapter~~)) title;

(4) Conduct, as it deems appropriate, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence, and require the production of any records relevant to any investigation authorized under this ((~~chapter~~)) title, or any other proceeding under this ((~~chapter~~)) title;

(7) Adopt a code of fair campaign practices;

(8) Adopt rules relieving candidates or political committees of obligations to comply with election campaign provisions of this ((~~chapter~~)) title, if they have not received contributions nor made expenditures in connection with any election campaign of more than five thousand dollars;

(9) Develop and provide to filers a system for certification of reports required under this ((~~chapter~~)) title which are transmitted electronically to the commission. Implementation of the program is contingent on the availability of funds; and

(10) Make available and keep current on its website a glossary of all defined terms in this ((~~chapter~~)) title and in rules adopted by the commission.

Sec. 410. RCW 42.17A.120 and 2019 c 428 s 10 are each amended to read as follows:

(1) The commission may suspend or modify any of the reporting requirements of this ((~~chapter~~)) title if it finds that literal application of this ((~~chapter~~)) title works a manifestly unreasonable hardship in a particular case and the suspension or modification will not frustrate the purposes of this ((~~chapter~~)) title. The commission may suspend or modify reporting requirements only to the extent necessary to substantially relieve the hardship and only after a

hearing is held and the suspension or modification receives approval. A suspension or modification of the financial affairs reporting requirements in RCW 42.17A.710 (as recodified by this act) may be approved for an elected official's term of office or for up to three years for an executive state officer. If a material change in the applicant's circumstances or relevant information occurs or has occurred, the applicant must request a modification at least one month prior to the next filing deadline rather than at the conclusion of the term.

(2) A manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17A.710(1)(g)(ii) (as recodified by this act) would be likely to adversely affect the competitive position of any entity in which the person filing the report, or any member of the person's immediate family, holds any office, directorship, general partnership interest, or an ownership interest of ((~~ten~~)) 10 percent or more.

(3) Requests for reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. The commission, the commission chair acting as presiding officer, or another commissioner appointed by the chair to serve as presiding officer, may preside over a brief adjudicatory proceeding. If a modification is requested by a filer because of a concern for personal safety, the information submitted regarding that safety concern shall not be made public prior to, or at, the hearing on the request. Any information provided or prepared for the modification hearing shall remain exempt from public disclosure under this ((~~chapter~~)) title and chapter 42.56 RCW to the extent it is determined at the hearing that disclosure of such information would present a personal safety risk to a reasonable person.

(4) If the commission, or presiding officer, grants a modification request, the commission or presiding officer may apply the modification retroactively to previously filed reports. In that event, previously reported information of the kind that is no longer being reported is confidential and exempt from public disclosure under this ((~~chapter~~)) title and chapter 42.56 RCW.

(5) Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order.

(6) The commission shall adopt rules governing the proceedings.

Sec. 411. RCW 42.17A.125 and 2019 c 428 s 11 are each amended to read as follows:

At least once every five years, but no more often than every two years, the commission must consider whether to revise the monetary contribution limits and reporting thresholds and code values of this ((~~chapter~~)) title. If the commission chooses to make revisions, the revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management, and may be rounded off to amounts as determined by the commission to be most accessible for public understanding. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this ((~~chapter~~)) title, reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials, the revisions shall equally

affect all thresholds within each category. The revisions authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold.

Revisions made in accordance with this section shall be adopted as rules in accordance with chapter 34.05 RCW.

Sec. 412. RCW 42.17A.130 and 2010 c 205 s 8 and 2010 c 204 s 306 are each reenacted and amended to read as follows:

The attorney general, through his or her office, shall provide assistance as required by the commission to carry out its responsibilities under this ((~~chapter~~)) title. The commission may employ attorneys who are neither the attorney general nor an assistant attorney general to carry out any function of the attorney general prescribed in this ((~~chapter~~)) title.

Sec. 413. RCW 42.17A.135 and 2019 c 428 s 12 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (7) of this section, the reporting provisions of this ((~~chapter~~)) title do not apply to:

(a) Candidates, elected officials, and agencies in political subdivisions with fewer than ((~~two thousand~~)) 2,000 registered voters as of the date of the most recent general election in the jurisdiction;

(b) Political committees formed to support or oppose candidates or ballot propositions in such political subdivisions; or

(c) Persons making independent expenditures in support of or opposition to such ballot propositions.

(2) The reporting provisions of this ((~~chapter~~)) title apply in any exempt political subdivision from which a "petition for disclosure" containing the valid signatures of ((~~fifteen~~)) 15 percent of the number of registered voters, as of the date of the most recent general election in the political subdivision, is filed with the commission. The commission shall by rule prescribe the form of the petition. After the signatures are gathered, the petition shall be presented to the auditor or elections officer of the county, or counties, in which the political subdivision is located. The auditor or elections officer shall verify the signatures and certify to the commission that the petition contains no less than the required number of valid signatures. The commission, upon receipt of a valid petition, shall order every known affected person in the political subdivision to file the initially required statement and reports within ((~~fourteen~~)) 14 days of the date of the order.

(3) The reporting provisions of this ((~~chapter~~)) title apply in any exempt political subdivision that by ordinance, resolution, or other official action has petitioned the commission to make the provisions applicable to elected officials and candidates of the exempt political subdivision. A copy of the action shall be sent to the commission. If the commission finds the petition to be a valid action of the appropriate governing body or authority, the commission shall order every known affected person in the political subdivision to file the initially required statement and reports within ((~~fourteen~~)) 14 days of the date of the order.

(4) The commission shall void any order issued by it pursuant to subsection (2) or (3) of this section when, at least four years after issuing the order, the commission is presented a petition or official action so requesting from the

affected political subdivision. Such petition or official action shall meet the respective requirements of subsection (2) or (3) of this section.

(5) Any petition for disclosure, ordinance, resolution, or official action of an agency petitioning the commission to void the exemption in RCW 42.17A.200(3) (as recodified by this act) shall not be considered unless it has been filed with the commission:

(a) In the case of a ballot proposition, at least ((~~sixty~~)) 60 days before the date of any election in which campaign finance reporting is to be required;

(b) In the case of a candidate, at least ((~~sixty~~)) 60 days before the first day on which a person may file a declaration of candidacy for any election in which campaign finance reporting is to be required.

(6) Any person exempted from reporting under this ((~~chapter~~)) title may at the person's option file the statement and reports.

(7) The reporting provisions of this ((~~chapter~~)) title apply to a candidate in any political subdivision if the candidate receives or expects to receive five thousand dollars or more in contributions.

Sec. 414. RCW 42.17A.140 and 2019 c 428 s 13 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the date of receipt of any properly addressed application, report, statement, notice, or payment required to be made under the provisions of this ((~~chapter~~)) title is the date shown by the post office cancellation mark on the envelope of the submitted material. The provisions of this section do not apply to reports required to be delivered under RCW 42.17A.265 (as recodified by this act) and 42.17A.625 (as recodified by this act).

(2) When a report is filed electronically with the commission, it is deemed to have been received on the file transfer date. The commission shall notify the filer of receipt of the electronically filed report. Such notification may be sent by mail or electronically. If the notification of receipt of the electronically filed report is not received by the filer, the filer may offer proof of sending the report, and such proof shall be treated as if it were a receipt sent by the commission. Electronic filing may be used for purposes of filing the special reports required to be delivered under RCW 42.17A.265 (as recodified by this act) and 42.17A.625 (as recodified by this act).

Sec. 415. RCW 42.17A.145 and 1973 c 1 s 43 are each amended to read as follows:

Every report and statement required to be filed under this ((~~chapter~~)) title shall identify the person preparing it, and shall be certified as complete and correct, both by the person preparing it and by the person on whose behalf it is filed.

Sec. 416. RCW 42.17A.150 and 2010 c 205 s 9 are each amended to read as follows:

The commission must preserve statements or reports required to be filed under this ((~~chapter~~)) title for not less than ((~~ten~~)) 10 years.

Sec. 417. RCW 42.17A.160 and 2019 c 428 s 9 are each amended to read as follows:

(1) The commission may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The

application may be made in Thurston county, the county where the subpoenaed person resides or is found, or the county where the subpoenaed documents, records, or evidence are located. The application must:

(a) State that an order is sought under this section;

(b) Adequately specify the documents, records, evidence, or testimony; and

(c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the commission's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the commission's authority.

(2) When an application under this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the documents, records, evidence, or testimony.

(3) The commission may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3).

Sec. 418. RCW 42.17A.200 and 2010 c 204 s 401 are each amended to read as follows:

The provisions of this ((~~chapter~~)) title relating to the financing of election campaigns shall apply in all election campaigns other than (1) for precinct committee officer; (2) for a federal elective office; and (3) for an office of a political subdivision of the state that does not encompass a whole county and that contains fewer than ((~~five thousand~~)) 5,000 registered voters as of the date of the most recent general election in the subdivision, unless required by RCW 42.17A.135 (2) through (5) and (7) (as recodified by this act).

Sec. 419. RCW 42.17A.205 and 2019 c 428 s 14 are each amended to read as follows:

(1) Every political committee shall file a statement of organization with the commission. The statement must be filed within two weeks after organization or within two weeks after the date the committee first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier. A political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election campaign shall file a statement of organization within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign.

(2) The statement of organization shall include but not be limited to:

(a) The name, address, and electronic contact information of the committee;

(b) The names, addresses, and electronic contact information of all related or affiliated committees or other persons, and the nature of the relationship or affiliation;

(c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;

(d) The name, address, and electronic contact information of its treasurer and depository;

(e) A statement whether the committee is a continuing one;

(f) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing, and, if the committee is supporting the entire ticket of any party, the name of the party;

(g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;

(h) What distribution of surplus funds will be made, in accordance with RCW 42.17A.430 (as recodified by this act), in the event of dissolution;

(i) Such other information as the commission may by rule prescribe, in keeping with the policies and purposes of this ((~~chapter~~)) title;

(j) The name, address, and title of any person who authorizes expenditures or makes decisions on behalf of the candidate or committee; and

(k) The name, address, and title of any person who is paid by or is a volunteer for a candidate or political committee to perform ministerial functions and who performs ministerial functions on behalf of two or more candidates or committees.

(3) No two political committees may have the same name.

(4) Any material change in information previously submitted in a statement of organization shall be reported to the commission within the ((~~ten~~)) 10 days following the change.

(5) As used in this section, the "name" of a sponsored committee must include the name of the person who is the sponsor of the committee. If more than one person meets the definition of sponsor, the name of the committee must include the name of at least one sponsor, but may include the names of other sponsors. A person may sponsor only one political committee for the same elected office or same ballot proposition per election cycle.

Sec. 420. RCW 42.17A.207 and 2019 c 428 s 15 are each amended to read as follows:

(1)(a) An incidental committee must file a statement of organization with the commission within two weeks after the date the committee first:

(i) Has the expectation of making any expenditures aggregating at least twenty-five thousand dollars in a calendar year in any election campaign, or to a political committee; and

(ii) Is required to disclose a payment received under RCW 42.17A.240(2)(d) (as recodified by this act).

(b) If an incidental committee first meets the criteria requiring filing a statement of organization as specified in (a) of this subsection in the last three weeks before an election, then it must file the statement of organization within three business days.

(2) The statement of organization must include but is not limited to:

(a) The name, address, and electronic contact information of the committee;

(b) The names and addresses of all related or affiliated political or incidental committees or other persons, and the nature of the relationship or affiliation;

(c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders and the name of the person designated as the treasurer of the incidental committee;

(d) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing if the committee contributes directly to a candidate and, if donating to a political committee, the name and address of that political committee;

(e) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition; and

(f) Such other information as the commission may by rule prescribe, in keeping with the policies and purposes of this ((~~chapter~~)) title.

(3) Any material change in information previously submitted in a statement of organization must be reported to the commission within the ((~~ten~~)) 10 days following the change.

Sec. 421. RCW 42.17A.210 and 2019 c 428 s 16 are each amended to read as follows:

(1) Each candidate, within two weeks after becoming a candidate, and each political committee, at the time it is required to file a statement of organization, shall designate and file with the commission the name and address of one legally competent individual, who may be the candidate, to serve as a treasurer.

(2) A candidate, a political committee, or a treasurer may appoint as many deputy treasurers as is considered necessary and shall file the names and addresses of the deputy treasurers with the commission.

(3)(a) A candidate or political committee may at any time remove a treasurer or deputy treasurer.

(b) In the event of the death, resignation, removal, or change of a treasurer or deputy treasurer, the candidate or political committee shall designate and file with the commission the name and address of any successor.

(4) No treasurer or deputy treasurer may be deemed to be in compliance with the provisions of this ((~~chapter~~)) title until the treasurer's or deputy treasurer's name, address, and electronic contact information is filed with the commission.

Sec. 422. RCW 42.17A.215 and 2019 c 428 s 17 are each amended to read as follows:

Each candidate and each political committee shall designate and file with the commission the name and address of not more than one depository for each county in which the campaign is conducted in which the candidate's or political committee's accounts are maintained and the name of the account or accounts maintained in that depository on behalf of the candidate or political committee. The candidate or political committee may at any time change the designated depository and shall file with the commission the same information for the successor depository as for the original depository. The candidate or political committee may not be deemed in compliance with the provisions of this ((~~chapter~~)) title until the information required for the depository is filed with the commission.

Sec. 423. RCW 42.17A.220 and 2018 c 304 s 5 are each amended to read as follows:

(1) All monetary contributions received by a candidate or political committee shall be deposited by candidates, political committee members, paid staff, or treasurers in a depository in an account established and designated for that purpose. Such deposits shall be made within five business days of receipt of

the contribution. For online or credit card contributions, the contribution is considered received at the time the transfer is made from the merchant account to a candidate or political committee account, except that a contribution made to a candidate who is a state official or legislator outside the restriction period established in RCW 42.17A.560 (as recodified by this act), but transferred to the candidate's account within the restricted period, is considered received outside of the restriction period.

(2) Political committees that support or oppose more than one candidate or ballot proposition, or exist for more than one purpose, may maintain multiple separate bank accounts within the same designated depository for such purpose only if:

(a) Each such account bears the same name;

(b) Each such account is followed by an appropriate designation that accurately identifies its separate purpose; and

(c) Transfers of funds that must be reported under RCW 42.17A.240((~~(5)~~)) (6) as recodified by this act are not made from more than one such account.

(3) Nothing in this section prohibits a candidate or political committee from investing funds on hand in a depository in bonds, certificates, or tax-exempt securities, or in savings accounts or other similar instruments in financial institutions, or in mutual funds other than the depository but only if:

(a) The commission is notified in writing of the initiation and the termination of the investment; and

(b) The principal of such investment, when terminated together with all interest, dividends, and income derived from the investment, is deposited in the depository in the account from which the investment was made and properly reported to the commission before any further disposition or expenditure.

(4) Accumulated unidentified contributions, other than those made by persons whose names must be maintained on a separate and private list by a political committee's treasurer pursuant to RCW 42.17A.240(2) (as recodified by this act), in excess of one percent of the total accumulated contributions received in the current calendar year, or three hundred dollars, whichever is more, may not be deposited, used, or expended, but shall be returned to the donor if his or her identity can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state and shall be paid to the state treasurer for deposit in the state general fund.

Sec. 424. RCW 42.17A.225 and 2019 c 428 s 18 are each amended to read as follows:

(1) In addition to the provisions of this section, a continuing political committee shall file and report on the same conditions and at the same times as any other committee in accordance with the provisions of RCW 42.17A.205 (as recodified by this act), 42.17A.210 (as recodified by this act), and 42.17A.220 (as recodified by this act).

(2) A continuing political committee shall file with the commission a report on the tenth day of each month detailing expenditures made and contributions received for the preceding calendar month. This report need only be filed if either the total contributions received or total expenditures made since the last such report exceed two hundred dollars. The report shall be on a form supplied by the commission and shall include the following information:

(a) The information required by RCW 42.17A.240 (as recodified by this act);

(b) Each expenditure made to retire previously accumulated debts of the committee identified by recipient, amount, and date of payments;

(c) Other information the commission shall prescribe by rule.

(3) If a continuing political committee makes a contribution in support of or in opposition to a candidate or ballot proposition within ((~~sixty~~)) 60 days before the date that the candidate or ballot proposition will be voted upon, the committee shall report pursuant to RCW 42.17A.235 (as recodified by this act).

(4)(a) A continuing political committee shall file reports as required by this ((~~chapter~~)) title until the committee has ceased to function and intends to dissolve, at which time, when there is no outstanding debt or obligation and the committee is concluded in all respects, a final report shall be filed. Upon submitting a final report, the continuing political committee so intending to dissolve must file notice of intent to dissolve with the commission and the commission must post the notice on its website.

(b) The continuing political committee may dissolve ((~~sixty~~)) 60 days after it files its notice to dissolve, only if:

(i) The continuing political committee does not make any expenditures other than those related to the dissolution process or engage in any political activity or any other activities that generate additional reporting requirements under this ((~~chapter~~)) title after filing such notice;

(ii) No complaint or court action, pursuant to this ((~~chapter~~)) title, is pending against the continuing political committee; and

(iii) All penalties assessed by the commission or court order have been paid by the continuing political committee.

(c) The continuing political committee must continue to report regularly as required under this ((~~chapter~~)) title until all the conditions under (b) of this subsection are resolved.

(d) Upon dissolution, the commission must issue an acknowledgment of dissolution, the duties of the treasurer shall cease, and there shall be no further obligations under this ((~~chapter~~)) title. Dissolution does not absolve the candidate or board of the committee from responsibility for any future obligations resulting from the finding after dissolution of a violation committed prior to dissolution.

(5) The treasurer shall maintain books of account, current within five business days, that accurately reflect all contributions and expenditures. During the ((~~ten~~)) 10 calendar days immediately preceding the date of any election that the committee has received any contributions or made any expenditures, the books of account shall be kept current within one business day and shall be open for public inspection in the same manner as provided for candidates and other political committees in RCW 42.17A.235(6) (as recodified by this act).

(6) All reports filed pursuant to this section shall be certified as correct by the treasurer.

(7) The treasurer shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

Sec. 425. RCW 42.17A.230 and 2019 c 428 s 19 are each amended to read as follows:

(1) Fund-raising activities meeting the standards of subsection (2) of this section may be reported in accordance with the provisions of this section in lieu of reporting in accordance with RCW 42.17A.235 (as recodified by this act).

(2) Standards:

(a) The activity consists of one or more of the following:

(i) A sale of goods or services sold at a reasonable approximation of the fair market value of each item or service; or

(ii) A gambling operation that is licensed, conducted, or operated in accordance with the provisions of chapter 9.46 RCW; or

(iii) A gathering where food and beverages are purchased and the price of admission or the per person charge for the food and beverages is no more than twenty-five dollars; or

(iv) A concert, dance, theater performance, or similar entertainment event and the price of admission is no more than twenty-five dollars; or

(v) An auction or similar sale for which the total fair market value or cost of items donated by any person is no more than fifty dollars; and

(b) No person responsible for receiving money at the fund-raising activity knowingly accepts payments from a single person at or from such an activity to the candidate or committee aggregating more than fifty dollars unless the name and address of the person making the payment, together with the amount paid to the candidate or committee, are disclosed in the report filed pursuant to subsection (6) of this section; and

(c) Any other standards established by rule of the commission to prevent frustration of the purposes of this ((~~chapter~~)) title.

(3) All funds received from a fund-raising activity that conforms with subsection (2) of this section must be deposited in the depository within five business days of receipt by the treasurer or deputy treasurer.

(4) At the time reports are required under RCW 42.17A.235 (as recodified by this act), the treasurer or deputy treasurer making the deposit shall file with the commission a report of the fund-raising activity which must contain the following information:

(a) The date of the activity;

(b) A precise description of the fund-raising methods used in the activity; and

(c) The total amount of cash receipts from persons, each of whom paid no more than fifty dollars.

(5) The treasurer or deputy treasurer shall certify the report is correct.

(6) The treasurer shall report pursuant to RCW 42.17A.235 (as recodified by this act) and 42.17A.240 (as recodified by this act):

(a) The name and address and the amount contributed by each person contributing goods or services with a fair market value of more than fifty dollars to a fund-raising activity reported under subsection (4) of this section; and

(b) The name and address and the amount paid by each person whose identity can be ascertained, who made a contribution to the candidate or committee aggregating more than fifty dollars at or from such a fund-raising activity.

Sec. 426. RCW 42.17A.235 and 2019 c 428 s 20 are each amended to read as follows:

(1)(a) In addition to the information required under RCW 42.17A.205 (as recodified by this act) and 42.17A.210 (as recodified by this act), each candidate or political committee must file with the commission a report of all contributions received and expenditures made as a political committee on the next reporting date pursuant to the timeline established in this section.

(b) In addition to the information required under RCW 42.17A.207 (as recodified by this act) and 42.17A.210 (as recodified by this act), on the day an incidental committee files a statement of organization with the commission, each incidental committee must file with the commission a report of any election campaign expenditures under RCW 42.17A.240((~~(6)~~)) (7) (as recodified by this act), as well as the source of the ((~~ten~~)) 10 largest cumulative payments of ten thousand dollars or greater it received in the current calendar year from a single person, including any persons tied as the ((~~tenth~~)) 10th largest source of payments it received, if any.

(2) Each treasurer of a candidate or political committee, or an incidental committee, required to file a statement of organization under this ((~~chapter~~)) title, shall file with the commission a report, for each election in which a candidate, political committee, or incidental committee is participating, containing the information required by RCW 42.17A.240 (as recodified by this act) at the following intervals:

(a) On the ((~~twenty-first~~)) 21st day and the seventh day immediately preceding the date on which the election is held; and

(b) On the ((~~tenth~~)) 10th day of the first full month after the election.

(3)(a) Each treasurer of a candidate or political committee shall file with the commission a report on the ((~~tenth~~)) 10th day of each month during which the candidate or political committee is not participating in an election campaign, only if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

(b) Each incidental committee shall file with the commission a report on the ((~~tenth~~)) 10th day of each month during which the incidental committee is not otherwise required to report under this section only if the committee has:

(i) Received a payment that would change the information required under RCW 42.17A.240(2)(d) (as recodified by this act) as included in its last report; or

(ii) Made any election campaign expenditure reportable under RCW 42.17A.240((~~(6)~~)) (7) (as recodified by this act) since its last report, and the total election campaign expenditures made since the last report exceed two hundred dollars.

(4) The report filed ((~~twenty-one~~)) 21 days before the election shall report all contributions received and expenditures made as of the end of one business day before the date of the report. The report filed seven days before the election shall report all contributions received and expenditures made as of the end of one business day before the date of the report. Reports filed on the ((~~tenth~~)) 10th day of the month shall report all contributions received and expenditures made from the closing date of the last report filed through the last day of the month preceding the date of the current report.

(5) For the period beginning the first day of the fourth month preceding the date of the special election, or for the period beginning the first day of the fifth month before the date of the general election, and ending on the date of that special or general election, each Monday the treasurer for a candidate or a political committee shall file with the commission a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds and the amount contributed by each person. However, persons who contribute no more than twenty-five dollars in the aggregate are not required to be identified in the report. A copy of the report shall be retained by the treasurer for the treasurer's records. In the event of deposits made by candidates, political committee members, or paid staff other than the treasurer, the copy shall be immediately provided to the treasurer for the treasurer's records. Each report shall be certified as correct by the treasurer.

(6)(a) The treasurer for a candidate or a political committee shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the ((~~ten~~)) 10 calendar days immediately preceding the date of the election the books of account shall be kept current within one business day. As specified in the political committee's statement of organization filed under RCW 42.17A.205 (as recodified by this act), the books of account must be open for public inspection by appointment at a place agreed upon by both the treasurer and the requestor, for inspections between 9:00 a.m. and 5:00 p.m. on any day from the ((~~tenth~~)) 10th calendar day immediately before the election through the day immediately before the election, other than Saturday, Sunday, or a legal holiday. It is a violation of this ((~~chapter~~)) title for a candidate or political committee to refuse to allow and keep an appointment for an inspection to be conducted during these authorized times and days. The appointment must be allowed at an authorized time and day for such inspections that is within ((~~forty-eight~~)) 48 hours of the time and day that is requested for the inspection. The treasurer may provide digital access or copies of the books of account in lieu of scheduling an appointment at a designated place for inspection. If the treasurer and requestor are unable to agree on a location and the treasurer has not provided digital access to the books of account, the default location for an appointment shall be a place of public accommodation selected by the treasurer within a reasonable distance from the treasurer's office.

(b) At the time of making the appointment, a person wishing to inspect the books of account must provide the treasurer the name and telephone number of the person wishing to inspect the books of account. The person inspecting the books of account must show photo identification before the inspection begins.

(c) A treasurer may refuse to show the books of account to any person who does not make an appointment or provide the required identification. The commission may issue limited rules to modify the requirements set forth in this section in consideration of other technology and best practices.

(7) Copies of all reports filed pursuant to this section shall be readily available for public inspection by appointment, pursuant to subsection (6) of this section.

(8) The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee

for not less than five calendar years following the year during which the transaction occurred or for any longer period as otherwise required by law.

(9) All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

(10) Where there is not a pending complaint concerning a report, it is not evidence of a violation of this section to submit an amended report within ((~~twenty-one~~)) 21 days of filing an initial report if:

(a) The report is accurately amended;

(b) The amended report is filed more than ((~~thirty~~)) 30 days before an election;

(c) The total aggregate dollar amount of the adjustment for the amended report is within three times the contribution limit per election or two hundred dollars, whichever is greater; and

(d) The committee reported all information that was available to it at the time of filing, or made a good faith effort to do so, or if a refund of a contribution or expenditure is being reported.

(11)(a) When there is no outstanding debt or obligation, the campaign fund is closed, the campaign is concluded in all respects, and the political committee has ceased to function and intends to dissolve, the treasurer shall file a final report. Upon submitting a final report, the political committee so intending to dissolve must file notice of intent to dissolve with the commission and the commission must post the notice on its website.

(b) Any political committee may dissolve ((~~sixty~~)) 60 days after it files its notice to dissolve, only if:

(i) The political committee does not make any expenditures other than those related to the dissolution process or engage in any political activity or any other activities that generate additional reporting requirements under this ((~~chapter~~)) title after filing such notice;

(ii) No complaint or court action under this ((~~chapter~~)) title is pending against the political committee; and

(iii) All penalties assessed by the commission or court order have been paid by the political committee.

(c) The political committee must continue to report regularly as required under this ((~~chapter~~)) title until all the conditions under (b) of this subsection are resolved.

(d) Upon dissolution, the commission must issue an acknowledgment of dissolution, the duties of the treasurer shall cease, and there shall be no further obligations under this ((~~chapter~~)) title. Dissolution does not absolve the candidate or board of the committee from responsibility for any future obligations resulting from the finding after dissolution of a violation committed prior to dissolution.

(12) The commission must adopt rules for the dissolution of incidental committees.

Sec. 427. RCW 42.17A.240 and 2020 c 152 s 3 are each amended to read as follows:

Each report required under RCW 42.17A.235 (1) through (4) (as recodified by this act) must be certified as correct by the treasurer and the candidate and shall disclose the following, except an incidental committee only must disclose

and certify as correct the information required under subsections (2)(d) and (7) of this section:

(1) The funds on hand at the beginning of the period;

(2) The name and address of each person who has made one or more contributions during the period, together with the money value and date of each contribution and the aggregate value of all contributions received from each person during the campaign, or in the case of a continuing political committee, the current calendar year, with the following exceptions:

(a) Pledges in the aggregate of less than one hundred dollars from any one person need not be reported;

(b) Income that results from a fund-raising activity conducted in accordance with RCW 42.17A.230 (as recodified by this act) may be reported as one lump sum, with the exception of that portion received from persons whose names and addresses are required to be included in the report required by RCW 42.17A.230 (as recodified by this act);

(c) Contributions of no more than twenty-five dollars in the aggregate from any one person during the election campaign may be reported as one lump sum if the treasurer maintains a separate and private list of the name, address, and amount of each such contributor;

(d) Payments received by an incidental committee from any one person need not be reported unless the person is one of the committee's ((~~ten~~)) 10 largest sources of payments received, including any persons tied as the ((~~tenth~~)) 10th largest source of payments received, during the current calendar year, and the value of the cumulative payments received from that person during the current calendar year is ten thousand dollars or greater. For payments to incidental committees from multiple persons received in aggregated form, any payment of more than ten thousand dollars from any single person must be reported, but the aggregated payment itself may not be reported. The commission may suspend or modify reporting requirements for payments received by an incidental committee in cases of manifestly unreasonable hardship under this ((~~chapter~~)) title;

(e) Payments from private foundations organized under section 501(c)(3) of the internal revenue code to an incidental committee do not have to be reported if:

(i) The private foundation is contracting with the incidental committee for a specific purpose other than election campaign purposes;

(ii) Use of the funds for election campaign purposes is explicitly prohibited by contract; and

(iii) Funding from the private foundation represents less than ((~~twenty-five~~)) 25 percent of the incidental committee's total budget;

(f) Commentary or analysis on a ballot proposition by an incidental committee is not considered a contribution if it does not advocate specifically to vote for or against the ballot proposition; and

(g) The money value of contributions of postage is the face value of the postage;

(3) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, including the names and addresses of the lender and each person liable directly,

indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument;

(4) All other contributions not otherwise listed or exempted;

(5) A statement that the candidate or political committee has received a certification from any partnership, association, corporation, organization, or other combination of persons making a contribution to the candidate or political committee that:

(a) The contribution is not financed in any part by a foreign national; and

(b) Foreign nationals are not involved in making decisions regarding the contribution in any way;

(6) The name and address of each candidate or political committee to which any transfer of funds was made, including the amounts and dates of the transfers;

(7) The name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report, the amount, date, and purpose of each expenditure, and the total sum of all expenditures. An incidental committee only must report on expenditures, made and reportable as contributions as defined in ((~~RCW 42.17A.005~~)) section 216 of this act, to election campaigns. For purposes of this subsection, commentary or analysis on a ballot proposition by an incidental committee is not considered an expenditure if it does not advocate specifically to vote for or against the ballot proposition;

(8) The name, address, and electronic contact information of each person to whom an expenditure was made for soliciting or procuring signatures on an initiative or referendum petition, the amount of the compensation to each person, and the total expenditures made for this purpose. Such expenditures shall be reported under this subsection in addition to what is required to be reported under subsection (7) of this section;

(9)(a) The name and address of any person and the amount owed for any debt with a value of more than seven hundred fifty dollars that has not been paid for any invoices submitted, goods received, or services performed, within five business days during the period within ((~~thirty~~)) 30 days before an election, or within ((~~ten~~)) 10 business days during any other period.

(b) For purposes of this subsection, debt does not include regularly recurring expenditures of the same amount that have already been reported at least once and that are not late or outstanding;

(10) The surplus or deficit of contributions over expenditures;

(11) The disposition made in accordance with RCW 42.17A.430 (as recodified by this act) of any surplus funds; and

(12) Any other information required by the commission by rule in conformance with the policies and purposes of this ((~~chapter~~)) title.

Sec. 428. RCW 42.17A.250 and 2020 c 152 s 4 are each amended to read as follows:

(1) An out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17A.205 (as recodified by this act) through 42.17A.240 (as recodified by this act) shall report as required in this section when it makes an expenditure supporting or opposing a Washington state candidate or political committee. The committee shall file with the commission a statement disclosing:

(a) Its name and address;

(b) The purposes of the out-of-state committee;

(c) The names, addresses, and titles of its officers or, if it has no officers, the names, addresses, and the titles of its responsible leaders;

(d) The name, office sought, and party affiliation of each candidate in the state of Washington whom the out-of-state committee is supporting or opposing and, if the committee is supporting or opposing the entire ticket of any party, the name of the party;

(e) The ballot proposition supported or opposed in the state of Washington, if any, and whether the committee is in favor of or opposed to that proposition;

(f) The name and address of each person residing in the state of Washington or corporation that has a place of business in the state of Washington who has made one or more contributions in the aggregate of more than twenty-five dollars to the out-of-state committee during the current calendar year, together with the money value and date of the contributions;

(g) The name, address, and employer of each person or corporation residing outside the state of Washington who has made one or more contributions in the aggregate of more than two thousand five hundred fifty dollars to the out-of-state committee during the current calendar year, together with the money value and date of the contributions. Annually, the commission must modify the two thousand five hundred fifty dollar limit in this subsection based on percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent ((~~twelve~~)) 12-month period by the bureau of economic analysis of the federal department of commerce;

(h) The name and address of each person in the state of Washington to whom an expenditure was made by the out-of-state committee with respect to a candidate or political committee in the aggregate amount of more than fifty dollars, the amount, date, and purpose of the expenditure, and the total sum of the expenditures;

(i) A statement that the out-of-state committee has received a certification from any partnership, association, corporation, organization, or other combination of persons making a contribution reportable under this section that:

(i) The contribution is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the contribution in any way; and

(j) Any other information as the commission may prescribe by rule in keeping with the policies and purposes of this ((~~chapter~~)) title.

(2) Each statement shall be filed no later than the ((~~tenth~~)) 10th day of the month following any month in which a contribution or other expenditure reportable under subsection (1) of this section is made. An out-of-state committee incurring an obligation to file additional statements in a calendar year may satisfy the obligation by timely filing reports that supplement previously filed information.

Sec. 429. RCW 42.17A.255 and 2020 c 152 s 5 are each amended to read as follows:

(1) For the purposes of this section the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17A.225 (as recodified by this act), 42.17A.235 (as

recodified by this act), and 42.17A.240 (as recodified by this act). "Independent expenditure" does not include: An internal political communication primarily limited to the contributors to a political party organization or political action committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person.

(2) Within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission an initial report of all independent expenditures made during the campaign prior to and including such date.

(3) At the following intervals each person who is required to file an initial report pursuant to subsection (2) of this section shall file with the commission a further report of the independent expenditures made since the date of the last report:

(a) On the ((~~twenty-first~~)) 21st day and the seventh day preceding the date on which the election is held; and

(b) On the ((~~tenth~~)) 10th day of the first month after the election; and

(c) On the ((~~tenth~~)) 10th day of each month in which no other reports are required to be filed pursuant to this section. However, the further reports required by this subsection (3) shall only be filed if the reporting person has made an independent expenditure since the date of the last previous report filed.

The report filed pursuant to (a) of this subsection (3) shall be the final report, and upon submitting such final report the duties of the reporting person shall cease, and there shall be no obligation to make any further reports.

(4) All reports filed pursuant to this section shall be certified as correct by the reporting person.

(5) Each report required by subsections (2) and (3) of this section shall disclose for the period beginning at the end of the period for the last previous report filed or, in the case of an initial report, beginning at the time of the first independent expenditure, and ending not more than one business day before the date the report is due:

(a) The name, address, and electronic contact information of the person filing the report;

(b) The name and address of each person to whom an independent expenditure was made in the aggregate amount of more than fifty dollars, and the amount, date, and purpose of each such expenditure. If no reasonable estimate of the monetary value of a particular independent expenditure is practicable, it is sufficient to report instead a precise description of services, property, or rights furnished through the expenditure and where appropriate to attach a copy of the item produced or distributed by the expenditure;

(c) The total sum of all independent expenditures made during the campaign to date;

(d) A statement from the person making an independent expenditure that:

(i) The expenditure is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the expenditure in any way; and

(e) Such other information as shall be required by the commission by rule in conformance with the policies and purposes of this ((~~chapter~~)) title.

Sec. 430. RCW 42.17A.260 and 2020 c 152 s 6 are each amended to read as follows:

(1) The sponsor of political advertising shall file a special report to the commission within ((~~twenty-four~~)) 24 hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public, if the political advertising:

(a) Is published, mailed, or otherwise presented to the public within ((~~twenty-one~~)) 21 days of an election; and

(b) Either:

(i) Qualifies as an independent expenditure with a fair market value or actual cost of one thousand dollars or more, for political advertising supporting or opposing a candidate; or

(ii) Has a fair market value or actual cost of one thousand dollars or more, for political advertising supporting or opposing a ballot proposition.

(2) If a sponsor is required to file a special report under this section, the sponsor shall also deliver to the commission within the delivery period established in subsection (1) of this section a special report for each subsequent independent expenditure of any size supporting or opposing the same candidate who was the subject of the previous independent expenditure, supporting or opposing that candidate's opponent, or, in the case of a subsequent expenditure of any size made in support of or in opposition to a ballot proposition not otherwise required to be reported pursuant to RCW 42.17A.225 (as recodified by this act), 42.17A.235 (as recodified by this act), or 42.17A.240 (as recodified by this act), supporting or opposing the same ballot proposition that was the subject of the previous expenditure.

(3) The special report must include:

(a) The name and address of the person making the expenditure;

(b) The name and address of the person to whom the expenditure was made;

(c) A detailed description of the expenditure;

(d) The date the expenditure was made and the date the political advertising was first published or otherwise presented to the public;

(e) The amount of the expenditure;

(f) The name of the candidate supported or opposed by the expenditure, the office being sought by the candidate, and whether the expenditure supports or opposes the candidate; or the name of the ballot proposition supported or opposed by the expenditure and whether the expenditure supports or opposes the ballot proposition;

(g) A statement from the sponsor that:

(i) The political advertising is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the political advertising in any way; and

(h) Any other information the commission may require by rule.

(4) All persons required to report under RCW 42.17A.225 (as recodified by this act), 42.17A.235 (as recodified by this act), 42.17A.240 (as recodified by this act), 42.17A.255 (as recodified by this act), and 42.17A.305 (as recodified by this act) are subject to the requirements of this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17A.255 (as recodified by this act).

(5) The sponsor of independent expenditures supporting a candidate or opposing that candidate's opponent required to report under this section shall file with each required report an affidavit or declaration of the person responsible for making the independent expenditure that the expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, the candidate, the candidate's authorized committee, or the candidate's agent, or with the encouragement or approval of the candidate, the candidate's authorized committee, or the candidate's agent.

Sec. 431. RCW 42.17A.265 and 2020 c 152 s 7 are each amended to read as follows:

(1) Treasurers shall prepare and deliver to the commission a special report when a contribution or aggregate of contributions totals one thousand dollars or more, is from a single person or entity, and is received during a special reporting period.

(2) A political committee shall prepare and deliver to the commission a special report when it makes a contribution or an aggregate of contributions to a single entity that totals one thousand dollars or more during a special reporting period.

(3) An aggregate of contributions includes only those contributions made to or received from a single entity during any one special reporting period. Any subsequent contribution of any size made to or received from the same person or entity during the special reporting period must also be reported.

(4) Special reporting periods, for purposes of this section, include:

(a) The period beginning on the day after the last report required by RCW 42.17A.235 (as recodified by this act) and 42.17A.240 (as recodified by this act) to be filed before a primary and concluding on the end of the day before that primary;

(b) The period ((~~twenty-one~~)) 21 days preceding a general election; and

(c) An aggregate of contributions includes only those contributions received from a single entity during any one special reporting period or made by the contributing political committee to a single entity during any one special reporting period.

(5) If a campaign treasurer files a special report under this section for one or more contributions received from a single entity during a special reporting period, the treasurer shall also file a special report under this section for each subsequent contribution of any size which is received from that entity during the special reporting period. If a political committee files a special report under this section for a contribution or contributions made to a single entity during a special reporting period, the political committee shall also file a special report

for each subsequent contribution of any size which is made to that entity during the special reporting period.

(6) Special reports required by this section shall be delivered electronically, or in written form if an electronic alternative is not available.

(a) The special report required of a contribution recipient under subsection (1) of this section shall be delivered to the commission within ((~~forty-eight~~)) 48 hours of the time, or on the first working day after: The contribution of one thousand dollars or more is received by the candidate or treasurer; the aggregate received by the candidate or treasurer first equals one thousand dollars or more; or any subsequent contribution from the same source is received by the candidate or treasurer.

(b) The special report required of a contributor under subsection (2) of this section or RCW 42.17A.625 (as recodified by this act) shall be delivered to the commission, and the candidate or political committee to whom the contribution or contributions are made, within ((~~twenty-four~~)) 24 hours of the time, or on the first working day after: The contribution is made; the aggregate of contributions made first equals one thousand dollars or more; or any subsequent contribution to the same person or entity is made.

(7) The special report shall include:

(a) The amount of the contribution or contributions;

(b) The date or dates of receipt;

(c) The name and address of the donor;

(d) The name and address of the recipient;

(e) A statement that the candidate or political committee has received a certification from any partnership, association, corporation, organization, or other combination of persons making a contribution reportable under this section that:

(i) The contribution is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the contribution in any way; and

(f) Any other information the commission may by rule require.

(8) Contributions reported under this section shall also be reported as required by other provisions of this ((~~chapter~~)) title.

(9) The commission shall prepare daily a summary of the special reports made under this section and RCW 42.17A.625 (as recodified by this act).

(10) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17A.270 (as recodified by this act).

Sec. 432. RCW 42.17A.270 and 2010 c 204 s 416 are each amended to read as follows:

A political committee receiving a contribution earmarked for the benefit of a candidate or another political committee shall:

(1) Report the contribution as required in RCW 42.17A.235 (as recodified by this act) and 42.17A.240 (as recodified by this act);

(2) Complete a report, entitled "Earmarked contributions," on a form prescribed by the commission that identifies the name and address of the person who made the contribution, the candidate or political committee for whose

benefit the contribution is earmarked, the amount of the contribution, and the date that the contribution was received; and

(3) Mail or deliver to the commission and the candidate or political committee benefiting from the contribution a copy of the "Earmarked contributions" report within two working days of receipt of the contribution.

(4) A candidate or political committee receiving notification of an earmarked contribution under subsection (3) of this section shall report the contribution, once notification of the contribution is received by the candidate or committee, in the same manner as any other contribution, as required by RCW 42.17A.235 (as recodified by this act) and 42.17A.240 (as recodified by this act).

Sec. 433. RCW 42.17A.300 and 2010 c 204 s 501 are each amended to read as follows:

(1) The legislature finds that:

(a) Timely disclosure to voters of the identity and sources of funding for electioneering communications is vitally important to the integrity of state, local, and judicial elections.

(b) Electioneering communications that identify political candidates for state, local, or judicial office and that are distributed ((~~sixty~~)) 60 days before an election for those offices are intended to influence voters and the outcome of those elections.

(c) The state has a compelling interest in providing voters information about electioneering communications in political campaigns concerning candidates for state, local, or judicial office so that voters can be fully informed as to the: (i) Source of support or opposition to those candidates; and (ii) identity of persons attempting to influence the outcome of state, local, and judicial candidate elections.

(d) Nondisclosure of financial information about advertising that masquerades as relating only to issues and not to candidate campaigns fosters corruption or the appearance of corruption. These consequences can be substantially avoided by full disclosure of the identity and funding of those persons paying for such advertising.

(e) The United States supreme court held in *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003) that speakers seeking to influence elections do not possess an inviolable free speech right to engage in electioneering communications regarding elections, including when issue advocacy is the functional equivalent of express advocacy. Therefore, such election campaign communications can be regulated and the source of funding disclosed.

(f) The state has a sufficiently compelling interest in preventing corruption in political campaigns to justify and restore contribution limits and restrictions on the use of soft money in RCW 42.17A.405 (as recodified by this act). Those interests include restoring restrictions on the use of such funds for electioneering communications, as well as the laws preventing circumvention of those limits and restrictions.

(2) Based upon the findings in this section, chapter 445, Laws of 2005 is narrowly tailored to accomplish the following and is intended to:

(a) Improve the disclosure to voters of information concerning persons and entities seeking to influence state, local, and judicial campaigns through reasonable and effective mechanisms, including improving disclosure of the

source, identity, and funding of electioneering communications concerning state, local, and judicial candidate campaigns;

(b) Regulate electioneering communications that mention state, local, and judicial candidates and that are broadcast, mailed, erected, distributed, or otherwise published right before the election so that the public knows who is paying for such communications;

(c) Reenact and amend the contribution limits in RCW 42.17A.405 (7) and (15) (as recodified by this act) and the restrictions on the use of soft money, including as applied to electioneering communications, as those limits and restrictions were in effect following the passage of chapter 2, Laws of 1993 (Initiative Measure No. 134) and before the state supreme court decision in *Washington State Republican Party v. Washington State Public Disclosure Commission*, 141 Wn.2d 245, 4 P.3d 808 (2000). The commission is authorized to fully restore the implementation of the limits and restrictions of RCW 42.17A.405 (7) and (15) (as recodified by this act) in light of *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003). The United States supreme court upheld the disclosure and regulation of electioneering communications in political campaigns, including but not limited to issue advocacy that is the functional equivalent of express advocacy; and

(d) Authorize the commission to adopt rules to implement chapter 445, Laws of 2005.

Sec. 434. RCW 42.17A.305 and 2020 c 152 s 8 are each amended to read as follows:

(1) A payment for or promise to pay for any electioneering communication shall be reported to the commission by the sponsor on forms the commission shall develop by rule to include, at a minimum, the following information:

(a) Name and address of the sponsor;

(b) Source of funds for the communication, including:

(i) General treasury funds. The name and address of businesses, unions, groups, associations, or other organizations using general treasury funds for the communication, however, if a business, union, group, association, or other organization undertakes a special solicitation of its members or other persons for an electioneering communication, or it otherwise receives funds for an electioneering communication, that entity shall report pursuant to (b)(ii) of this subsection;

(ii) Special solicitations and other funds. The name, address, and, for individuals, occupation and employer, of a person whose funds were used to pay for the electioneering communication, along with the amount, if such funds from the person have exceeded two hundred fifty dollars in the aggregate for the electioneering communication;

(iii) A statement from the sponsor that:

(A) The electioneering communication is not financed in any part by a foreign national; and

(B) Foreign nationals are not involved in making decisions regarding the electioneering communication in any way; and

(iv) Any other source information required or exempted by the commission by rule;

(c) Name and address of the person to whom an electioneering communication related expenditure was made;

(d) A detailed description of each expenditure of more than one hundred dollars;

(e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published;

(f) The amount of the expenditure;

(g) The name of each candidate clearly identified in the electioneering communication, the office being sought by each candidate, and the amount of the expenditure attributable to each candidate; and

(h) Any other information the commission may require or exempt by rule.

(2) Electioneering communications shall be reported as follows: The sponsor of an electioneering communication shall report to the commission within ((~~twenty-four~~)) 24 hours of, or on the first working day after, the date the electioneering communication is broadcast, transmitted, mailed, erected, distributed, digitally or otherwise, or otherwise published.

(3) Electioneering communications shall be reported electronically by the sponsor using software provided or approved by the commission. The commission may make exceptions on a case-by-case basis for a sponsor who lacks the technological ability to file reports using the electronic means provided or approved by the commission.

(4) All persons required to report under RCW 42.17A.225 (as recodified by this act), 42.17A.235 (as recodified by this act), 42.17A.240 (as recodified by this act), and 42.17A.255 (as recodified by this act) are subject to the requirements of this section, although the commission may determine by rule that persons filing according to those sections may be exempt from reporting some of the information otherwise required by this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17A.255 (as recodified by this act) and 42.17A.260 (as recodified by this act).

(5) Failure of any sponsor to report electronically under this section shall be a violation of this ((~~chapter~~)) title.

Sec. 435. RCW 42.17A.310 and 2010 c 204 s 503 are each amended to read as follows:

(1) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents is a contribution to the candidate.

(2) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a political committee or its agents is a contribution to the political committee.

(3) If an electioneering communication is not a contribution pursuant to subsection (1) or (2) of this section, the sponsor shall file an affidavit or declaration so stating at the time the sponsor is required to report the electioneering communication expense under RCW 42.17A.305 (as recodified by this act).

Sec. 436. RCW 42.17A.315 and 2010 c 204 s 504 are each amended to read as follows:

(1) The sponsor of an electioneering communication shall preserve all financial records relating to the communication, including books of account, bills, receipts, contributor information, and ledgers, for not less than five calendar years following the year in which the communication was broadcast, transmitted, mailed, erected, or otherwise published.

(2) All reports filed under RCW 42.17A.305 (as recodified by this act) shall be certified as correct by the sponsor. If the sponsor is an individual using his or her own funds to pay for the communication, the certification shall be signed by the individual. If the sponsor is a political committee, the certification shall be signed by the committee treasurer. If the sponsor is another entity, the certification shall be signed by the individual responsible for authorizing the expenditure on the entity's behalf.

Sec. 437. RCW 42.17A.320 and 2019 c 261 s 3 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

(2) In addition to the information required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party must include as part of the communication:

(a) The statement: "No candidate authorized this ad. It is paid for by (name, address, city, state)";

(b) If the sponsor is a political committee, the statement: "Top Five Contributors," followed by a listing of the names of the five persons making the largest contributions as determined by RCW 42.17A.350(1) (as recodified by this act); and if necessary, the statement "Top Three Donors to PAC Contributors," followed by a listing of the names of the three individuals or entities, other than political committees, making the largest aggregated contributions as determined by RCW 42.17A.350(2) (as recodified by this act); and

(c) If the sponsor is a political committee established, maintained, or controlled directly, or indirectly through the formation of one or more political committees, by an individual, corporation, union, association, or other entity, the full name of that individual or entity.

(3) The information required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written advertisement or communication in at least ((~~ten~~)) 10-point type, or in type at least ten percent of the largest size type used in a written advertisement or communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process; and

(c) Be set apart from any other printed matter. No text may be before, after, or immediately adjacent to the information required by subsections (1) and (2) of this section.

(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height on a solid black background on the entire bottom one-third of the television or visual display screen, or bottom one-fourth of the screen if the sponsor does not have or is otherwise not required to list its top five contributors, and have a reasonable color contrast with the background: "No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons making the largest aggregate contributions as determined by RCW 42.17A.350(1) (as recodified by this act); and if necessary, the statement "Top Three Donors to PAC Contributors," followed by a listing of the names of the three individuals or entities other than political committees making the largest aggregate contributions to political committees as determined by RCW 42.17A.350(2) (as recodified by this act). Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons making the largest contributions as determined by RCW 42.17A.350(1) (as recodified by this act); and if necessary, the statement "Top Three Donors to PAC Contributors," followed by a listing of the names of the three individuals or entities, other than political committees, making the largest aggregate contributions to political committees as determined by RCW 42.17A.350(2) (as recodified by this act). Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political advertising costing one thousand dollars or more supporting or opposing ballot measures sponsored by a political committee must include the information on the top five contributors and top three contributors, other than political committees, as required by RCW 42.17A.350 (as recodified by this act). A series of political advertising sponsored by the same political committee, each of which is under one thousand dollars, must include the top five contributors and top three contributors, other than political committees, as required by RCW 42.17A.350 (as recodified by this act) once their cumulative value reaches one thousand dollars or more.

(7) Political yard signs are exempt from the requirements of this section that the sponsor's name and address, and the top five contributors and top three PAC

contributors as required by RCW 42.17A.350 (as recodified by this act), be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(8) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

Sec. 438. RCW 42.17A.330 and 2010 c 204 s 506 are each amended to read as follows:

At least one picture of the candidate used in any political advertising shall have been taken within the last five years and shall be no smaller than any other picture of the same candidate used in the same advertisement.

Sec. 439. RCW 42.17A.335 and 2009 c 222 s 2 are each amended to read as follows:

(1) It is a violation of this ((~~chapter~~)) title for a person to sponsor with actual malice a statement constituting libel or defamation per se under the following circumstances:

(a) Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office;

(b) Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent;

(c) Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.

(2) For the purposes of this section, "libel or defamation per se" means statements that tend (a) to expose a living person to hatred, contempt, ridicule, or obloquy, or to deprive him or her of the benefit of public confidence or social intercourse, or to injure him or her in his or her business or occupation, or (b) to injure any person, corporation, or association in his, her, or its business or occupation.

(3) It is not a violation of this section for a candidate or his or her agent to make statements described in subsection (1)(a) or (b) of this section about the candidate himself or herself because a person cannot defame himself or herself. It is not a violation of this section for a person or organization referenced in subsection (1)(c) of this section to make a statement about that person or organization because such persons and organizations cannot defame themselves.

(4) Any violation of this section shall be proven by clear and convincing evidence. If a violation is proven, damages are presumed and do not need to be proven.

Sec. 440. RCW 42.17A.340 and 2010 c 204 s 507 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the responsibility for compliance with RCW 42.17A.320 (as recodified by this act) through 42.17A.335 (as recodified by this act) shall be with the sponsor of the political advertising and not with the broadcasting station or other medium.

(2) If a broadcasting station or other medium changes the content of a political advertisement, the station or medium shall be responsible for any failure of the advertisement to comply with RCW 42.17A.320 (as recodified by this act) through 42.17A.335 (as recodified by this act) that results from that change.

Sec. 441. RCW 42.17A.345 and 2019 c 428 s 26 are each amended to read as follows:

(1) Each commercial advertiser who has accepted or provided political advertising or electioneering communications during the election campaign shall maintain current books of account and related materials as provided by rule that shall be open for public inspection during normal business hours during the campaign and for a period of no less than five years after the date of the applicable election. The documents and books of account shall specify:

(a) The names and addresses of persons from whom it accepted political advertising or electioneering communications;

(b) The exact nature and extent of the services rendered; and

(c) The total cost and the manner of payment for the services.

(2) At the request of the commission, each commercial advertiser required to comply with subsection (1) of this section shall provide to the commission copies of the information that must be maintained and be open for public inspection pursuant to subsection (1) of this section.

Sec. 442. RCW 42.17A.350 and 2019 c 261 s 2 are each amended to read as follows:

(1) For any requirement to include the top five contributors under RCW 42.17A.320 (as recodified by this act) or any other provision of this ((~~chapter~~)) title, the sponsor must identify the five persons or entities making the largest contributions to the sponsor in excess of the threshold aggregate value to be considered an independent expenditure in an election for public office under ((~~RCW 42.17A.005(29)(a)(iv)~~)) section 231(1)(d) of this act reportable under this ((~~chapter~~)) title during the ((~~twelve~~)) 12-month period preceding the date on which the advertisement is initially to be published or otherwise presented to the public.

(2) If one or more of the top five contributors identified under subsection (1) of this section is a political committee, the top three contributors to each of those political committees during the same period must then be identified, and so on, until the individuals or entities other than political committees with the largest aggregate contributions to each political committee identified under subsection (1) of this section have also been identified. The sponsor must identify the three individuals or entities, not including political committees, who made the largest aggregate contributions to any political committee identified under subsection (1) of this section in excess of the threshold aggregate value to be considered an independent expenditure in an election for public office under ((~~RCW 42.17A.005(29)(a)(iv)~~)) section 231(1)(d) of this act reportable under this ((~~chapter~~)) title during the same period, and the names of those individuals or entities must be displayed in the advertisement alongside the statement "Top Three Donors to PAC Contributors."

(3) Contributions to the sponsor or a political committee that are earmarked, tracked, and used for purposes other than the advertisement in question should

not be counted in identifying the top five contributors under subsection (1) of this section or the top three contributors under subsection (2) of this section.

(4) The sponsor shall not be liable for a violation of this section that occurs because a contribution to any political committee identified under subsection (1) of this section has not been reported to the commission.

(5) The commission is authorized to adopt rules, as needed, to prevent ways to circumvent the purposes of the required disclosures in this section to inform voters about the individuals and entities sponsoring political advertisements.

Sec. 443. RCW 42.17A.400 and 2010 c 204 s 601 are each amended to read as follows:

(1) The people of the state of Washington find and declare that:

(a) The financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

(b) Rapidly increasing political campaign costs have led many candidates to raise larger percentages of money from special interests with a specific financial stake in matters before state government. This has caused the public perception that decisions of elected officials are being improperly influenced by monetary contributions.

(c) Candidates are raising less money in small contributions from individuals and more money from special interests. This has created the public perception that individuals have an insignificant role to play in the political process.

(2) By limiting campaign contributions, the people intend to:

(a) Ensure that individuals and interest groups have fair and equal opportunity to influence elective and governmental processes;

(b) Reduce the influence of large organizational contributors; and

(c) Restore public trust in governmental institutions and the electoral process.

Sec. 444. RCW 42.17A.405 and 2019 c 100 s 1 are each amended to read as follows:

(1) The contribution limits in this section apply to:

(a) Candidates for legislative office;

(b) Candidates for state office other than legislative office;

(c) Candidates for county office;

(d) Candidates for port district office;

(e) Candidates for city council office;

(f) Candidates for mayoral office;

(g) Candidates for school board office;

(h) Candidates for public hospital district board of commissioners in districts with a population over ((~~one hundred fifty thousand~~)) 150,000;

(i) Persons holding an office in (a) through (h) of this subsection against whom recall charges have been filed or to a political committee having the expectation of making expenditures in support of the recall of a person holding the office;

(j) Caucus political committees;

(k) Bona fide political parties.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a legislative office, county office, city council office, mayoral office, school board office, or public hospital district board of commissioners that in the aggregate exceed eight hundred dollars or to a candidate for a public office in a port district or a state office other than a legislative office that in the aggregate exceed one thousand six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions to candidates subject to the limits in this section made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until ((~~thirty~~)) 30 days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions to candidates subject to the limits in this section made with respect to a general election may not be made after the final day of the applicable election cycle.

(3) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official, a county official, a city official, a school board member, a public hospital district commissioner, or a public official in a port district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, city official, school board member, public hospital district commissioner, or public official in a port district during a recall campaign that in the aggregate exceed eight hundred dollars if for a legislative office, county office, school board office, public hospital district office, or city office, or one thousand six hundred dollars if for a port district office or a state office other than a legislative office.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) eighty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed forty cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(5)(a) Notwithstanding subsection (3) of this section, no bona fide political party or caucus political committee may make contributions to a state official, county official, city official, school board member, public hospital district commissioner, or a public official in a port district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, county official, city official, school board member, public hospital district commissioner, or a public official in a

port district during a recall campaign that in the aggregate exceed (i) eighty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No official holding an office specified in subsection (1) of this section against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of the official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(6) For purposes of determining contribution limits under subsections (4) and (5) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(7) Notwithstanding subsections (2) through (5) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this ((~~chapter~~)) title to a caucus political committee that in the aggregate exceed eight hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed four thousand dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(8) For the purposes of RCW 42.17A.125 (as recodified by this act), 42.17A.405 (as recodified by this act) through 42.17A.415 (as recodified by this act), 42.17A.450 (as recodified by this act) through 42.17A.495 (as recodified by this act), 42.17A.500 (as recodified by this act), 42.17A.560 (as recodified by this act), and 42.17A.565 (as recodified by this act), a contribution to the authorized political committee of a candidate or of an official specified in subsection (1) of this section against whom recall charges have been filed is considered to be a contribution to the candidate or official.

(9) A contribution received within the ((~~twelve~~)) 12-month period after a recall election concerning an office specified in subsection (1) of this section is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(10) The contributions allowed by subsection (3) of this section are in addition to those allowed by subsection (2) of this section, and the contributions allowed by subsection (5) of this section are in addition to those allowed by subsection (4) of this section.

(11) RCW 42.17A.125 (as recodified by this act), 42.17A.405 (as recodified by this act) through 42.17A.415 (as recodified by this act), 42.17A.450 (as recodified by this act) through 42.17A.495 (as recodified by this act), 42.17A.500 (as recodified by this act), 42.17A.560 (as recodified by this act), and 42.17A.565 (as recodified by this act) apply to a special election conducted to fill a vacancy in an office specified in subsection (1) of this section. However,

the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(12) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ((~~ten~~)) 10 members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ((~~ten~~)) 10 persons registered to vote in Washington state during the preceding ((~~one hundred eighty~~)) 180 days may make contributions reportable under this ((~~chapter~~)) title to a state office candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(13) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this ((~~chapter~~)) title to a candidate specified in subsection (1) of this section, or an official specified in subsection (1) of this section against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of an official specified in subsection (1) of this section if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the official.

(14) No person may accept contributions that exceed the contribution limitations provided in this section.

(15) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates;

(b) An expenditure by a political committee for its own internal organization or fund-raising without direct association with individual candidates; or

(c) An expenditure or contribution for independent expenditures as defined in ((~~RCW 42.17A.005~~)) section 231 of this act or electioneering communications as defined in ((~~RCW 42.17A.005~~)) section 222 of this act.

Sec. 445. RCW 42.17A.410 and 2010 c 204 s 603 are each amended to read as follows:

(1) No person may make contributions to a candidate for judicial office that in the aggregate exceed one thousand six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until ((~~thirty~~)) 30 days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may

only be raised and spent to satisfy the outstanding debt. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) This section through RCW 42.17A.490 (as recodified by this act) apply to a special election conducted to fill a vacancy in an office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy will not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(3) No person may accept contributions that exceed the contribution limitations provided in this section.

(4) The dollar limits in this section must be adjusted according to RCW 42.17A.125 (as recodified by this act).

Sec. 446. RCW 42.17A.415 and 2011 c 60 s 25 are each amended to read as follows:

(1) Contributions to candidates for state office made and received before December 3, 1992, are considered to be contributions under ((~~RCW 42.17.640 through 42.17.790~~)) RCW 42.17A.125 (as recodified by this act), 42.17A.405 (as recodified by this act) through 42.17A.415 (as recodified by this act), 42.17A.450 (as recodified by this act) through 42.17A.495 (as recodified by this act), 42.17A.500 (as recodified by this act), 42.17A.560 (as recodified by this act), and 42.17A.565 (as recodified by this act). Monetary contributions that exceed the contribution limitations and that have not been spent by the recipient of the contribution by December 3, 1992, must be disposed of in accordance with RCW 42.17A.430 (as recodified by this act).

(2) Contributions to other candidates subject to the contribution limits of this ((~~chapter~~)) title made and received before June 7, 2006, are considered to be contributions under ((~~RCW 42.17.640 through 42.17.790~~)) RCW 42.17A.125 (as recodified by this act), 42.17A.405 (as recodified by this act) through 42.17A.415 (as recodified by this act), 42.17A.450 (as recodified by this act) through 42.17A.495 (as recodified by this act), 42.17A.500 (as recodified by this act), 42.17A.560 (as recodified by this act), and 42.17A.565 (as recodified by this act). Contributions that exceed the contribution limitations and that have not been spent by the recipient of the contribution by June 7, 2006, must be disposed of in accordance with RCW 42.17A.430 (as recodified by this act) except for subsections (6) and (7) of that section.

Sec. 447. RCW 42.17A.417 and 2020 c 152 s 9 are each amended to read as follows:

(1) A foreign national may not make a contribution to any candidate or political committee, make an expenditure in support of or in opposition to any candidate or ballot measure, or sponsor political advertising or an electioneering communication.

(2) A person may not make a contribution to any candidate or political committee, make an expenditure in support of or in opposition to any candidate or ballot measure, or sponsor political advertising or an electioneering communication, if:

(a) The contribution, expenditure, political advertising, or electioneering communication is financed in any part by a foreign national; or

(b) Foreign nationals are involved in making decisions regarding the contribution, expenditure, political advertising, or electioneering communication in any way.

Sec. 448. RCW 42.17A.418 and 2020 c 152 s 10 are each amended to read as follows:

(1) Each candidate or political committee that has accepted a contribution, and each out-of-state committee that has accepted a contribution reportable under RCW 42.17A.250 (as recodified by this act), from a partnership, association, corporation, organization, or other combination of persons must receive a certification from each contributor that:

(a) The contribution is not financed in any part by a foreign national; and

(b) Foreign nationals are not involved in making decisions regarding the contribution in any way.

(2) The certifications must be maintained for a period of no less than three years after the date of the applicable election.

(3) At the request of the commission, each candidate or committee required to comply with subsection (1) of this section must provide to the commission copies of the certifications maintained under this section.

Sec. 449. RCW 42.17A.420 and 2019 c 428 s 27 are each amended to read as follows:

(1) It is a violation of this ((~~chapter~~)) title for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17A.240 (as recodified by this act) in the aggregate exceeding fifty thousand dollars for any campaign for statewide office or exceeding five thousand dollars for any other campaign subject to the provisions of this ((~~chapter~~)) title within ((~~twenty-one~~)) 21 days of a general election. This subsection does not apply to:

(a) Contributions made by, or accepted from, a bona fide political party as defined in this ((~~chapter~~)) title, excluding the county central committee or legislative district committee;

(b) Contributions made to, or received by, a ballot proposition committee; or

(c) Payments received by an incidental committee.

(2) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17A.270 (as recodified by this act).

Sec. 450. RCW 42.17A.425 and 2010 c 204 s 605 are each amended to read as follows:

No expenditures may be made or incurred by any candidate or political committee unless authorized by the candidate or the person or persons named on the candidate's or committee's registration form. A record of all such expenditures shall be maintained by the treasurer.

No expenditure of more than fifty dollars may be made in currency unless a receipt, signed by the recipient and by the candidate or treasurer, is prepared and made a part of the campaign's or political committee's financial records.

Sec. 451. RCW 42.17A.430 and 2010 c 204 s 606 are each amended to read as follows:

The surplus funds of a candidate or a candidate's authorized committee may only be disposed of in any one or more of the following ways:

(1) Return the surplus to a contributor in an amount not to exceed that contributor's original contribution;

(2) Using surplus, reimburse the candidate for lost earnings incurred as a result of that candidate's election campaign. Lost earnings shall be verifiable as unpaid salary or, when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the candidate or the candidate's authorized committee. The committee shall maintain a copy of this record in accordance with RCW 42.17A.235(6) (as recodified by this act);

(3) Transfer the surplus without limit to a political party or to a caucus political committee;

(4) Donate the surplus to a charitable organization registered in accordance with chapter 19.09 RCW;

(5) Transmit the surplus to the state treasurer for deposit in the general fund, the Washington state legacy project, state library, and archives account under RCW 43.07.380, or the legislative international trade account under RCW 43.15.050, as specified by the candidate or political committee; or

(6) Hold the surplus in the depository or depositories designated in accordance with RCW 42.17A.215 (as recodified by this act) for possible use in a future election campaign for the same office last sought by the candidate and report any such disposition in accordance with RCW 42.17A.240 (as recodified by this act). If the candidate subsequently announces or publicly files for office, the appropriate information must be reported to the commission in accordance with RCW 42.17A.205 (as recodified by this act) through 42.17A.240 (as recodified by this act). If a subsequent office is not sought the surplus held shall be disposed of in accordance with the requirements of this section.

(7) Hold the surplus campaign funds in a separate account for nonreimbursed public office-related expenses or as provided in this section, and report any such disposition in accordance with RCW 42.17A.240 (as recodified by this act). The separate account required under this subsection shall not be used for deposits of campaign funds that are not surplus.

(8) No candidate or authorized committee may transfer funds to any other candidate or other political committee.

The disposal of surplus funds under this section shall not be considered a contribution for purposes of this ((~~chapter~~)) title.

Sec. 452. RCW 42.17A.435 and 1975 1st ex.s. c 294 s 8 are each amended to read as follows:

No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment.

Sec. 453. RCW 42.17A.440 and 2010 c 204 s 607 are each amended to read as follows:

A candidate may not knowingly establish, use, direct, or control more than one political committee for the purpose of supporting that candidate during a particular election campaign. This does not prohibit: (1) In addition to a candidate's having his or her own political committee, the candidate's participation in a political committee established to support a slate of candidates that includes the candidate; or (2) joint fund-raising efforts by candidates when a separate political committee is established for that purpose and all contributions are disbursed to and accounted for on a pro rata basis by the benefiting candidates.

Sec. 454. RCW 42.17A.442 and 2011 c 145 s 5 are each amended to read as follows:

A political committee may make a contribution to another political committee only when the contributing political committee has received contributions of ten dollars or more each from at least ((~~ten~~)) 10 persons registered to vote in Washington state.

Sec. 455. RCW 42.17A.445 and 2022 c 174 s 1 are each amended to read as follows:

Contributions received and reported in accordance with RCW 42.17A.220 (as recodified by this act) through 42.17A.240 (as recodified by this act) and 42.17A.425 (as recodified by this act) may only be paid to a candidate, or a treasurer or other individual or expended for such individual's personal use under the following circumstances:

(1) Reimbursement for or payments to cover lost earnings incurred as a result of campaigning or services performed for the political committee. Lost earnings shall be verifiable as unpaid salary, or when the individual is not salaried, as an amount not to exceed income received by the individual for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record shall be maintained by the candidate or the candidate's authorized committee in accordance with RCW 42.17A.235 (as recodified by this act).

(2) Reimbursement for direct out-of-pocket election campaign and postelection campaign related expenses made by the individual. For example, expenses for child care or other direct caregiving responsibilities may be reimbursed if they are incurred directly as a result of the candidate's campaign activities. To receive reimbursement from the political committee, the individual shall provide the political committee with written documentation as to the amount, date, and description of each expense, and the political committee shall include a copy of such information when its expenditure for such reimbursement is reported pursuant to RCW 42.17A.240 (as recodified by this act).

(3) Repayment of loans made by the individual to political committees shall be reported pursuant to RCW 42.17A.240 (as recodified by this act). However, contributions may not be used to reimburse a candidate for loans totaling more than four thousand seven hundred dollars made by the candidate to the candidate's own authorized committee.

Sec. 456. RCW 42.17A.450 and 2018 c 304 s 11 are each amended to read as follows:

(1) Contributions by spouses are considered separate contributions.

(2) Contributions by unemancipated children under ((~~eighteen~~)) 18 years of age are considered contributions by their parents and are attributed proportionately to each parent. Fifty percent of the contributions are attributed to each parent or, in the case of a single custodial parent, the total amount is attributed to the parent.

Sec. 457. RCW 42.17A.455 and 2010 c 204 s 609 are each amended to read as follows:

For purposes of this ((~~chapter~~)) title:

(1) A contribution by a political committee with funds that have all been contributed by one person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(2) Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch, or department of a corporation that is participating in an election campaign or making contributions, or a local unit or branch of a trade association, labor union, or collective bargaining association that is participating in an election campaign or making contributions. All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained, or controlled by a trade association, labor union, collective bargaining organization, or the local unit of a trade association, labor union, or collective bargaining organization are considered made by the trade association, labor union, collective bargaining organization, or local unit of a trade association, labor union, or collective bargaining organization.

(3) The commission shall adopt rules to carry out this section and is not subject to the time restrictions of RCW 42.17A.110(1) (as recodified by this act).

Sec. 458. RCW 42.17A.460 and 1993 c 2 s 7 are each amended to read as follows:

All contributions made by a person or entity, either directly or indirectly, to a candidate, to a state official against whom recall charges have been filed, or to a political committee, are considered to be contributions from that person or entity to the candidate, state official, or political committee, as are contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate, state official, or political committee. For the purposes of this section, "earmarked" means a designation, instruction, or encumbrance, whether direct or indirect, expressed or implied, or oral or written, that is intended to result in or does result in all or any part of a contribution being made to a certain candidate or state official. If a conduit or intermediary exercises any direction or control over the choice of the recipient candidate or state official, the contribution is considered to be by both the original contributor and the conduit or intermediary.

Sec. 459. RCW 42.17A.465 and 2010 c 204 s 610 are each amended to read as follows:

(1) A loan is considered to be a contribution from the lender and any guarantor of the loan and is subject to the contribution limitations of this

((~~chapter~~)) title. The full amount of the loan shall be attributed to the lender and to each guarantor.

(2) A loan to a candidate for public office or the candidate's authorized committee must be by written agreement.

(3) The proceeds of a loan made to a candidate for public office:

(a) By a commercial lending institution;

(b) Made in the regular course of business; and

(c) On the same terms ordinarily available to members of the public, are not subject to the contribution limits of this ((~~chapter~~)) title.

Sec. 460. RCW 42.17A.470 and 1993 c 2 s 13 are each amended to read as follows:

(1) A person, other than an individual, may not be an intermediary or an agent for a contribution.

(2) An individual may not make a contribution on behalf of another person or entity, or while acting as the intermediary or agent of another person or entity, without disclosing to the recipient of the contribution both his or her full name, street address, occupation, name of employer, if any, or place of business if self-employed, and the same information for each contributor for whom the individual serves as intermediary or agent.

Sec. 461. RCW 42.17A.475 and 2019 c 428 s 28 are each amended to read as follows:

(1) A person may not make a contribution of more than one hundred dollars, other than an in-kind contribution, except by a written instrument containing the name of the donor and the name of the payee.

(2) A political committee may not make a contribution, other than in-kind, except by a written instrument containing the name of the donor and the name of the payee.

Sec. 462. RCW 42.17A.480 and 1995 c 397 s 25 are each amended to read as follows:

A person may not solicit from a candidate for public office, political committee, political party, or other person money or other property as a condition or consideration for an endorsement, article, or other communication in the news media promoting or opposing a candidate for public office, political committee, or political party.

Sec. 463. RCW 42.17A.485 and 1995 c 397 s 26 are each amended to read as follows:

A person may not, directly or indirectly, reimburse another person for a contribution to a candidate for public office, political committee, or political party.

Sec. 464. RCW 42.17A.490 and 2010 c 204 s 612 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a candidate for public office or the candidate's authorized committee may not use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate or the candidate's authorized committee to further the candidacy of the individual for an office other than the office designated on the statement of organization. A contribution solicited for or received on behalf of the candidate is considered solicited or received for the candidacy for which the individual is

then a candidate if the contribution is solicited or received before the general election for which the candidate is a nominee or is unopposed.

(2) With the written approval of the contributor, a candidate or the candidate's authorized committee may use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate or the candidate's authorized committee from that contributor to further the candidacy of the individual for an office other than the office designated on the statement of organization. If the contributor does not approve the use of his or her contribution to further the candidacy of the individual for an office other than the office designated on the statement of organization at the time of the contribution, the contribution must be considered surplus funds and disposed of in accordance with RCW 42.17A.430 (as recodified by this act).

Sec. 465. RCW 42.17A.495 and 2010 c 204 s 613 are each amended to read as follows:

(1) No employer or labor organization may increase the salary of an officer or employee, or compensate an officer, employee, or other person or entity, with the intention that the increase in salary, or the compensation, or a part of it, be contributed or spent to support or oppose a candidate, state official against whom recall charges have been filed, political party, or political committee.

(2) No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee. At least annually, an employee from whom wages or salary are withheld under subsection (3) of this section shall be notified of the provisions of this subsection.

(3) No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The employee may revoke the request at any time. At least annually, the employee shall be notified about the right to revoke the request.

(4) Each person or entity who withholds contributions under subsection (3) of this section shall maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts that shall include a copy of each employee's request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a political committee. Copies of such information shall be delivered to the commission upon request.

Sec. 466. RCW 42.17A.500 and 2007 c 438 s 1 are each amended to read as follows:

(1) A labor organization may not use agency shop fees paid by an individual who is not a member of the organization to make contributions or expenditures to influence an election or to operate a political committee, unless affirmatively authorized by the individual.

(2) A labor organization does not use agency shop fees when it uses its general treasury funds to make such contributions or expenditures if it has sufficient revenues from sources other than agency shop fees in its general treasury to fund such contributions or expenditures.

Sec. 467. RCW 42.17A.550 and 2008 c 29 s 1 are each amended to read as follows:

Public funds, whether derived through taxes, fees, penalties, or any other sources, shall not be used to finance political campaigns for state or school district office. A county, city, town, or district that establishes a program to publicly finance local political campaigns may only use funds derived from local sources to fund the program. A local government must submit any proposal for public financing of local political campaigns to voters for their adoption and approval or rejection.

Sec. 468. RCW 42.17A.555 and 2010 c 204 s 701 are each amended to read as follows:

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

(4) This section does not apply to any person who is a state officer or state employee as defined in RCW 42.52.010.

Sec. 469. RCW 42.17A.560 and 2006 c 348 s 5 and 2006 c 344 s 31 are each reenacted and amended to read as follows:

(1) During the period beginning on the thirtieth day before the date a regular legislative session convenes and continuing through the date of final

adjournment, and during the period beginning on the date a special legislative session convenes and continuing through the date that session adjourns, no state official or a person employed by or acting on behalf of a state official or state legislator may solicit or accept contributions to a public office fund, to a candidate or authorized committee, or to retire a campaign debt. Contributions received through the mail after the thirtieth day before a regular legislative session may be accepted if the contribution is postmarked prior to the thirtieth day before the session.

(2) This section does not apply to activities authorized in RCW 43.07.370.

Sec. 470. RCW 42.17A.565 and 1995 c 397 s 24 are each amended to read as follows:

(1) No state or local official or state or local official's agent may knowingly solicit, directly or indirectly, a contribution to a candidate for public office, political party, or political committee from an employee in the state or local official's agency.

(2) No state or local official or public employee may provide an advantage or disadvantage to an employee or applicant for employment in the classified civil service concerning the applicant's or employee's:

(a) Employment;

(b) Conditions of employment; or

(c) Application for employment,

based on the employee's or applicant's contribution or promise to contribute or failure to make a contribution or contribute to a political party or political committee.

Sec. 471. RCW 42.17A.570 and 2010 c 204 s 702 are each amended to read as follows:

After January 1st and before April 15th of each calendar year, the state treasurer, each county, public utility district, and port district treasurer, and each treasurer of an incorporated city or town whose population exceeds ((~~one thousand~~)) 1,000 shall file with the commission:

(1) A statement under oath that no public funds under that treasurer's control were invested in any institution where the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest; or

(2) A report disclosing for the previous calendar year: (a) The name and address of each financial institution in which the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest which holds or has held during the reporting period public accounts of the governmental entity for which the treasurer is responsible; (b) the aggregate sum of time and demand deposits held in each such financial institution on December 31; and (c) the highest balance held at any time during such reporting period. The state treasurer shall disclose the highest balance information only upon a public records request under chapter 42.56 RCW. The statement or report required by this section shall be filed either with the statement required under RCW 42.17A.700 (as recodified by this act) or separately.

Sec. 472. RCW 42.17A.575 and 2010 c 204 s 703 are each amended to read as follows:

No state-elected official or municipal officer may speak or appear in a public service announcement that is broadcast, shown, or distributed in any form whatsoever during the period beginning January 1st and continuing through the general election if that official or officer is a candidate. If the official or officer does not control the broadcast, showing, or distribution of a public service announcement in which he or she speaks or appears, then the official or officer shall contractually limit the use of the public service announcement to be consistent with this section prior to participating in the public service announcement. This section does not apply to public service announcements that are part of the regular duties of the office that only mention or visually display the office or office seal or logo and do not mention or visually display the name of the official or officer in the announcement.

Sec. 473. RCW 42.17A.600 and 2019 c 469 s 2 and 2019 c 428 s 29 are each reenacted and amended to read as follows:

(1) Before lobbying, or within ((~~thirty~~)) 30 days after being employed as a lobbyist, whichever occurs first, unless exempt under RCW 42.17A.610 (as recodified by this act), 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, electronic contact information, 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 the lobbyist's 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, address, and electronic contact information of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this ((~~chapter~~)) title;

(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 RCW 44.04.390 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. 474. RCW 42.17A.603 and 2019 c 469 s 4 are each amended to read as follows:

(1) A lobbyist who is registered under RCW 42.17A.600 (as recodified by this act) 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) (as recodified by this act) by December 31, 2019.

(2) The commission shall revoke the registration of any lobbyist registered under RCW 42.17A.600 (as recodified by this act) 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 (as recodified by this act) 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) (as recodified by this act) have completed the training course provided under RCW 44.04.390.

Sec. 475. RCW 42.17A.605 and 2019 c 469 s 3 and 2019 c 428 s 30 are each reenacted and amended to read as follows:

Each lobbyist shall at the time the lobbyist registers submit electronically to the commission a recent photograph of the lobbyist of a size and format as determined by rule of the commission, together with the name of the lobbyist's employer, the length of the lobbyist's employment as a lobbyist before the legislature, a brief biographical description, and any other information the lobbyist may wish to submit not to exceed ((~~fifty~~)) 50 words in length. The photograph, information, and attestation submitted under RCW 42.17A.600(1)(j) (as recodified by this act) shall be published by the commission on its website.

Sec. 476. RCW 42.17A.610 and 2019 c 428 s 31 are each amended to read as follows:

The following persons and activities are exempt from registration and reporting under RCW 42.17A.600 (as recodified by this act), 42.17A.615 (as recodified by this act), and 42.17A.640 (as recodified by this act):

(1) Persons who limit their lobbying activities to appearing before public sessions of committees of the legislature, or public hearings of state agencies;

(2) Activities by lobbyists or other persons whose participation has been solicited by an agency under RCW 34.05.310(2);

(3) News or feature reporting activities and editorial comment by working members of the press, radio, digital media, or television and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station, digital platform, or television station;

(4) Persons who lobby without compensation or other consideration for acting as a lobbyist, if the person makes no expenditure for or on behalf of any member of the legislature or elected official or public officer or employee of the state of Washington in connection with such lobbying. The exemption contained in this subsection is intended to permit and encourage citizens of this state to lobby any legislator, public official, or state agency without incurring any registration or reporting obligation provided they do not exceed the limits stated above. Any person exempt under this subsection (4) may at the person's option register and report under this ((~~chapter~~)) title;

(5) Persons who restrict their lobbying activities to no more than four days or parts of four days during any three-month period and whose total expenditures during such three-month period for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington in connection with such lobbying do not exceed twenty-five dollars. The commission shall adopt rules to require disclosure by persons exempt under this subsection or their employers or entities which sponsor or coordinate the lobbying activities of such persons if it determines that such regulations are necessary to prevent frustration of the purposes of this ((~~chapter~~)) title. Any person exempt under this subsection (5) may at the person's option register and report under this ((~~chapter~~)) title;

(6) The governor;

(7) The lieutenant governor;

(8) Except as provided by RCW 42.17A.635(1) (as recodified by this act), members of the legislature;

(9) Except as provided by RCW 42.17A.635(1) (as recodified by this act), persons employed by the legislature for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties;

(10) Elected officials, and officers and employees of any agency reporting under RCW 42.17A.635(5) (as recodified by this act).

Sec. 477. RCW 42.17A.615 and 2019 c 428 s 32 are each amended to read as follows:

(1) Any lobbyist registered under RCW 42.17A.600 (as recodified by this act) and any person who lobbies shall file electronically with the commission monthly reports of the lobbyist's or person's lobbying activities. The reports shall be made in the form and manner prescribed by the commission and must be signed by the lobbyist. The monthly report shall be filed within ((~~fifteen~~)) 15 days after the last day of the calendar month covered by the report.

(2) The monthly report shall contain:

(a) The totals of all expenditures for lobbying activities made or incurred by the lobbyist or on behalf of the lobbyist by the lobbyist's employer during the period covered by the report. Expenditure totals for lobbying activities shall be

segregated according to financial category, including compensation; food and refreshments; living accommodations; advertising; travel; contributions; and other expenses or services. Each individual expenditure of more than twenty-five dollars for entertainment shall be identified by date, place, amount, and the names of all persons taking part in the entertainment, along with the dollar amount attributable to each person, including the lobbyist's portion.

(b) In the case of a lobbyist employed by more than one employer, the proportionate amount of expenditures in each category incurred on behalf of each of the lobbyist's employers.

(c) An itemized listing of each contribution of money or of tangible or intangible personal property, whether contributed by the lobbyist personally or delivered or transmitted by the lobbyist, to any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition, or for or on behalf of any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition. All contributions made to, or for the benefit of, any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition shall be identified by date, amount, and the name of the candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition receiving, or to be benefited by each such contribution.

(d) The subject matter of proposed legislation or other legislative activity or rule making under chapter 34.05 RCW, the state administrative procedure act, and the state agency considering the same, which the lobbyist has been engaged in supporting or opposing during the reporting period, unless exempt under RCW 42.17A.610(2) (as recodified by this act).

(e) A listing of each payment for an item specified in RCW 42.52.150(5) in excess of fifty dollars and each item specified in RCW 42.52.010(9) (d) and (f) made to a state elected official, state officer, or state employee. Each item shall be identified by recipient, date, and approximate value of the item.

(f) The total expenditures paid or incurred during the reporting period by the lobbyist for lobbying purposes, whether through or on behalf of a lobbyist or otherwise, for (i) political advertising as defined in ((~~RCW 42.17A.005~~)) section 241 of this act; and (ii) public relations, telemarketing, polling, or similar activities if the activities, directly or indirectly, are intended, designed, or calculated to influence legislation or the adoption or rejection of a rule, standard, or rate by an agency under the administrative procedure act. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(3) Lobbyists are not required to report the following:

(a) Unreimbursed personal living and travel expenses not incurred directly for lobbying;

(b) Any expenses incurred for the lobbyist's own living accommodations;

(c) Any expenses incurred for the lobbyist's own travel to and from hearings of the legislature;

(d) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance.

(4) The commission may adopt rules to vary the content of lobbyist reports to address specific circumstances, consistent with this section. Lobbyist reports are subject to audit by the commission.

Sec. 478. RCW 42.17A.620 and 2010 c 204 s 805 are each amended to read as follows:

(1) When a listing or a report of contributions is made to the commission under RCW 42.17A.615(2)(c) (as recodified by this act), a copy of the listing or report must be given to the candidate, elected official, professional staff member of the legislature, or officer or employee of an agency, or a political committee supporting or opposing a ballot proposition named in the listing or report.

(2) If a state elected official or a member of the official's immediate family is identified by a lobbyist in a lobbyist report as having received from the lobbyist an item specified in RCW 42.52.150(5) or 42.52.010(((~~(10)~~))) (9) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to identify the item in the report at the same time the report is filed with the commission.

Sec. 479. RCW 42.17A.625 and 2010 c 204 s 806 are each amended to read as follows:

Any lobbyist registered under RCW 42.17A.600 (as recodified by this act), any person who lobbies, and any lobbyist's employer making a contribution or an aggregate of contributions to a single entity that is one thousand dollars or more during a special reporting period, as specified in RCW 42.17A.265 (as recodified by this act), before a primary or general election shall file one or more special reports in the same manner and to the same extent that a contributing political committee must file under RCW 42.17A.265 (as recodified by this act).

Sec. 480. RCW 42.17A.630 and 2019 c 428 s 33 are each amended to read as follows:

(1) Every employer of a lobbyist registered under this ((~~chapter~~)) title during the preceding calendar year and every person other than an individual who made contributions aggregating to more than sixteen thousand dollars or independent expenditures aggregating to more than eight hundred dollars during the preceding calendar year shall file with the commission on or before the last day of February of each year a statement disclosing for the preceding calendar year the following information:

(a) The name of each state elected official and the name of each candidate for state office who was elected to the office and any member of the immediate family of those persons to whom the person reporting has paid any compensation in the amount of eight hundred dollars or more during the preceding calendar year for personal employment or professional services, including professional services rendered by a corporation, partnership, joint venture, association, union, or other entity in which the person holds any office, directorship, or any general partnership interest, or an ownership interest of ((~~ten~~)) 10 percent or more, the value of the compensation in accordance with the reporting provisions set out in RCW 42.17A.710(3) (as recodified by this act), and the consideration given or performed in exchange for the compensation.

(b) The name of each state elected official, successful candidate for state office, or members of the official's or candidate's immediate family to whom the person reporting made expenditures, directly or indirectly, either through a

lobbyist or otherwise, the amount of the expenditures and the purpose for the expenditures. For the purposes of this subsection, "expenditure" shall not include any expenditure made by the employer in the ordinary course of business if the expenditure is not made for the purpose of influencing, honoring, or benefiting the elected official, successful candidate, or member of his immediate family, as an elected official or candidate.

(c) The total expenditures made by the person reporting for lobbying purposes, whether through or on behalf of a registered lobbyist or otherwise.

(d) All contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a statewide ballot proposition. Such contributions shall be identified by the name and the address of the recipient and the aggregate amount contributed to each such recipient.

(e) The name and address of each registered lobbyist employed by the person reporting and the total expenditures made by the person reporting for each lobbyist for lobbying purposes.

(f) The names, offices sought, and party affiliations of candidates for state offices supported or opposed by independent expenditures of the person reporting and the amount of each such expenditure.

(g) The identifying proposition number and a brief description of any statewide ballot proposition supported or opposed by expenditures not reported under (d) of this subsection and the amount of each such expenditure.

(h) Any other information the commission prescribes by rule.

(2)(a) Except as provided in (b) of this subsection, an employer of a lobbyist registered under this ((~~chapter~~)) title shall file a special report with the commission if the employer makes a contribution or contributions aggregating more than one hundred dollars in a calendar month to any one of the following: A candidate, elected official, officer or employee of an agency, or political committee. The report shall identify the date and amount of each such contribution and the name of the candidate, elected official, agency officer or employee, or political committee receiving the contribution or to be benefited by the contribution. The report shall be filed on a form prescribed by the commission and shall be filed within ((~~fifteen~~)) 15 days after the last day of the calendar month during which the contribution was made.

(b) The provisions of (a) of this subsection do not apply to a contribution that is made through a registered lobbyist and reportable under RCW 42.17A.425 (as recodified by this act).

Sec. 481. RCW 42.17A.635 and 2010 c 204 s 808 are each amended to read as follows:

(1) The house of representatives and the senate shall report annually: The total budget; the portion of the total attributed to staff; and the number of full-time and part-time staff positions by assignment, with dollar figures as well as number of positions.

(2) Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds may be used directly or indirectly for lobbying. However, this does not prevent officers or employees of an agency from communicating with a member of the legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations that are deemed

necessary for the efficient conduct of the public business or actually made in the proper performance of their official duties. This subsection does not apply to the legislative branch.

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b) advocating the official position or interests of the agency to any elected official or officer or employee of any agency. Public funds may not be expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purposes of this subsection, "gift" means a voluntary transfer of any thing of value without consideration of equal or greater value, but does not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official agency business. This section does not permit the printing of a state publication that has been otherwise prohibited by law.

(4) No elective official or any employee of his or her office or any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, in any effort to support or oppose an initiative to the legislature. "Facilities of a public office or agency" has the same meaning as in RCW 42.17A.555 (as recodified by this act) and 42.52.180. The provisions of this subsection shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose an initiative to the legislature so long as (i) any required notice of the meeting includes the title and number of the initiative to the legislature, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any initiative to the legislature at an open press conference or in response to a specific inquiry;

(c) Activities that are part of the normal and regular conduct of the office or agency;

(d) Activities conducted regarding an initiative to the legislature that would be permitted under RCW 42.17A.555 (as recodified by this act) and 42.52.180 if conducted regarding other ballot measures.

(5) Each state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district that expends public funds for lobbying shall file with the commission, except as exempted by (d) of this subsection, quarterly statements providing the following information for the quarter just completed:

(a) The name of the agency filing the statement;

(b) The name, title, and job description and salary of each elected official, officer, or employee who lobbied, a general description of the nature of the lobbying, and the proportionate amount of time spent on the lobbying;

(c) A listing of expenditures incurred by the agency for lobbying including but not limited to travel, consultant or other special contractual services, and

brochures and other publications, the principal purpose of which is to influence legislation;

(d) For purposes of this subsection, "lobbying" does not include:

(i) Requests for appropriations by a state agency to the office of financial management pursuant to chapter 43.88 RCW nor requests by the office of financial management to the legislature for appropriations other than its own agency budget requests;

(ii) Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation, or report by an agency on a particular subject;

(iii) Official reports including recommendations submitted to the legislature on an annual or biennial basis by a state agency as required by law;

(iv) Requests, recommendations, or other communication between or within state agencies or between or within local agencies;

(v) Any other lobbying to the extent that it includes:

(A) Telephone conversations or preparation of written correspondence;

(B) In-person lobbying on behalf of an agency of no more than four days or parts thereof during any three-month period by officers or employees of that agency and in-person lobbying by any elected official of such agency on behalf of such agency or in connection with the powers, duties, or compensation of such official. The total expenditures of nonpublic funds made in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington may not exceed fifteen dollars for any three-month period. The exemption under this subsection (5)(d)(v)(B) is in addition to the exemption provided in (d)(v)(A) of this subsection;

(C) Preparation or adoption of policy positions.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within one month after the end of the quarter covered by the report.

(6) In lieu of reporting under subsection (5) of this section, any county, city, town, municipal corporation, quasi municipal corporation, or special purpose district may determine and so notify the public disclosure commission that elected officials, officers, or employees who, on behalf of any such local agency, engage in lobbying reportable under subsection (5) of this section shall register and report such reportable lobbying in the same manner as a lobbyist who is required to register and report under RCW 42.17A.600 (as recodified by this act) and 42.17A.615 (as recodified by this act). Each such local agency shall report as a lobbyist employer pursuant to RCW 42.17A.630 (as recodified by this act).

(7) The provisions of this section do not relieve any elected official or officer or employee of an agency from complying with other provisions of this ((~~chapter~~)) title, if such elected official, officer, or employee is not otherwise exempted.

(8) The purpose of this section is to require each state agency and certain local agencies to report the identities of those persons who lobby on behalf of the agency for compensation, together with certain separately identifiable and measurable expenditures of an agency's funds for that purpose. This section shall be reasonably construed to accomplish that purpose and not to require any agency to report any of its general overhead cost or any other costs that relate

only indirectly or incidentally to lobbying or that are equally attributable to or inseparable from nonlobbying activities of the agency.

The public disclosure commission may adopt rules clarifying and implementing this legislative interpretation and policy.

Sec. 482. RCW 42.17A.640 and 2023 c 413 s 1 are each amended to read as follows:

(1) Any person who has made expenditures, not reported by a registered lobbyist under RCW 42.17A.615 (as recodified by this act) or by a candidate or political committee under RCW 42.17A.225 (as recodified by this act) or 42.17A.235 (as recodified by this act), exceeding one thousand dollars in the aggregate within any three-month period or exceeding five hundred dollars in the aggregate within any one-month period in presenting a campaign to the public, a substantial portion of which is intended, designed, or calculated primarily to solicit, urge, or encourage the public to influence legislation, shall register and report, as provided in subsection (2) of this section, as a sponsor of a grass roots lobbying campaign.

(2)(a) The sponsor shall register by filing with the commission a registration statement:

(i) Within 24 hours of the initial presentation of the campaign to the public during the period:

(A) Beginning on the 30th day before a regular legislative session convenes and continuing through the date of final adjournment of that session; or

(B) Beginning on the date that a special legislative session has been called or 30 days before the special legislative session is scheduled to convene, whichever is later, and continuing through the date of final adjournment of that session; or

(ii) Within five business days of the initial presentation of the campaign to the public during any other period.

(b) The registration must show, in such detail as the commission shall prescribe:

(i) The sponsor's name, address, and business or occupation and employer, and, if the sponsor is not an individual, the names, addresses, and titles of the controlling persons responsible for managing the sponsor's affairs;

(ii) The names, addresses, and business or occupation and employer of all persons organizing and managing the campaign, or hired to assist the campaign, including any public relations or advertising firms participating in the campaign, and the terms of compensation for all such persons;

(iii) Each source of funding for the campaign of $25 or more, including:

(A) General treasury funds. The name and address of each business, union, group, association, or other organization using general treasury funds for the campaign; however, if such entity undertakes a special solicitation of its members or other persons for the campaign, or it otherwise receives funds for the campaign, that entity shall report pursuant to (b)(ii) of this subsection; and

(B) Special solicitations and other funds. The name, address, and, for individuals, occupation and employer, of a person whose funds were used to pay for the campaign, along with the amount;

(iv) The purpose of the campaign, including the specific legislation, rules, rates, standards, or proposals that are the subject matter of the campaign;

(v) The totals of all expenditures made or incurred to date on behalf of the campaign segregated according to financial category, including but not limited to the following: Advertising, segregated by media, and in the case of large expenditures (as provided by rule of the commission), by outlet; contributions; entertainment, including food and refreshments; office expenses including rent and the salaries and wages paid for staff and secretarial assistance, or the proportionate amount paid or incurred for lobbying campaign activities; consultants; and printing and mailing expenses; and

(vi) Such other information as shall be required by the commission by rule in conformance with the policies and purposes of this ((~~chapter~~)) title.

(3) Every sponsor who has registered under this section shall file monthly reports with the commission by the ((~~tenth~~)) 10th day of the month for the activity during the preceding month. The reports shall update the information contained in the sponsor's registration statement and in prior reports and shall show contributions received and totals of expenditures made during the month, in the same manner as provided for in the registration statement.

(4) When the campaign has been terminated, the sponsor shall file a notice of termination with the final monthly report. The final report shall state the totals of all contributions and expenditures made on behalf of the campaign, in the same manner as provided for in the registration statement.

(5)(a) Any advertising or other mass communication produced as part of a campaign must include the following disclosures:

(i) All written communications shall include the sponsor's name and address. All radio and television communications shall include the sponsor's name. The use of an assumed name for the sponsor is unlawful;

(ii) If the sponsor is a political committee established, maintained, or controlled directly, or indirectly through the formation of one or more political committees, by an individual, corporation, union, association, or other entity, the communication must include the full name of that individual or entity; and

(iii) If the communication costs $1,000 or more, the communication must include:

(A) The statement "Top Five Contributors," followed by a listing of the names of each of the five largest sources of funding of $1,000 or more, as reported under subsection (2)(b) of this section, during the 12-month period preceding the date on which the advertisement is initially to be published or otherwise presented to the public; and

(B) If one of the "Top Five Contributors" listed includes a political committee, the statement "Top Three Donors to PAC Contributors," followed by a listing of the names of the three individuals or entities other than political committees making the largest aggregate contributions to political committees using the same methodology as provided in RCW 42.17A.350(2) (as recodified by this act).

(b) Abbreviations may be used to describe entities required to be listed under (a) of this subsection if the full name of the entity has been clearly spoken previously during the communication. The information required by (a) of this subsection shall:

(i) In a written communication:

(A) Appear on the first page or fold of the written advertisement or communication in at least 10-point type, or in type at least 10 percent of the

largest size type used in a written communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(B) Not be subject to the half-tone or screening process; and

(C) Be set apart from any other printed matter. No text may be before, after, or immediately adjacent to the information required by (a) of this subsection; or

(ii) In a communication transmitted via television or another medium that includes a visual image or audio:

(A) Be clearly spoken; or

(B) Appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height on a solid black background on the entire bottom one-third of the television or visual display screen, or bottom one-fourth of the screen if the sponsor does not have or is otherwise not required to list its top five contributors, and have a reasonable color contrast with the background.

(6) The commission is authorized to adopt rules, as needed, to prevent ways to circumvent the purposes of the required disclosures in this section or otherwise in conformance with the policies and purposes of this ((~~chapter~~)) title.

Sec. 483. RCW 42.17A.645 and 2010 c 204 s 810 are each amended to read as follows:

If any person registered or required to be registered as a lobbyist, or any employer of any person registered or required to be registered as a lobbyist, employs a member or an employee of the legislature, a member of a state board or commission, or a full-time state employee, and that new employee remains in the partial employ of the state, the new employer must file within ((~~fifteen~~)) 15 days after employment a statement with the commission, signed under oath, setting out the nature of the employment, the name of the person employed, and the amount of pay or consideration.

Sec. 484. RCW 42.17A.650 and 2010 c 204 s 811 are each amended to read as follows:

It is a violation of this ((~~chapter~~)) title for any person to employ for pay or any consideration, or pay or agree to pay any consideration to, a person to lobby who is not registered under this ((~~chapter~~)) title except upon the condition that such a person must register as a lobbyist as provided by this ((~~chapter~~)) title.

Sec. 485. RCW 42.17A.655 and 2019 c 428 s 34 are each amended to read as follows:

(1) A person required to register as a lobbyist under RCW 42.17A.600 (as recodified by this act) shall substantiate financial reports required to be made under this ((~~chapter~~)) title with accounts, bills, receipts, books, papers, and other necessary documents and records. All such documents must be obtained and preserved for a period of at least five years from the date of filing the statement containing such items and shall be made available for inspection by the commission at any time. If the terms of the lobbyist's employment contract require that these records be turned over to the lobbyist's employer, responsibility for the preservation and inspection of these records under this subsection shall be with such employer.

(2) A person required to register as a lobbyist under RCW 42.17A.600 (as recodified by this act) shall not:

(a) Engage in any lobbying activity before registering as a lobbyist;

(b) Knowingly deceive or attempt to deceive a legislator regarding the facts pertaining to any pending or proposed legislation;

(c) Cause or influence the introduction of a bill or amendment to that bill for the purpose of later being employed to secure its defeat;

(d) Knowingly represent an interest adverse to the lobbyist's employer without full disclosure of the adverse interest to the employer and obtaining the employer's written consent;

(e) Exercise any undue influence, extortion, or unlawful retaliation upon any legislator due to the legislator's position or vote on any pending or proposed legislation;

(f) Enter into any agreement, arrangement, or understanding in which any portion of the lobbyist's compensation is or will be contingent upon the lobbyist's success in influencing legislation.

(3) A violation by a lobbyist of this section shall be cause for revocation of the lobbyist's registration, and may subject the lobbyist and the lobbyist's employer, if the employer aids, abets, ratifies, or confirms the violation, to other civil liabilities as provided by this ((~~chapter~~)) title.

Sec. 486. RCW 42.17A.700 and 2019 c 428 s 35 are each amended to read as follows:

(1) After January 1st and before April 15th of each year, every elected official and every executive state officer who served for any portion of the preceding year shall electronically file with the commission a statement of financial affairs for the preceding calendar year or for that portion of the year served. Any official or officer in office for any period of time in a calendar year, but not in office as of January 1st of the following year, may electronically file either within ((~~sixty~~)) 60 days of leaving office or during the January 1st through April 15th reporting period of that following year. Such filing must include information for the portion of the current calendar year for which the official or officer was in office.

(2) Within two weeks of becoming a candidate, every candidate shall file with the commission a statement of financial affairs for the preceding ((~~twelve~~)) 12 months.

(3) Within two weeks of appointment, every person appointed to a vacancy in an elective office or executive state officer position during the months of January through November shall file with the commission a statement of financial affairs for the preceding ((~~twelve~~)) 12 months, except as provided in subsection (4) of this section. For appointments made in December, the appointee must file the statement of financial affairs between January 1st and January 15th of the immediate following year for the preceding ((~~twelve~~)) 12-month period ending on December 31st.

(4) A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.

(5) No individual may be required to file more than once in any calendar year.

(6) Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.

(7) Every elected official and every executive state officer shall file with their statement of financial affairs a statement certifying that they have read and are familiar with RCW 42.17A.555 (as recodified by this act) or 42.52.180, whichever is applicable.

(8) For the purposes of this section, the term "executive state officer" includes those listed in RCW 42.17A.705 (as recodified by this act).

(9) This section does not apply to incumbents or candidates for a federal office or the office of precinct committee officer.

Sec. 487. RCW 42.17A.705 and 2017 3rd sp.s. c 6 s 111 are each amended to read as follows:

For the purposes of RCW 42.17A.700 (as recodified by this act), "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the director of the department of services for the blind, the secretary of children, youth, and families, the director of the state system of community and technical colleges, the director of commerce, the director of the consolidated technology services agency, the secretary of corrections, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the director of enterprise services, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, Eastern Washington University board of trustees, Washington economic development finance authority, Washington energy northwest executive board, The Evergreen State College board of trustees, executive ethics board, fish and wildlife commission, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities

authority, student achievement council, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, state investment board, commission on judicial conduct, legislative ethics board, life sciences discovery fund authority board of trustees, state liquor and cannabis board, lottery commission, Pacific Northwest electric power and conservation planning council, parks and recreation commission, Washington personnel resources board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, shorelines hearings board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington State University board of regents, and Western Washington University board of trustees.

Sec. 488. RCW 42.17A.710 and 2023 c 462 s 502 are each amended to read as follows:

(1) The statement of financial affairs required by RCW 42.17A.700 (as recodified by this act) shall disclose the following information for the reporting individual and each member of the reporting individual's immediate family:

(a) Occupation, name of employer, and business address;

(b) Each bank account, savings account, and insurance policy in which a direct financial interest was held that exceeds twenty thousand dollars at any time during the reporting period; each other item of intangible personal property in which a direct financial interest was held that exceeds two thousand dollars during the reporting period; the name, address, and nature of the entity; and the nature and highest value of each direct financial interest during the reporting period;

(c) The name and address of each creditor to whom the value of two thousand dollars or more was owed; the original amount of each debt to each creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each debt; and the security given, if any, for each such debt. Debts arising from a "retail installment transaction" as defined in chapter 63.14 RCW (retail installment sales act) need not be reported;

(d) Every public or private office, directorship, and position held as trustee; except that an elected official or executive state officer need not report the elected official's or executive state officer's service on a governmental board, commission, association, or functional equivalent, when such service is part of the elected official's or executive state officer's official duties;

(e) All persons for whom any legislation, rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation. For the purposes of this subsection, "compensation" does not include payments made to the person reporting by the governmental entity for which the person serves as an elected official or state executive officer or professional staff member for the person's service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid;

(f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in

any form of a total value of two thousand dollars or more; the value of the compensation; and the consideration given or performed in exchange for the compensation;

(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and: (i) With respect to a governmental unit in which the official seeks or holds any office or position, if the entity has received compensation in any form during the preceding twelve months from the governmental unit, the value of the compensation and the consideration given or performed in exchange for the compensation; and (ii) the name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which the entity has received compensation in any form in the amount of ten thousand dollars or more during the preceding twelve months and the consideration given or performed in exchange for the compensation. As used in (g)(ii) of this subsection, "compensation" does not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing the service. With respect to any bank or commercial lending institution in which is held any office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of the bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by the bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by the bank or commercial lending institution if the interest exceeds two thousand four hundred dollars;

(h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ten thousand dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for that interest;

(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ten thousand dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for that interest, and the name and address of the person furnishing the consideration;

(j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ten thousand dollars in which a direct financial interest was held. If a description of the property has been included in a report previously filed, the property may be listed, for purposes of this subsection (1)(j), by reference to the previously filed report;

(k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds twenty thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm, or enterprise a ten percent or greater ownership interest was held;

(l) A list of each occasion, specifying date, donor, and amount, at which food and beverage in excess of fifty dollars was accepted under RCW 42.52.150(5);

(m) A list of each occasion, specifying date, donor, and amount, at which items specified in RCW 42.52.010(9) (d) and (f) were accepted; and

(n) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this ((~~chapter~~)) title, as the commission shall prescribe by rule.

(2)(a) When judges, prosecutors, sheriffs, participants in the address confidentiality program under RCW 40.24.030, or their immediate family members are required to disclose real property that is the personal residence of the judge, prosecutor, sheriff, or address confidentiality program participant, the requirements of subsection (1)(h) through (k) of this section may be satisfied for that property by substituting:

(i) The city or town;

(ii) The type of residence, such as a single-family or multifamily residence, and the nature of ownership; and

(iii) Such other identifying information the commission prescribes by rule for the mailing address where the property is located.

(b) Nothing in this subsection relieves the judge, prosecutor, or sheriff of any other applicable obligations to disclose potential conflicts or to recuse oneself.

(3)(a) Where an amount is required to be reported under subsection (1)(a) through (m) of this section, it may be reported within a range as provided in (b) of this subsection.

(b)

Code A	Less than thirty thousand dollars;
Code B	At least thirty thousand dollars, but less than sixty thousand dollars;
Code C	At least sixty thousand dollars, but less than one hundred thousand dollars;
Code D	At least one hundred thousand dollars, but less than two hundred thousand dollars;
Code E	At least two hundred thousand dollars, but less than five hundred thousand dollars;
Code F	At least five hundred thousand dollars, but less than seven hundred and fifty thousand dollars;

Code G	At least seven hundred fifty thousand dollars, but less than one million dollars; or
Code H	One million dollars or more.

(c) An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection may be interpreted to prevent any person from filing more information or more detailed information than required.

(4) Items of value given to an official's or employee's spouse, domestic partner, or family member are attributable to the official or employee, except the item is not attributable if an independent business, family, or social relationship exists between the donor and the spouse, domestic partner, or family member.

Sec. 489. RCW 42.17A.715 and 2010 c 204 s 904 are each amended to read as follows:

No payment shall be made to any person required to report under RCW 42.17A.700 (as recodified by this act) and no payment shall be accepted by any such person, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the payment or in any other manner so as to effect concealment. The commission may issue categorical and specific exemptions to the reporting of the actual source when there is an undisclosed principal for recognized legitimate business purposes.

Sec. 490. RCW 42.17A.750 and 2019 c 428 s 37 are each amended to read as follows:

(1) In addition to the penalties in subsection (2) of this section, and any other remedies provided by law, one or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

(a) If the court finds that the violation of any provision of this ((~~chapter~~)) title by any candidate, committee, or incidental committee probably affected the outcome of any election, the result of that election may be held void and a special election held within ((~~sixty~~)) 60 days of the finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

(b) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this ((~~chapter~~)) title, the lobbyist's or sponsor's registration may be revoked or suspended and the lobbyist or sponsor may be enjoined from receiving compensation or making expenditures for lobbying. The imposition of a sanction shall not excuse the lobbyist from filing statements and reports required by this ((~~chapter~~)) title.

(c) A person who violates any of the provisions of this ((~~chapter~~)) title may be subject to a civil penalty of not more than ten thousand dollars for each violation. However, a person or entity who violates RCW 42.17A.405 (as recodified by this act) may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

(d) When assessing a civil penalty, the court may consider the nature of the violation and any relevant circumstances, including the following factors:

(i) The respondent's compliance history, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, resulted from a knowing or intentional effort to conceal, deceive or mislead, or from collusive behavior, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;

(ii) The impact on the public, including whether the noncompliance deprived the public of timely or accurate information during a time-sensitive period or otherwise had a significant or material impact on the public;

(iii) Experience with campaign finance law and procedures or the financing, staffing, or size of the respondent's campaign or organization;

(iv) The amount of financial activity by the respondent during the statement period or election cycle;

(v) Whether the late or unreported activity was within three times the contribution limit per election, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;

(vi) Whether the respondent or any person benefited politically or economically from the noncompliance;

(vii) Whether there was a personal emergency or illness of the respondent or member of the respondent's immediate family;

(viii) Whether other emergencies such as fire, flood, or utility failure prevented filing;

(ix) Whether there was commission staff or equipment error, including technical problems at the commission that prevented or delayed electronic filing;

(x) The respondent's demonstrated good-faith uncertainty concerning commission staff guidance or instructions;

(xi) Whether the respondent is a first-time filer;

(xii) Good faith efforts to comply, including consultation with commission staff prior to initiation of enforcement action and cooperation with commission staff during enforcement action and a demonstrated wish to acknowledge and take responsibility for the violation;

(xiii) Penalties imposed in factually similar cases; and

(xiv) Other factors relevant to the particular case.

(e) A person who fails to file a properly completed statement or report within the time required by this ((~~chapter~~)) title may be subject to a civil penalty of ten dollars per day for each day each delinquency continues.

(f) Each state agency director who knowingly fails to file statements required by RCW 42.17A.635 (as recodified by this act) shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars per statement. These penalties are in addition to any other civil remedies or sanctions imposed on the agency.

(g) A person who fails to report a contribution or expenditure as required by this ((~~chapter~~)) title may be subject to a civil penalty equivalent to the amount not reported as required.

(h) Any state agency official, officer, or employee who is responsible for or knowingly directs or expends public funds in violation of RCW 42.17A.635 (2) or (3) (as recodified by this act) may be subject to personal liability in the form

of a civil penalty in an amount that is at least equivalent to the amount of public funds expended in the violation.

(i) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein.

(2) The commission may refer the following violations for criminal prosecution:

(a) A person who, with actual malice, violates a provision of this ((~~chapter~~)) title is guilty of a misdemeanor under chapter 9.92 RCW;

(b) A person who, within a five-year period, with actual malice, violates three or more provisions of this ((~~chapter~~)) title is guilty of a gross misdemeanor under chapter 9.92 RCW; and

(c) A person who, with actual malice, procures or offers any false or forged document to be filed, registered, or recorded with the commission under this ((~~chapter~~)) title is guilty of a class C felony under chapter 9.94A RCW.

Sec. 491. RCW 42.17A.755 and 2019 c 428 s 38 are each amended to read as follows:

(1) The commission may initiate or respond to a complaint, request a technical correction, or otherwise resolve matters of compliance with this ((~~chapter~~)) title, in accordance with this section. If a complaint is filed with or initiated by the commission, the commission must:

(a) Dismiss the complaint or otherwise resolve the matter in accordance with subsection (2) of this section, as appropriate under the circumstances after conducting a preliminary review;

(b) Initiate an investigation to determine whether a violation has occurred, conduct hearings, and issue and enforce an appropriate order, in accordance with chapter 34.05 RCW and subsection (3) of this section; or

(c) Refer the matter to the attorney general, in accordance with subsection (4) of this section.

(2)(a) For complaints of remediable violations or requests for technical corrections, the commission may, by rule, delegate authority to its executive director to resolve these matters in accordance with subsection (1)(a) of this section, provided the executive director consistently applies such authority.

(b) The commission shall, by rule, develop additional processes by which a respondent may agree by stipulation to any allegations and pay a penalty subject to a schedule of violations and penalties, unless waived by the commission as provided for in this section. Any stipulation must be referred to the commission for review. If approved or modified by the commission, agreed to by the parties, and the respondent complies with all requirements set forth in the stipulation, the matter is then considered resolved and no further action or review is allowed.

(3) If the commission initiates an investigation, an initial hearing must be held within ((~~ninety~~)) 90 days of the complaint being filed. Following an investigation, in cases where it chooses to determine whether a violation has occurred, the commission shall hold a hearing pursuant to the administrative procedure act, chapter 34.05 RCW. Any order that the commission issues under this section shall be pursuant to such a hearing.

(a) The person against whom an order is directed under this section shall be designated as the respondent. The order may require the respondent to cease and desist from the activity that constitutes a violation and in addition, or alternatively, may impose one or more of the remedies provided in RCW

42.17A.750(1) (b) through (h) (as recodified by this act), or other requirements as the commission determines appropriate to effectuate the purposes of this ((~~chapter~~)) title.

(b) The commission may assess a penalty in an amount not to exceed ten thousand dollars per violation, unless the parties stipulate otherwise. Any order that the commission issues under this section that imposes a financial penalty must be made pursuant to a hearing, held in accordance with the administrative procedure act, chapter 34.05 RCW.

(c) The commission has the authority to waive a penalty for a first-time violation. A second violation of the same requirement by the same person, regardless if the person or individual committed the violation for a different political committee or incidental committee, shall result in a penalty. Successive violations of the same requirement shall result in successively increased penalties. The commission may suspend any portion of an assessed penalty contingent on future compliance with this ((~~chapter~~)) title. The commission must create a schedule to enhance penalties based on repeat violations by the person.

(d) Any order issued by the commission is subject to judicial review under the administrative procedure act, chapter 34.05 RCW. If the commission's order is not satisfied and no petition for review is filed within ((~~thirty~~)) 30 days, the commission may petition a court of competent jurisdiction of any county in which a petition for review could be filed under that jurisdiction, for an order of enforcement. Proceedings in connection with the commission's petition shall be in accordance with RCW 42.17A.760 (as recodified by this act).

(4) In lieu of holding a hearing or issuing an order under this section, the commission may refer the matter to the attorney general consistent with this section, when the commission believes:

(a) Additional authority is needed to ensure full compliance with this ((~~chapter~~)) title;

(b) An apparent violation potentially warrants a penalty greater than the commission's penalty authority; or

(c) The maximum penalty the commission is able to levy is not enough to address the severity of the violation.

(5) Prior to filing a citizen's action under RCW 42.17A.775 (as recodified by this act), a person who has filed a complaint pursuant to this section must provide written notice to the attorney general if the commission does not, within 90 ((~~[ninety]~~)) days of the complaint being filed with the commission, take action pursuant to subsection (1) of this section. A person must simultaneously provide a copy of the written notice to the commission.

Sec. 492. RCW 42.17A.760 and 2010 c 204 s 1003 are each amended to read as follows:

The following procedure shall apply in all cases where the commission has petitioned a court of competent jurisdiction for enforcement of any order it has issued pursuant to this ((~~chapter~~)) title:

(1) A copy of the petition shall be served by certified mail directed to the respondent at his or her last known address. The court shall issue an order directing the respondent to appear at a time designated in the order, not less than five days from the date thereof, and show cause why the commission's order should not be enforced according to its terms.

(2) The commission's order shall be enforced by the court if the respondent does not appear, or if the respondent appears and the court finds, pursuant to a hearing held for that purpose:

(a) That the commission's order is unsatisfied;

(b) That the order is regular on its face; and

(c) That the respondent's answer discloses no valid reason why the commission's order should not be enforced or that the respondent had an appropriate remedy by review under RCW 34.05.570(3) and failed to avail himself or herself of that remedy without valid excuse.

(3) Upon appropriate application by the respondent, the court may, after hearing and for good cause, alter, amend, revise, suspend, or postpone all or part of the commission's order. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and the action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) The court's order of enforcement, when entered, shall have the same force and effect as a civil judgment.

(5) Notwithstanding RCW 34.05.578 through 34.05.590, this section is the exclusive method for enforcing an order of the commission.

Sec. 493. RCW 42.17A.765 and 2019 c 428 s 39 are each amended to read as follows:

(1)(a) The attorney general may bring civil actions in the name of the state for any appropriate civil remedy, including but not limited to the special remedies provided in RCW 42.17A.750 (as recodified by this act) upon:

(i) Referral by the commission pursuant to RCW 42.17A.755(4) (as recodified by this act);

(ii) Receipt of a notice provided in accordance with RCW 42.17A.755(5) (as recodified by this act); or

(iii) Receipt of a notice of intent to commence a citizen's action, as provided under RCW 42.17A.775(3) (as recodified by this act).

(b) Within ((~~forty-five~~)) 45 days of receiving a referral from the commission or notice of the commission's failure to take action provided in accordance with RCW 42.17A.755(5) (as recodified by this act), or within ((~~ten~~)) 10 days of receiving a citizen's action notice, the attorney general must publish a decision whether to commence an action on the attorney general's office website. Publication of the decision within the ((~~forty-five~~)) 45 day period, or ten-day period, whichever is applicable, shall preclude a citizen's action pursuant to RCW 42.17A.775 (as recodified by this act).

(c) The attorney general should use the enforcement powers in this section in a consistent manner that provides guidance in complying with the provisions of this ((~~chapter~~)) title to candidates, political committees, or other individuals subject to the regulations of this ((~~chapter~~)) title.

(2) The attorney general may investigate or cause to be investigated the activities of any person who there is reason to believe is or has been acting in violation of this ((~~chapter~~)) title, and may require any such person or any other person reasonably believed to have information concerning the activities of such person to appear at a time and place designated in the county in which such person resides or is found, to give such information under oath and to produce all

accounts, bills, receipts, books, paper and documents which may be relevant or material to any investigation authorized under this ((~~chapter~~)) title.

(3) When the attorney general requires the attendance of any person to obtain such information or produce the accounts, bills, receipts, books, papers, and documents that may be relevant or material to any investigation authorized under this ((~~chapter~~)) title, the attorney general shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least ((~~fourteen~~)) 14 days before the date fixed for attendance. The order shall have the same force and effect as a subpoena, shall be effective statewide, and, upon application of the attorney general, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the order were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and the action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

Sec. 494. RCW 42.17A.770 and 2018 c 304 s 15 are each amended to read as follows:

Except as provided in RCW 42.17A.775(4) (as recodified by this act), any action brought under the provisions of this ((~~chapter~~)) title must be commenced within five years after the date when the violation occurred.

Sec. 495. RCW 42.17A.775 and 2019 c 428 s 40 are each amended to read as follows:

(1) A person who has reason to believe that a provision of this ((~~chapter~~)) title is being or has been violated may bring a citizen's action in the name of the state, in accordance with the procedures of this section.

(2) A citizen's action may be brought and prosecuted only if the person first has filed a complaint with the commission and:

(a) The commission has not taken action authorized under RCW 42.17A.755(1) (as recodified by this act) within ((~~ninety~~)) 90 days of the complaint being filed with the commission, and the person who initially filed the complaint with the commission provided written notice to the attorney general in accordance with RCW 42.17A.755(5) (as recodified by this act) and the attorney general has not commenced an action, or published a decision whether to commence action pursuant to RCW 42.17A.765(1)(b) (as recodified by this act), within ((~~forty-five~~)) 45 days of receiving the notice;

(b) For matters referred to the attorney general within ((~~ninety~~)) 90 days of the commission receiving the complaint, the attorney general has not commenced an action, or published a decision whether to commence an action pursuant to RCW 42.17A.765(1)(b) (as recodified by this act), within ((~~forty-five~~)) 45 days of receiving referral from the commission; and

(c) The person who initially filed the complaint with the commission has provided notice of a citizen's action in accordance with subsection (3) of this section and the commission or the attorney general has not commenced action within the ((~~ten~~)) 10 days provided under subsection (3) of this section.

(3) To initiate the citizen's action, after meeting the requirements under subsection (2) (a) and (b) of this section, a person must notify the attorney general and the commission that the person will commence a citizen's action within ((~~ten~~)) 10 days if the commission does not take action authorized under RCW 42.17A.755(1) (as recodified by this act), or the attorney general does not commence an action or publish a decision whether to commence an action pursuant to RCW 42.17A.765(1)(b) (as recodified by this act). The attorney general and the commission must notify the other of its decision whether to commence an action.

(4) The citizen's action must be commenced within two years after the date when the alleged violation occurred and may not be commenced against a committee or incidental committee before the end of such period if the committee or incidental committee has received an acknowledgment of dissolution.

(5) If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but he or she shall be entitled to be reimbursed by the state for reasonable costs and reasonable attorneys' fees the person incurred. In the case of a citizen's action that is dismissed and that the court also finds was brought without reasonable cause, the court may order the person commencing the action to pay all trial costs and reasonable attorneys' fees incurred by the defendant.

Sec. 496. RCW 42.17A.780 and 2018 c 304 s 17 are each amended to read as follows:

In any action brought under this ((~~chapter~~)) title, the court may award to the commission all reasonable costs of investigation and trial, including reasonable attorneys' fees to be fixed by the court. If the violation is found to have been intentional, the amount of the judgment, which shall for this purpose include the costs, may be trebled as punitive damages. If damages or trebled damages are awarded in such an action brought against a lobbyist, the judgment may be awarded against the lobbyist, and the lobbyist's employer or employers joined as defendants, jointly, severally, or both. If the defendant prevails, he or she shall be awarded all costs of trial and may be awarded reasonable attorneys' fees to be fixed by the court and paid by the state of Washington.

Sec. 497. RCW 42.17A.785 and 2018 c 304 s 18 are each amended to read as follows:

The public disclosure transparency account is created in the state treasury. All receipts from penalties collected pursuant to enforcement actions or settlements under this ((~~chapter~~)) title, including any fees or costs, must be deposited into the account. Moneys in the account may be spent only after appropriation. Moneys in the account may be used only for the implementation of chapter 304, Laws of 2018 and duties under this ((~~chapter~~)) title, and may not be used to supplant general fund appropriations to the commission.

Sec. 498. RCW 42.62.040 and 2023 c 360 s 4 are each amended to read as follows:

The public disclosure commission must adopt rules in furtherance of the purpose of this chapter. Nothing in this chapter constitutes a violation under ((~~chapter 42.17A RCW~~)) other chapters of this title, or otherwise authorizes the

public disclosure commission to take action under RCW 42.17A.755 (as recodified by this act).

Sec. 499. RCW 15.65.280 and 2011 c 103 s 14 and 2011 c 60 s 1 are each reenacted and amended to read as follows:

The powers and duties of the board shall be:

(1) To elect a chair and such other officers as it deems advisable;

(2) To advise and counsel the director with respect to the administration and conduct of such marketing agreement or order;

(3) To recommend to the director administrative rules and orders and amendments thereto for the exercise of his or her powers in connection with such agreement or order;

(4) To advise the director upon all assessments provided pursuant to the terms of such agreement or order and upon the collection, deposit, withdrawal, disbursement and paying out of all moneys;

(5) To assist the director in the collection of such necessary information and data as the director may deem necessary in the proper administration of this chapter;

(6) To administer the order or agreement as its administrative board if the director designates it so to do in such order or agreement;

(7) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in the board's marketing order or agreement;

(8) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local, to carry out the purposes provided in the board's marketing order or agreement. Personal service contracts must comply with chapter 39.29 RCW;

(9) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies to carry out the purposes provided in the board's marketing order or agreement;

(10) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of a board. The retention of a private attorney is subject to review by the office of the attorney general;

(11) To engage in appropriate fund-raising activities for the purpose of supporting activities of the board authorized by the marketing order or agreement;

(12) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of an affected commodity;

(13) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of affected commodities including activities authorized under RCW 42.17A.635 (as recodified by this act), including the reporting of those activities to the public disclosure commission;

(14) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the marketing order or agreement, and data on the value of each producer's production for a minimum three-year period;

(15) To maintain a list of the names and addresses of persons who handle the affected commodity within the affected area and data on the amount and value of the commodity handled for a minimum three-year period by each person; and

(16) To perform such other duties as the director may prescribe in the marketing agreement or order.

Any agreement or order under which the commodity board administers the order or agreement shall (if so requested by the affected producers within the affected area in the proposal or promulgation hearing) contain provisions whereby the director reserves the power to approve or disapprove every order, rule or directive issued by the board, in which event such approval or disapproval shall be based on whether or not the director believes the board's action has been carried out in conformance with the purposes of this chapter.

Sec. 500. RCW 15.66.140 and 2011 c 103 s 15 and 2011 c 60 s 2 are each reenacted and amended to read as follows:

Every commodity commission shall have such powers and duties in accordance with provisions of this chapter as may be provided in the marketing order and shall have the following powers and duties:

(1) To elect a chair and such other officers as determined advisable;

(2) To adopt, rescind, and amend rules and regulations reasonably necessary for the administration and operation of the commission and the enforcement of its duties under the marketing order;

(3) To administer, enforce, direct and control the provisions of the marketing order and of this chapter relating thereto;

(4) To employ and discharge at its discretion such administrators and additional personnel, attorneys, advertising and research agencies and other persons and firms that it may deem appropriate and pay compensation to the same;

(5) To acquire personal property and purchase or lease office space and other necessary real property and transfer and convey the same;

(6) To institute and maintain in its own name any and all legal actions, including actions by injunction, mandatory injunction or civil recovery, or proceedings before administrative tribunals or other governmental authorities necessary to carry out the provisions of this chapter and of the marketing order;

(7) To keep accurate records of all its receipts and disbursements, which records shall be open to inspection and audit by the state auditor or private auditor designated by the state auditor at least every five years;

(8) Borrow money and incur indebtedness;

(9) Make necessary disbursements for routine operating expenses;

(10) To expend funds for commodity-related education, training, and leadership programs as each commission deems expedient;

(11) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in the commission's marketing order;

(12) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local, to carry out the purposes provided in the commission's marketing order. Personal service contracts must comply with chapter 39.29 RCW;

(13) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies to carry out the purposes provided in the commission's marketing order;

(14) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of an affected commodity;

(15) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of a commission. The retention of a private attorney is subject to review by the office of the attorney general;

(16) To engage in appropriate fund-raising activities for the purpose of supporting activities of the commission authorized by the marketing order;

(17) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of affected commodities including activities authorized under RCW 42.17A.635 (as recodified by this act), including the reporting of those activities to the public disclosure commission;

(18) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of the marketing order and data on the value of each producer's production for a minimum three-year period;

(19) To maintain a list of the names and addresses of persons who handle the affected commodity within the affected area and data on the amount and value of the commodity handled for a minimum three-year period by each person;

(20) To request records and audit the records of producers or handlers of the affected commodity during normal business hours to determine whether the appropriate assessment has been paid;

(21) To acquire or own intellectual property rights, licenses, or patents and to collect royalties resulting from commission-funded research related to the affected commodity; and

(22) Such other powers and duties that are necessary to carry out the purposes of this chapter.

Sec. 501. RCW 15.89.070 and 2015 c 225 s 13 are each amended to read as follows:

The commission shall:

(1) Elect a chair and officers. The officers must include a treasurer who is responsible for all receipts and disbursements by the commission and the faithful discharge of whose duties shall be guaranteed by a bond at the sole expense of the commission. The commission must adopt rules for its own governance that provide for the holding of an annual meeting for the election of officers and the transaction of other business and for other meetings the commission may direct;

(2) Do all things reasonably necessary to effect the purposes of this chapter. However, the commission has no rule-making power except as provided in this chapter;

(3) Employ and discharge managers, secretaries, agents, attorneys, and employees and engage the services of independent contractors;

(4) Retain, as necessary, the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general;

(5) Receive donations of beer from producers for promotional purposes under subsections (6) and (7) of this section and for fund-raising purposes under subsection (8) of this section. Donations of beer for promotional purposes may only be disseminated without charge;

(6) Engage directly or indirectly in the promotion of Washington beer, including, without limitation, the acquisition in any lawful manner and the dissemination without charge of beer. This dissemination is not deemed a sale for any purpose and the commission is not deemed a producer, supplier, or manufacturer, or the clerk, servant, or agent of a producer, supplier, distributor, or manufacturer. This dissemination without charge shall be for agricultural development or trade promotion, and not for fund-raising purposes under subsection (8) of this section. Dissemination for promotional purposes may include promotional hosting and must in the good faith judgment of the commission be in the aid of the marketing, advertising, sale of beer, or of research related to such marketing, advertising, or sale;

(7) Promote Washington beer by conducting unique beer tastings without charge;

(8) Beginning July 1, 2007, fund the Washington beer commission through sponsorship of up to ((~~twelve~~)) 12 beer festivals annually at which beer may be sold to festival participants. For this purpose, the commission would qualify for issue of a special occasion license as an exception to WAC 314-05-020 but must comply with laws under Title 66 RCW and rules adopted by the liquor ((~~control~~)) and cannabis board under which such events may be conducted;

(9) Participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, regulation, distribution, sale, or use of beer including activities authorized under RCW 42.17A.635 (as recodified by this act), including the reporting of those activities to the public disclosure commission;

(10) Acquire and transfer personal and real property, establish offices, incur expenses, and enter into contracts, including contracts for the creation and printing of promotional literature. The contracts are not subject to chapter 43.19 RCW, and are cancelable by the commission unless performed under conditions of employment that substantially conform to the laws of this state and the rules of the department of labor and industries. The commission may create debt and other liabilities that are reasonable for proper discharge of its duties under this chapter;

(11) Maintain accounts with one or more qualified public depositories as the commission may direct, for the deposit of money, and expend money for purposes authorized by this chapter by drafts made by the commission upon such institutions or by other means;

(12) Cause to be kept and annually closed, in accordance with generally accepted accounting principles, accurate records of all receipts, disbursements, and other financial transactions, available for audit by the state auditor;

(13) Create and maintain a list of producers and disseminate information among and solicit the opinions of producers with respect to the discharge of the

duties of the commission, directly or by arrangement with trade associations or other instrumentalities;

(14) Employ, designate as an agent, act in concert with, and enter into contracts with any person, council, commission, or other entity to promote the general welfare of the beer industry and particularly to assist in the sale and distribution of Washington beer in domestic and foreign commerce. The commission shall expend money necessary or advisable for this purpose and to pay its proportionate share of the cost of any program providing direct or indirect assistance to the sale and distribution of Washington beer in domestic or foreign commerce, employing and paying for vendors of professional services of all kinds;

(15) Sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by this chapter;

(16) Serve as liaison with the liquor ((~~control~~)) and cannabis board on behalf of the commission and not for any individual producer;

(17) Receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the commission and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

Sec. 502. RCW 15.115.140 and 2011 c 103 s 17 and 2011 c 60 s 4 are each reenacted and amended to read as follows:

(1) The commission is an agency of the Washington state government subject to oversight by the director. In exercising its powers and duties, the commission shall carry out the following purposes:

(a) To establish plans and conduct programs for advertising and sales promotion, to maintain present markets, or to create new or larger markets for wheat and barley grown in Washington;

(b) To engage in cooperative efforts in the domestic or foreign marketing of wheat and barley grown in Washington;

(c) To provide for carrying on research studies to find more efficient methods of production, irrigation, processing, transportation, handling, and marketing of wheat and barley grown in Washington;

(d) To adopt rules to provide for improving standards and grades by defining, establishing, and providing labeling requirements with respect to wheat and barley grown in Washington;

(e) To investigate and take necessary action to prevent unfair trade practices relating to wheat and barley grown in Washington;

(f) To provide information or communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of wheat and barley grown in Washington to any elected official or officer or employee of any agency;

(g) To provide marketing information and services for producers of wheat and barley in Washington;

(h) To provide information and services for meeting resource conservation objectives of producers of wheat and barley in Washington;

(i) To provide for education and training related to wheat and barley grown in Washington; and

(j) To assist and cooperate with the department or any local, state, or federal government agency in the investigation and control of exotic pests and diseases that could damage or affect the production or trade of wheat and barley grown in Washington.

(2) The commission has the following powers and duties:

(a) To collect the assessments of producers as provided in this chapter and to expend the same in accordance with this chapter;

(b) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments authorized under this chapter and data on the value of each producer's production for a minimum three-year period;

(c) To maintain a list of the names and addresses of persons who handle wheat or barley within the affected area and data on the amount and value of the wheat and barley handled for a minimum three-year period by each person;

(d) To request records and audit the records of producers or handlers of wheat or barley during normal business hours to determine whether the appropriate assessment has been paid;

(e) To fund, conduct, or otherwise participate in scientific research relating to wheat or barley, including but not limited to research to find more efficient methods of irrigation, production, processing, handling, transportation, and marketing of wheat or barley, or regarding pests, pesticides, food safety, irrigation, transportation, and environmental stewardship related to wheat or barley;

(f) To work cooperatively with local, state, and federal agencies, universities, and national organizations for the purposes provided in this chapter;

(g) To establish a foundation using commission funds as grant money when the foundation benefits the wheat or barley industry in Washington and implements the purposes provided in this chapter;

(h) To acquire or own intellectual property rights, licenses, or patents and to collect royalties resulting from commission-funded research related to wheat or barley;

(i) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local, to carry out the purposes and powers provided in this chapter, including specifically contracts or agreements for research described in (e) of this subsection. Personal service contracts must comply with chapter 39.29 RCW;

(j) To institute and maintain in its own name any and all legal actions necessary to carry out the provisions of this chapter, including actions by injunction, mandatory injunction or civil recovery, or proceedings before administrative tribunals or other governmental authorities;

(k) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review and approval by the office of the attorney general;

(l) To elect a chair and other officers as determined advisable;

(m) To employ and discharge at its discretion administrators and additional personnel, advertising and research agencies, and other persons and firms as appropriate and pay compensation;

(n) To acquire personal property and purchase or lease office space and other necessary real property and transfer and convey that real property;

(o) To keep accurate records of all its receipts and disbursements by commodity, which records must be open to inspection and audit by the state auditor or private auditor designated by the state auditor at least every five years;

(p) To borrow money and incur indebtedness;

(q) To make necessary disbursements for routine operating expenses;

(r) To expend funds for commodity-related education, training, and leadership programs as the commission deems expedient;

(s) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies to carry out the purposes provided in this chapter;

(t) To apply for and administer federal market access programs or similar programs or projects and provide matching funds as may be necessary;

(u) To engage in appropriate fund-raising activities for the purpose of supporting activities of the commission authorized in this chapter;

(v) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of wheat or barley; or the regulation of the manufacture, distribution, sale, or use of any pesticide, as defined in chapter 15.58 RCW, or any agricultural chemical which is of use or potential use in producing wheat or barley. This participation may include activities authorized under RCW 42.17A.635 (as recodified by this act), including the reporting of those activities to the public disclosure commission;

(w) To speak on behalf of the Washington state government on a nonexclusive basis regarding issues related to wheat and barley, including but not limited to trade negotiations and market access negotiations and to fund industry organizations engaging in those activities;

(x) To adopt, rescind, and amend rules and regulations reasonably necessary for the administration and operation of the commission and the enforcement of its duties under this chapter;

(y) To administer, enforce, direct, and control the provisions of this chapter and any rules adopted under this chapter; and

(z) Other powers and duties that are necessary to carry out the purposes of this chapter.

Sec. 503. RCW 19.09.020 and 2020 c 57 s 28 are each amended to read as follows:

When used in this chapter, unless the context otherwise requires:

(1) A "bona fide officer or employee" of a charitable organization is one (a) whose conduct is subject to direct control by such organization; (b) who does not act in the manner of an independent contractor in his or her relation with the organization; and (c) whose compensation is not computed on funds raised or to be raised.

(2) "Charitable organization" means any entity that solicits or collects contributions from the general public where the contribution is or is purported to be used to support a charitable purpose, but does not include any commercial fund-raiser, commercial fund-raising entity, commercial coventurer, or any fund-raising counsel, as defined in this section. Churches and their integrated auxiliaries, and political organizations are not charitable organizations, but all are subject to RCW 19.09.100 (15) through (18).

(3) "Charitable purpose" means any religious, charitable, scientific, testing for public safety, literary, or educational purpose or any other purpose that is beneficial to the community, including environmental, humanitarian, patriotic, or civic purposes, the support of national or international amateur sports competition, the prevention of cruelty to children or animals, the advancement of social welfare, or the benefit of law enforcement personnel, firefighters, and other persons who protect public safety. The term "charitable" is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

(4) "Commercial coventurer" means any individual or corporation, partnership, sole proprietorship, limited liability company, limited partnership, limited liability partnership, or any other legal entity, that:

(a) Is regularly and primarily engaged in making sales of goods or services for profit directly to the general public;

(b) Is not otherwise regularly or primarily engaged in making solicitations in this state or otherwise raising funds in this state for one or more charitable organizations;

(c) Represents to prospective purchasers that, if they purchase a good or service from the commercial coventurer, a portion of the sales price or a sum of money or some other specified thing of value will be donated to a named charitable organization; and

(d) Does not ask purchasers to make checks or other instruments payable to a named charitable organization or any entity other than the commercial coventurer itself under its regular commercial name.

(5) "Commercial fund-raiser" or "commercial fund-raising entity" means any entity that for compensation or other consideration directly or indirectly solicits or receives contributions within this state for or on behalf of any charitable organization or charitable purpose, or that is engaged in the business of, or represents to persons in this state as independently engaged in the business of, soliciting or receiving contributions for such purposes. However, a commercial coventurer, fund-raising counsel, or consultant is not a commercial fund-raiser or commercial fund-raising entity.

(6) "Compensation" means salaries, wages, fees, commissions, or any other remuneration or valuable consideration.

(7) "Contribution" means the payment, donation, or promise, for consideration or otherwise, of any money or property of any kind or value which contribution is wholly or partly induced by a solicitation. Reference to dollar amounts of "contributions" or "solicitations" in this chapter means in the case of payments or promises to pay for merchandise or rights of any description, the value of the total amount paid or promised to be paid for such merchandise or rights.

(8) "Cost of solicitation" means and includes all direct and indirect costs, expenditures, debts, obligations, salaries, wages, commissions, fees, or other money or thing of value paid or incurred in making a solicitation.

(9) "Entity" means an individual, organization, group, association, partnership, corporation, agency or unit of state government, or any combination thereof.

(10) "Fund-raising counsel" or "consultant" means any entity or individual who is retained by a charitable organization, for a fixed fee or rate, that is not computed on a percentage of funds raised, or to be raised, under a written agreement only to plan, advise, consult, or prepare materials for a solicitation of contributions in this state, but who does not manage, conduct, or carry on a fund-raising campaign and who does not solicit contributions or employ, procure, or engage any compensated person to solicit contributions, and who does not at any time have custody or control of contributions. A volunteer, employee, or salaried officer of a charitable organization maintaining a permanent establishment or office in this state is not a fund-raising counsel. An attorney, investment counselor, or banker who advises an individual, corporation, or association to make a charitable contribution is not a fund-raising counsel as a result of the advice.

(11) "General public" or "public" means any individual or entity located in Washington state without a membership or other official relationship with a charitable organization before a solicitation by the charitable organization.

(12) "Gross revenue" or "annual gross revenue" means, for any accounting period, the total value of revenue, excluding unrealized capital gains, but including noncash contributions of tangible, personal property received by or on behalf of a charitable organization from all sources, without subtracting any costs or expenses.

(13) "Membership" means that for the payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor, or other direct benefit, in addition to the right to vote, elect officers, or hold office. The term "membership" does not include those persons who are granted a membership upon making a contribution as the result of solicitation.

(14) "Other employee" of a charitable organization means any person (a) whose conduct is subject to direct control by such organization; (b) who does not act in the manner of any independent contractor in his or her relation with the organization; and (c) who is not engaged in the business of or held out to persons in this state as independently engaged in the business of soliciting contributions for charitable purposes or religious activities.

(15) "Political organization" means those organizations whose activities are subject to ((~~chapter 42.17A~~)) Title 29B RCW or the federal elections campaign act of 1971, as amended.

(16) "Religious organization" means those entities that are not churches or integrated auxiliaries and includes nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, speakers' organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion.

(17) "Secretary" means the secretary of state.

(18) "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.

(19)(a) "Solicitation" means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:

(i) Any appeal is made for any charitable purpose;

(ii) The name of any charitable organization is used as an inducement for consummating the sale; or

(iii) Any statement is made that implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization.

(b) The solicitation shall be deemed completed when made, whether or not the person making it receives any contribution or makes any sale.

(c) "Solicitation" does not include bingo activities, raffles, and amusement games conducted under chapter 9.46 RCW and applicable rules of the Washington state gambling commission.

(20) "Solicitation report" means the financial information the secretary requires pursuant to RCW 19.09.075 or 19.09.079.

Sec. 504. RCW 28A.600.027 and 2018 c 125 s 2 are each amended to read as follows:

(1) Student editors of school-sponsored media are responsible for determining the news, opinion, feature, and advertising content of the media subject to the limitations of subsection (2) of this section. This subsection does not prevent a student media adviser from teaching professional standards of English and journalism to the student journalists. A student media adviser may not be terminated, transferred, removed, or otherwise disciplined for complying with this section.

(2) School officials may only prohibit student expression that:

(a) Is libelous or slanderous;

(b) Is an unwarranted invasion of privacy;

(c) Violates federal or state laws, rules, or regulations;

(d) Incites students to violate federal or state laws, rules, or regulations;

(e) Violates school district policy or procedure related to harassment, intimidation, or bullying pursuant to RCW 28A.300.285 or the prohibition on discrimination pursuant to RCW 28A.642.010;

(f) Inciting of students so as to create a clear and present danger of:

(i) The commission of unlawful acts on school premises;

(ii) The violation of lawful school district policy or procedure; or

(iii) The material and substantial disruption of the orderly operation of the school. A school official must base a forecast of material and substantial disruption on specific facts, including past experience in the school and current events influencing student behavior, and not on undifferentiated fear or apprehension; or

(g) Is in violation of the federal communications act or applicable federal communication commission rules or regulations.

(3) Political expression by students in school-sponsored media shall not be deemed the use of public funds for political purposes, for purposes of the prohibitions of RCW 42.17A.550 (as recodified by this act).

(4) Any student, individually or through his or her parent or guardian, enrolled in a public high school may file an appeal of any alleged violation of subsection (1) of this section pursuant to chapter 28A.645 RCW.

(5) Expression made by students in school-sponsored media is not necessarily the expression of school policy. Neither a school official nor the governing board of the school or school district may be held responsible in any civil or criminal action for any expression made or published by students in school-sponsored media.

(6) Each school district that includes a high school shall adopt a written student freedom of expression policy in accordance with this section. The policy may include reasonable provisions for the time, place, and manner of student expression.

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

(a) "School-sponsored media" means any matter that is prepared, substantially written, published, or broadcast by student journalists, that is distributed or generally made available, either free of charge or for a fee, to members of the student body, and that is prepared under the direction of a student media adviser. "School-sponsored media" does not include media that is intended for distribution or transmission solely in the classrooms in which they are produced.

(b) "Student journalist" means a student who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

(c) "Student media adviser" means a person who is employed, appointed, or designated by the school to supervise, or provide instruction relating to, school-sponsored media.

Sec. 505. RCW 28B.15.610 and 2011 c 60 s 11 are each amended to read as follows:

The provisions of this chapter shall not apply to or affect any student fee or charge which the students voluntarily maintain upon themselves for student purposes only. Students are authorized to create or increase voluntary student fees for each academic year when passed by a majority vote of the student government or its equivalent, or referendum presented to the student body or such other process that has been adopted under this section. Notwithstanding RCW 42.17A.635 (2) and (3) (as recodified by this act), voluntary student fees imposed under this section and services and activities fees may be used for lobbying by a student government association or its equivalent and may also be used to support a statewide or national student organization or its equivalent that may engage in lobbying.

Sec. 506. RCW 28B.133.030 and 2012 c 198 s 24 are each amended to read as follows:

The office may solicit and receive gifts, grants, or endowments from private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the educational assistance grant program. The director, or the director's designee, may spend gifts, grants, or endowments or income from the private sources according to their terms unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560 (as recodified by this act).

Sec. 507. RCW 29A.32.031 and 2023 c 109 s 8 are each amended to read as follows:

The voters' pamphlet published or distributed under RCW 29A.32.010 must contain:

(1) Information about each ballot measure initiated by or referred to the voters for their approval or rejection as required by RCW 29A.32.070;

(2) In even-numbered years, statements, if submitted, from candidates for the office of president and vice president of the United States, United States senator, United States representative, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, commissioner of public lands, superintendent of public instruction, insurance commissioner, state senator, state representative, justice of the supreme court, judge of the court of appeals, or judge of the superior court. Candidates may also submit campaign contact information and a photograph not more than five years old in a format that the secretary of state determines to be suitable for reproduction in the voters' pamphlet;

(3) In odd-numbered years, if any office voted upon statewide appears on the ballot due to a vacancy, then statements and photographs for candidates for any vacant office listed in subsection (2) of this section must appear;

(4) Contact information for the public disclosure commission established under RCW 42.17A.100 (as recodified by this act), including the following statement: "For a list of the people and organizations that donated to state and local candidates and ballot measure campaigns, visit www.pdc.wa.gov." The statement must be placed in a prominent position, such as on the cover or on the first two pages of the voters' pamphlet. The secretary of state may substitute such language as is necessary for accuracy and clarity and consistent with the intent of this section;

(5) Contact information for major political parties;

(6) A brief statement explaining the deletion and addition of language for proposed measures under RCW 29A.32.080;

(7) A list of all student engagement hubs as designated under RCW 29A.40.180;

(8) A page providing information about how to access the internet presentation of the information created in RCW 44.48.160 about the state budgets, including a uniform resource locator, a quick response code, and a phone number for the legislative information center. The uniform resource locator and quick response codes will lead the voter to the internet information required in RCW 44.48.160; and

(9) Any additional information pertaining to elections as may be required by law or in the judgment of the secretary of state is deemed informative to the voters.

Sec. 508. RCW 29A.84.250 and 2011 c 60 s 14 are each amended to read as follows:

Every person is guilty of a gross misdemeanor who:

(1) For any consideration or gratuity or promise thereof, signs or declines to sign any initiative or referendum petition; or

(2) Provides or receives consideration for soliciting or procuring signatures on an initiative or referendum petition if any part of the consideration is based upon the number of signatures solicited or procured, or offers to provide or agrees to receive such consideration any of which is based on the number of signatures solicited or procured; or

(3) Gives or offers any consideration or gratuity to any person to induce him or her to sign or not to sign or to vote for or against any initiative or referendum measure; or

(4) Interferes with or attempts to interfere with the right of any voter to sign or not to sign an initiative or referendum petition or with the right to vote for or against an initiative or referendum measure by threats, intimidation, or any other corrupt means or practice; or

(5) Receives, handles, distributes, pays out, or gives away, directly or indirectly, money or any other thing of value contributed by or received from any person, firm, association, or corporation whose residence or principal office is, or the majority of whose members or stockholders have their residence outside, the state of Washington, for any service rendered for the purpose of aiding in procuring signatures upon any initiative or referendum petition or for the purpose of aiding in the adoption or rejection of any initiative or referendum measure. This subsection does not apply to or prohibit any activity that is properly reported in accordance with the applicable provisions of ((~~chapter 42.17A~~)) Title 29B RCW.

A gross misdemeanor under this section is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

Sec. 509. RCW 35.02.130 and 2011 c 60 s 15 are each amended to read as follows:

The city or town officially shall become incorporated at a date from ((~~one hundred eighty~~)) 180 days to ((~~three hundred sixty~~)) 360 days after the date of the election on the question of incorporation. An interim period shall exist between the time the newly elected officials have been elected and qualified and this official date of incorporation. During this interim period, the newly elected officials are authorized to adopt ordinances and resolutions which shall become effective on or after the official date of incorporation, and to enter into contracts and agreements to facilitate the transition to becoming a city or town and to ensure a continuation of governmental services after the official date of incorporation. Periods of time that would be required to elapse between the enactment and effective date of such ordinances, including but not limited to times for publication or for filing referendums, shall commence upon the date of such enactment as though the city or town were officially incorporated.

During this interim period, the city or town governing body may adopt rules establishing policies and procedures under the state environmental policy act, chapter 43.21C RCW, and may use these rules and procedures in making determinations under the state environmental policy act, chapter 43.21C RCW.

During this interim period, the newly formed city or town and its governing body shall be subject to the following as though the city or town were officially incorporated: RCW 4.24.470 relating to immunity; ((~~chapter 42.17A~~)) Title 29B RCW relating to open government; chapter 42.56 RCW relating to public records; chapter 40.14 RCW relating to the preservation and disposition of public records; chapters 42.20 and 42.23 RCW relating to ethics and conflicts of interest; chapters 42.30 and 42.32 RCW relating to open public meetings and minutes; RCW 35.22.288, 35.23.221, 35.27.300, 35A.12.160, as appropriate, and chapter 35A.65 RCW relating to the publication of notices and ordinances; RCW 35.21.875 and 35A.21.230 relating to the designation of an official newspaper; RCW 36.16.138 relating to liability insurance; RCW 35.22.620,

35.23.352, and 35A.40.210, as appropriate, and statutes referenced therein relating to public contracts and bidding; and chapter 39.34 RCW relating to interlocal cooperation. Tax anticipation or revenue anticipation notes or warrants and other short-term obligations may be issued and funds may be borrowed on the security of these instruments during this interim period, as provided in chapter 39.50 RCW. Funds also may be borrowed from federal, state, and other governmental agencies in the same manner as if the city or town were officially incorporated.

RCW 84.52.020 and 84.52.070 shall apply to the extent that they may be applicable, and the governing body of such city or town may take appropriate action by ordinance during the interim period to adopt the property tax levy for its first full calendar year following the interim period.

The governing body of the new city or town may acquire needed facilities, supplies, equipment, insurance, and staff during this interim period as if the city or town were in existence. An interim city manager or administrator, who shall have such administrative powers and duties as are delegated by the governing body, may be appointed to serve only until the official date of incorporation. After the official date of incorporation the governing body of such a new city organized under the council manager form of government may extend the appointment of such an interim manager or administrator with such limited powers as the governing body determines, for up to ((~~ninety~~)) 90 days. This governing body may submit ballot propositions to the voters of the city or town to authorize taxes to be collected on or after the official date of incorporation, or authorize an annexation of the city or town by a fire protection district or library district to be effective immediately upon the effective date of the incorporation as a city or town.

The boundaries of a newly incorporated city or town shall be deemed to be established for purposes of RCW 84.09.030 on the date that the results of the initial election on the question of incorporation are certified or the first day of January following the date of this election if the newly incorporated city or town does not impose property taxes in the same year that the voters approve the incorporation.

The newly elected officials shall take office immediately upon their election and qualification with limited powers during this interim period as provided in this section. They shall acquire their full powers as of the official date of incorporation and shall continue in office until their successors are elected and qualified at the next general municipal election after the official date of incorporation: PROVIDED, That if the date of the next general municipal election is less than ((~~twelve~~)) 12 months after the date of the first election of councilmembers, those initially elected councilmembers shall serve until their successors are elected and qualified at the next following general municipal election as provided in RCW ((~~29A.20.040~~)) 29A.60.280. For purposes of this section, the general municipal election shall be the date on which city and town general elections are held throughout the state of Washington, pursuant to RCW 29A.04.330.

In any newly incorporated city that has adopted the council-manager form of government, the term of office of the mayor, during the interim period only, shall be set by the council, and thereafter shall be as provided by law.

The official date of incorporation shall be on a date from ((~~one hundred eighty~~)) 180 to ((~~three hundred sixty~~)) 360 days after the date of the election on the question of incorporation, as specified in a resolution adopted by the governing body during this interim period. A copy of the resolution shall be filed with the county legislative authority of the county in which all or the major portion of the newly incorporated city or town is located. If the governing body fails to adopt such a resolution, the official date of incorporation shall be ((~~three hundred sixty~~)) 360 days after the date of the election on the question of incorporation. The county legislative authority of the county in which all or the major portion of the newly incorporated city or town is located shall file a notice with the county assessor that the city or town has been authorized to be incorporated immediately after the favorable results of the election on the question of incorporation have been certified. The county legislative authority shall file a notice with the secretary of state that the city or town is incorporated as of the official date of incorporation.

Sec. 510. RCW 35.21.759 and 2011 c 60 s 16 are each amended to read as follows:

A public corporation, commission, or authority created under this chapter, and officers and multimember governing body thereof, are subject to general laws regulating local governments, multimember governing bodies, and local governmental officials, including, but not limited to, the requirement to be audited by the state auditor and various accounting requirements provided under chapter 43.09 RCW, the open public record requirements of chapter 42.56 RCW, the prohibition on using its facilities for campaign purposes under RCW 42.17A.555 (as recodified by this act), the open public meetings law of chapter 42.30 RCW, the code of ethics for municipal officers under chapter 42.23 RCW, and the local government whistleblower law under chapter 42.41 RCW.

Sec. 511. RCW 36.70A.200 and 2023 sp.s. c 1 s 12 are each amended to read as follows:

(1)(a) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, opioid treatment programs including both mobile and fixed-site medication units, recovery residences, harm reduction programs excluding safe injection sites, and inpatient facilities including substance use disorder treatment facilities, mental health facilities, group homes, community facilities as defined in RCW 72.05.020, and secure community transition facilities as defined in RCW 71.09.020.

(b) Unless a facility is expressly listed in (a) of this subsection, essential public facilities do not include facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings but are not used for punishment, correction, counseling, or rehabilitation following the conviction of a criminal offense. Facilities included under this subsection (1)(b) shall not include facilities detaining persons under RCW 71.09.020 (7) or (16) or chapter 10.77 or 71.05 RCW.

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

(d) For the purpose of this section, "harm reduction programs" means programs that emphasize working directly with people who use drugs to prevent overdose and infectious disease transmission, improve the physical, mental, and social well-being of those served, and offer low threshold options for accessing substance use disorder treatment and other services.

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

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

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

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

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in ((~~RCW 42.17A.005~~)) section 203 of this act, corporation, partnership, association, and limited liability entity.

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

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

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

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

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

Sec. 512. RCW 42.36.040 and 2011 c 60 s 27 are each amended to read as follows:

Prior to declaring as a candidate for public office or while campaigning for public office as defined by ((~~RCW 42.17A.005~~)) section 244 of this act no public discussion or expression of an opinion by a person subsequently elected to a

public office, on any pending or proposed quasi-judicial actions, shall be a violation of the appearance of fairness doctrine.

Sec. 513. RCW 42.52.010 and 2022 c 173 s 1 and 2022 c 71 s 15 are each reenacted and amended to read as follows:

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

(1) "Agency" means any state board, commission, bureau, committee, department, institution, division, or tribunal in the legislative, executive, or judicial branch of state government. "Agency" includes all elective offices, the state legislature, those institutions of higher education created and supported by the state government, and those courts that are parts of state government. "Agency" does not include a comprehensive cancer center participating in a collaborative arrangement as defined in RCW 28B.10.930 that is operated in conformance with RCW 28B.10.930.

(2) "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to another person, believing that the action is of help, aid, advice, or assistance to the person and with intent so to assist such person.

(3) "Beneficial interest" has the meaning ascribed to it under the Washington case law. However, an ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.

(4) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, or transferred, or to be paid, loaned, granted, or transferred for, or in consideration of, personal services to any person.

(5) "Confidential information" means (a) specific information, rather than generalized knowledge, that is not available to the general public on request or (b) information made confidential by law.

(6) "Contract" or "grant" means an agreement between two or more persons that creates an obligation to do or not to do a particular thing. "Contract" or "grant" includes, but is not limited to, an employment contract, a lease, a license, a purchase agreement, or a sales agreement.

(7) "Ethics boards" means the commission on judicial conduct, the legislative ethics board, and the executive ethics board.

(8) "Family" has the same meaning as "immediate family" in ((~~RCW 42.17A.005~~)) section 228 of this act.

(9) "Gift" means anything of economic value for which no consideration is given. "Gift" does not include:

(a) Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;

(b) Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;

(c) Items exchanged among officials and employees or a social event hosted or sponsored by a state officer or state employee for coworkers;

(d) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

(e) Items a state officer or state employee is authorized by law to accept;

(f) Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

(g) Items returned by the recipient to the donor within ((~~thirty~~)) 30 days of receipt or donated to a charitable organization within ((~~thirty~~)) 30 days of receipt;

(h) Campaign contributions reported under ((~~chapter 42.17A~~)) Title 29B RCW;

(i) Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group; and

(j) Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

(10) "Head of agency" means the chief executive officer of an agency. In the case of an agency headed by a commission, board, committee, or other body consisting of more than one natural person, agency head means the person or board authorized to appoint agency employees and regulate their conduct.

(11) "Honorarium" means money or thing of value offered to a state officer or state employee for a speech, appearance, article, or similar item or activity in connection with the state officer's or state employee's official role.

(12) "Institution of higher education" has the same meaning as in RCW 28B.10.016.

(13) "Official duty" means those duties within the specific scope of employment of the state officer or state employee as defined by the officer's or employee's agency or by statute or the state Constitution.

(14) "Participate" means to participate in state action or a proceeding personally and substantially as a state officer or state employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or otherwise but does not include preparation, consideration, or enactment of legislation or the performance of legislative duties.

(15) "Person" means any individual, partnership, association, corporation, firm, institution, or other entity, whether or not operated for profit.

(16) "Regulatory agency" means any state board, commission, department, or officer, except those in the legislative or judicial branches, authorized by law to conduct adjudicative proceedings, issue permits or licenses, or to control or affect interests of identified persons.

(17) "Responsibility" in connection with a transaction involving the state, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or through subordinates, effectively to approve, disapprove, or otherwise direct state action in respect of such transaction.

(18) "State action" means any action on the part of an agency, including, but not limited to:

(a) A decision, determination, finding, ruling, or order; and

(b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

(19) "State employee" means an individual who is employed by an agency in any branch of state government. For purposes of this chapter, employees of the superior courts are not state officers or state employees.

(20) "State officer" means every person holding a position of public trust in or under an executive, legislative, or judicial office of the state. "State officer" includes judges of the superior court, judges of the court of appeals, justices of the supreme court, members of the legislature together with the secretary of the senate and the chief clerk of the house of representatives, holders of elective offices in the executive branch of state government, chief executive officers of state agencies, members of boards, commissions, or committees with authority over one or more state agencies or institutions, and employees of the state who are engaged in supervisory, policy-making, or policy-enforcing work. For the purposes of this chapter, "state officer" also includes any person exercising or undertaking to exercise the powers or functions of a state officer.

(21) "Thing of economic value," in addition to its ordinary meaning, includes:

(a) A loan, property interest, interest in a contract or other chose in action, and employment or another arrangement involving a right to compensation;

(b) An option, irrespective of the conditions to the exercise of the option; and

(c) A promise or undertaking for the present or future delivery or procurement.

(22)(a) "Transaction involving the state" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the state officer, state employee, or former state officer or state employee in question believes, or has reason to believe:

(i) Is, or will be, the subject of state action; or

(ii) Is one to which the state is or will be a party; or

(iii) Is one in which the state has a direct and substantial proprietary interest.

(b) "Transaction involving the state" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by an officer or employee; or a claim, case, lawsuit, or similar matter if the officer or employee did not participate in the underlying transaction involving the state that is the basis for the claim, case, or lawsuit.

(23) "University" includes "state universities" and "regional universities" as defined in RCW 28B.10.016 and also includes any research or technology institute affiliated with a university.

(24) "University research employee" means a state officer or state employee employed by a university, but only to the extent the state officer or state employee is engaged in research, technology transfer, approved consulting activities related to research and technology transfer, or other incidental activities.

Sec. 514. RCW 42.52.150 and 2023 c 91 s 2 are each amended to read as follows:

(1) No state officer or state employee may accept gifts, other than those specified in subsections (2) and (5) of this section, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars. For purposes of this section, "single source" means any person, as defined in RCW 42.52.010, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under RCW 42.52.010. The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

(2) Except as provided in subsection (4) of this section, the following items are presumed not to influence under RCW 42.52.140, and may be accepted without regard to the limit established by subsection (1) of this section:

(a) Unsolicited flowers, plants, and floral arrangements;

(b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(d) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(e) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(f) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(g) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for deposit in the legislative international trade account created in RCW 43.15.050;

(h) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for the purpose of promoting the expansion of tourism as provided for in RCW 43.330.090;

(i) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, solicited on behalf of a national or regional legislative association as defined in RCW 42.52.822(2), the 2006 official conference of the national lieutenant governors' association, the annual conference of the national association of state treasurers, or a host committee, for the purpose of hosting an official conference under the circumstances specified in RCW 42.52.820, section 2, chapter 5, Laws of 2006, RCW 42.52.821, or RCW 42.52.822. Anything solicited or accepted may only be received by the national association or host committee and may not be commingled with any funds or accounts that are the property of any person;

(j) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization;

(k) Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature; and

(l) Gifts, grants, donations, sponsorships, or contributions from any agency or federal or local government agency or program or private source for the purposes of chapter 28B.156 RCW.

(3) The presumption in subsection (2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

(4) Notwithstanding subsections (2) and (5) of this section, a state officer or state employee of a regulatory agency or of an agency that seeks to acquire goods or services who participates in those regulatory or contractual matters may receive, accept, take, or seek, directly or indirectly, only the following items from a person regulated by the agency or from a person who seeks to provide goods or services to the agency:

(a) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(b) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(c) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(d) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(e) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(f) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

(g) Those items excluded from the definition of gift in RCW 42.52.010 except:

(i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity;

(ii) Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution; and

(iii) Flowers, plants, and floral arrangements.

(5) A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties. Gifts in the form of food and beverage that exceed fifty dollars on a single occasion shall be reported as provided in ((~~chapter 42.17A~~)) Title 29B RCW.

Sec. 515. RCW 42.52.180 and 2022 c 37 s 3 are each amended to read as follows:

(1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

(2) This section shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition as long as (i) required notice of the meeting includes the title and number of the ballot proposition, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry. For the purposes of this subsection, it is not a violation of this section for an elected official to respond to an inquiry regarding a ballot proposition, to make incidental remarks concerning a ballot proposition in an official communication, or otherwise comment on a ballot proposition without an actual, measurable expenditure of public funds. The ethics boards shall adopt by rule a definition of measurable expenditure;

(c)(i) The maintenance of official legislative websites throughout the year, regardless of pending elections. The websites may contain any discretionary material which was also specifically prepared for the legislator in the course of his or her duties as a legislator, including newsletters and press releases.

(ii) The official legislative websites of legislators seeking reelection or election to any office shall not be altered, other than during a special legislative session, beginning on the first day of the declaration of candidacy filing period specified in RCW 29A.24.050 through the date of certification of the general election of the election year. As used in this subsection, "legislator" means a legislator who is a "candidate," as defined in ((~~RCW 42.17A.005~~)) section 209 of this act, for any public office. "Legislator" does not include a member of the legislature who has announced their retirement from elected public office and who does not file a declaration of candidacy by the end of the candidacy filing period specified in RCW 29A.24.050.

(iii) The website shall not be used for campaign purposes;

(d) Activities that are part of the normal and regular conduct of the office or agency, which include but are not limited to:

(i) Communications by a legislator or appropriate legislative staff designee directly pertaining to any legislative proposal which has been introduced in either chamber of the legislature; and

(ii) Posting, by a legislator or appropriate legislative staff designee, information to a legislator's official legislative website including an official legislative social media account, about:

(A) Emergencies;

(B) Federal holidays, state and legislatively recognized holidays established under RCW 1.16.050, and religious holidays;

(C) Information originally provided or published by other government entities which provide information about government resources; and

(D) Achievements, honors, or awards of extraordinary distinction; and

(e) De minimis use of public facilities by statewide elected officials and legislators incidental to the preparation or delivery of permissible communications, including written and verbal communications initiated by them of their views on ballot propositions that foreseeably may affect a matter that falls within their constitutional or statutory responsibilities.

(3) As to state officers and employees, this section operates to the exclusion of RCW 42.17A.555 (as recodified by this act).

(4) As used in this section, "official legislative website" includes, but is not limited to, a legislator's official legislative social media accounts.

Sec. 516. RCW 42.52.185 and 2022 c 37 s 4 are each amended to read as follows:

(1) During the period beginning on the first day of the declaration of candidacy filing period specified in RCW 29A.24.050 in the year of a general election for a state legislator's election to office and continuing through the date of certification of the general election, the legislator may not mail, either by regular mail or email, to a constituent at public expense a letter, newsletter, brochure, or other piece of literature, except for routine legislative correspondence, such as scheduling, and the legislator may, by mail or email, send an individual letter to (a) an individual constituent who has contacted the legislator regarding the subject matter of the letter during the legislator's current term of office; (b) an individual constituent who holds a governmental office with jurisdiction over the subject matter of the letter; or (c) an individual constituent who has received an award or honor of extraordinary distinction of a type that is sufficiently infrequent to be noteworthy to a reasonable person including, but not limited to: (i) An international or national award such as the Nobel prize or the Pulitzer prize; (ii) a state award such as Washington scholar; (iii) an Eagle Scout award; and (iv) a Medal of Honor.

(2) A violation of this section constitutes use of the facilities of a public office for the purpose of assisting a campaign under RCW 42.52.180.

(3) The house of representatives and senate shall specifically limit expenditures per member for the total cost of mailings. Those costs include, but are not limited to, production costs, printing costs, and postage costs. The limits imposed under this subsection apply only to the total expenditures on mailings per member and not to any categorical cost within the total.

(4) For purposes of this section:

(a) "Legislator" means a legislator who is a "candidate," as defined in ((~~RCW 42.17A.005~~)) section 209 of this act, for any public office. "Legislator" does not include a member of the legislature who has announced their retirement from elected public office and who does not file a declaration of candidacy by the end of the candidacy filing period specified in RCW 29A.24.050.

(b) Persons residing outside the legislative district represented by the legislator are not considered to be constituents, but students, military personnel, or others temporarily employed outside of the district who normally reside in the district are considered to be constituents.

Sec. 517. RCW 42.52.380 and 2011 c 60 s 32 are each amended to read as follows:

(1) No member of the executive ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in ((~~chapter 42.17A~~)) Title 29B RCW other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any state candidate or state ballot measure; or (d) lobby or control, direct, or assist a lobbyist except that such member may appear before any committee of the legislature on matters pertaining to this chapter.

(2) No citizen member of the legislative ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in ((~~chapter 42.17A~~)) Title 29B RCW, other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any legislative candidate, any legislative caucus campaign committee that supports or opposes legislative candidates, or any political action committee that supports or opposes legislative candidates; or (d) engage in lobbying in the legislative branch under circumstances not exempt, under RCW 42.17A.610 (as recodified by this act), from lobbyist registration and reporting.

(3) No citizen member of the legislative ethics board may hold or campaign for a seat in the state house of representatives or the state senate within two years of serving on the board if the citizen member opposes an incumbent who has been the respondent in a complaint before the board.

Sec. 518. RCW 42.52.560 and 2011 c 60 s 33 are each amended to read as follows:

(1) Nothing in this chapter prohibits a state employee from distributing communications from an employee organization or charitable organization to other state employees if the communications do not support or oppose a ballot proposition or candidate for federal, state, or local public office. Nothing in this section shall be construed to authorize any lobbying activity with public funds beyond the activity permitted by RCW 42.17A.635 (as recodified by this act).

(2) "Employee organization," for purposes of this section, means any organization, union, or association in which employees participate and that exists for the purpose of collective bargaining with employers or for the purpose of opposing collective bargaining or certification of a union.

Sec. 519. RCW 42.52.806 and 2023 c 387 s 4 are each amended to read as follows:

This chapter does not prohibit the members of the Billy Frank Jr. national statuary hall selection committee, members of the legislature, when outside the period in which solicitation of contributions is prohibited by RCW 42.17A.560 (as recodified by this act), or employees of the Washington state historical

society from soliciting contributions for the purposes established in chapter 20, Laws of 2021, and for deposit into the Billy Frank Jr. national statuary hall collection fund created in RCW 43.08.800.

Sec. 520. RCW 43.03.305 and 2023 c 470 s 1005 are each amended to read as follows:

There is created a commission to be known as the Washington citizens' commission on salaries for elected officials, to consist of members appointed by the governor as provided in this section.

(1) One registered voter from each congressional district shall be selected by the secretary of state from among those registered voters eligible to vote at the time persons are selected for appointment to serve on the commission. The secretary shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying persons selected and for providing a new selection from a congressional district if a person selected from the district declines appointment to the commission or if, following the person's appointment, the person's position on the commission becomes vacant before the end of the person's term of office.

(2) Seven commission members, all residents of this state, shall be selected jointly by the speaker of the house of representatives and the president of the senate. The persons selected under this subsection shall have had experience in the field of personnel management. Of these seven members, one shall be selected from each of the following five sectors in this state: Private institutions of higher education; business; professional personnel management; legal profession; and organized labor. Of the two remaining members, one shall be a person recommended to the speaker and the president by the chair of the Washington personnel resources board and one shall be a person recommended by majority vote of the presidents of the state's four-year institutions of higher education.

(3) The secretary of state shall forward the names of persons selected under subsection (1) of this section and the speaker of the house of representatives and president of the senate shall forward the names of persons selected under subsection (2) of this section to the governor who shall appoint these persons to the commission. Except as provided in subsection (6) of this section, all members shall serve four-year terms and the names of the persons selected for appointment to the commission shall be forwarded to the governor not later than the first day of July every two years.

(4) No person may be appointed to more than two terms. No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office or for a disqualifying change of residence.

The unexcused absence of any person who is a member of the commission from two consecutive meetings of the commission shall constitute the relinquishment of that person's membership on the commission. Such a relinquishment creates a vacancy in that person's position on the commission. A member's absence may be excused by the chair of the commission upon the member's written request if the chair believes there is just cause for the absence. Such a request must be received by the chair before the meeting for which the absence is to be excused. A member's absence from a meeting of the commission

may also be excused during the meeting for which the member is absent by the affirmative vote of a majority of the members of the commission present at the meeting.

(5) No state official, public employee, or lobbyist, or immediate family member of the official, employee, or lobbyist, subject to the registration requirements of ((~~chapter 42.17A~~)) Title 29B RCW is eligible for membership on the commission.

As used in this subsection the phrase "immediate family" means the parents, spouse or domestic partner, siblings, children, or dependent relative of the official or lobbyist whether or not living in the household of the official or lobbyist, and the parent, spouse or domestic partner, sibling, child, or dependent relative of the employee, living in the household of the employee or who is dependent in whole or in part for his or her support upon the earnings of the state employee.

(6)(a) Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term. The selection and appointment shall be concluded within thirty days of the date the position becomes vacant and shall be conducted in the same manner as originally provided.

(b) Initial members appointed from congressional districts created after July 22, 2011, shall be selected and appointed in the manner provided in subsection (1) of this section. The selection and appointment must be concluded within ninety days of the date the district is created. The term of an initial member appointed under this subsection terminates July 1st of an even-numbered year so that at no point may the terms of more than one-half plus one of the members selected under subsection (1) of this section terminate in the same year.

Sec. 521. RCW 43.17.320 and 2011 c 60 s 35 are each amended to read as follows:

For purposes of RCW 43.17.320 through 43.17.340, "state agency" means:

(1) Any agency for which the executive officer is listed in RCW 42.17A.705(1) (as recodified by this act); and

(2) The office of the secretary of state; the office of the state treasurer; the office of the state auditor; the department of natural resources; the office of the insurance commissioner; and the office of the superintendent of public instruction.

Sec. 522. RCW 43.52A.030 and 2011 c 60 s 36 are each amended to read as follows:

The governor, with the consent of the senate, shall appoint two residents of Washington state to the council pursuant to the act. These persons shall undertake the functions and duties of members of the council as specified in the act and in appropriate state law. Upon appointment by the governor to the council, the nominee shall make available to the senate such disclosure information as is requested for the confirmation process, including that required in RCW 42.17A.710 (as recodified by this act).

Sec. 523. RCW 43.59.156 and 2020 c 72 s 1 are each amended to read as follows:

(1) Within amounts appropriated to the traffic safety commission, the commission must convene the Cooper Jones active transportation safety council

comprised of stakeholders who have a unique interest or expertise in the safety of pedestrians, bicyclists, and other nonmotorists.

(2) The purpose of the council is to review and analyze data and programs related to fatalities and serious injuries involving pedestrians, bicyclists, and other nonmotorists to identify points at which the transportation system can be improved including, whenever possible, privately owned areas of the system such as parking lots, and to identify patterns in pedestrian, bicyclist, and other nonmotorist fatalities and serious injuries. The council may also:

(a) Monitor progress on implementation of existing council recommendations; and

(b) Seek opportunities to expand consideration and implementation of the principles of systematic safety, including areas where data collection may need improvement.

(3)(a) The council may include, but is not limited to:

(i) A representative from the commission;

(ii) A coroner from the county in which pedestrian, bicyclist, or nonmotorist deaths have occurred;

(iii) Multiple members of law enforcement who have investigated pedestrian, bicyclist, or nonmotorist fatalities;

(iv) A traffic engineer;

(v) A representative from the department of transportation and a representative from the department of health;

(vi) A representative from the association of Washington cities;

(vii) A representative from the Washington state association of counties;

(viii) A representative from a pedestrian advocacy group; and

(ix) A representative from a bicyclist or other nonmotorist advocacy group.

(b) The commission may invite other representatives of stakeholder groups to participate in the council as deemed appropriate by the commission. Additionally, the commission may invite a victim or family member of a victim to participate in the council.

(4) The council must meet at least quarterly. By December 31st of each year, the council must issue an annual report detailing any findings and recommendations to the governor and the transportation committees of the legislature. The commission must provide the annual report electronically to all municipal governments and state agencies that participated in the council during that calendar year. Additionally, the council must report any budgetary or fiscal recommendations to the office of financial management and the legislature by August 1st on a biennial basis.

(5) As part of the review of pedestrian, bicyclist, or nonmotorist fatalities and serious injuries that occur in Washington, the council may review any available information, including crash information maintained in existing databases; statutes, rules, policies, or ordinances governing pedestrians and traffic related to the incidents; and any other relevant information. The council may make recommendations regarding changes in statutes, ordinances, rules, and policies that could improve pedestrian, bicyclist, or nonmotorist safety. Additionally, the council may make recommendations on how to improve traffic fatality and serious injury data quality, including crashes that occur in privately owned property such as parking lots. The council may consult with local cities and counties, as well as local police departments and other law enforcement

agencies and associations representing those jurisdictions on how to improve data quality regarding crashes occurring on private property.

(6)(a) Documents prepared by or for the council are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in a review by the council, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by the council. For confidential information, such as personally identifiable information and medical records, which are obtained by the council, neither the commission nor the council may publicly disclose such confidential information. No person who was in attendance at a meeting of the council or who participated in the creation, retention, collection, or maintenance of information or documents specifically for the commission or the council shall be permitted to testify in any civil action as to the content of such proceedings or of the documents and information prepared specifically as part of the activities of the council. However, recommendations from the council and the commission generally may be disclosed without personal identifiers.

(b) The council may review, only to the extent otherwise permitted by law or court rule when determined to be relevant and necessary: Any law enforcement incident documentation, such as incident reports, dispatch records, and victim, witness, and suspect statements; any supplemental reports, probable cause statements, and 911 call taker's reports; and any other information determined to be relevant to the review. The commission and the council must maintain the confidentiality of such information to the extent required by any applicable law.

(7) If acting in good faith, without malice, and within the parameters of and protocols established under this chapter, representatives of the commission and the council are immune from civil liability for an activity related to reviews of particular fatalities and serious injuries.

(8) This section must not be construed to provide a private civil cause of action.

(9)(a) The council may receive 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 purposes of the council and spend the gifts, grants, or endowments from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560 (as recodified by this act).

(b) Subject to the appropriation of funds for this specific purpose, the council may provide grants targeted at improving pedestrian, bicyclist, or nonmotorist safety in accordance with recommendations made by the council.

(10) For purposes of this section:

(a) "Bicyclist fatality" means any death of a bicyclist resulting from a collision, whether on a roadway, at an intersection, along an adjacent sidewalk, or on a path that is contiguous with a roadway.

(b) "Council" means the Cooper Jones active transportation safety council.

(c) "Nonmotorist" means anyone using the transportation system who is not in a vehicle.

(d) "Pedestrian fatality" means any death of a pedestrian resulting from a collision, whether on a roadway, at an intersection, along an adjacent sidewalk, or on a path that is contiguous with a roadway.

(e) "Serious injury" means any injury other than a fatal injury that prevents the injured person from walking, driving, or normally continuing the activities the person was capable of performing before the injury occurred.

Sec. 524. RCW 43.60A.175 and 2014 c 179 s 2 are each amended to read as follows:

(1) The department may receive 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 purposes of the veterans innovations program and spend gifts, grants, or endowments or income from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560 (as recodified by this act).

(2) The department may adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of RCW 43.60A.160 through 43.60A.185.

(3) The department may perform all acts and functions as necessary or convenient to carry out the powers expressly granted or implied under chapter 343, Laws of 2006.

Sec. 525. RCW 43.166.030 and 2022 c 259 s 3 are each amended to read as follows:

(1) State lands development authorities have the power to:

(a) Accept gifts, grants, loans, or other aid from public and private entities;

(b) Employ and appoint such agents, attorneys, officers, and employees as may be necessary to implement its purposes and duties;

(c) Contract and enter into partnerships with individuals, associations, corporations, and local, state, and federal governments;

(d) Buy, own, and lease real and personal property;

(e) Sell real and personal property, subject to any rules and restrictions contained in the proposal to establish a state lands development authority under RCW 43.166.010;

(f) Hold in trust, improve, and develop land;

(g) Invest, deposit, and reinvest its funds;

(h) Incur debt in furtherance of its mission: Provided, however, that state lands development authorities are expressly prohibited from incurring debt on behalf of the state of Washington as defined in Article VIII, section 1 of the state Constitution. A state lands development authority obligation to repay borrowed money does not constitute an obligation, either general, special, or moral, of the state of Washington. State lands development authorities are expressly prohibited from using, either directly or indirectly, "general state revenues" as defined in Article VIII, section 1 of the state Constitution to satisfy any state lands development authority obligation to repay borrowed money;

(i) Lend or grant its funds for any lawful purposes. For purposes of this section, "lawful purposes" includes without limitation, any use of funds, including loans thereof to public or private parties, authorized by agreements with the United States or any department or agency thereof under which federal or private funds are obtained, or authorized under federal laws and regulations pertinent to such agreements; and

(j) Exercise such additional powers as may be authorized by law.

(2) A state lands development authority that accepts public funds under subsection (1)(a) of this section:

(a) Is subject in all respects to Article VIII, section 5 or 7, as appropriate, of the state Constitution, and RCW 42.17A.550 (as recodified by this act); and

(b) May not use such funds to support or oppose a candidate, ballot proposition, political party, or political committee.

(3) State lands development authorities do not have any authority to levy taxes or assessments.

Sec. 526. RCW 43.167.020 and 2011 c 60 s 40 are each amended to read as follows:

(1) A community preservation and development authority shall have the power to:

(a) Accept gifts, grants, loans, or other aid from public or private entities;

(b) Employ and appoint such agents, attorneys, officers, and employees as may be necessary to implement the purposes and duties of an authority;

(c) Contract and enter into partnerships with individuals, associations, corporations, and local, state, and federal governments;

(d) Buy, own, lease, and sell real and personal property;

(e) Hold in trust, improve, and develop land;

(f) Invest, deposit, and reinvest its funds;

(g) Incur debt in furtherance of its mission; and

(h) Lend its funds, property, credit, or services for corporate purposes.

(2) A community preservation and development authority has no power of eminent domain nor any power to levy taxes or special assessments.

(3) A community preservation and development authority that accepts public funds under subsection (1)(a) of this section:

(a) Is subject in all respects to Article VIII, section 5 or 7, as appropriate, of the state Constitution, and to RCW 42.17A.550 (as recodified by this act); and

(b) May not use the funds to support or oppose a candidate, ballot proposition, political party, or political committee.

Sec. 527. RCW 43.384.060 and 2018 c 275 s 7 are each amended to read as follows:

The board may receive 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 purposes of the authority and spend gift, grants, or endowments or income from public or private sources according to their terms, unless the receipt of gifts, grants, or endowments violates RCW 42.17A.560 (as recodified by this act).

Sec. 528. RCW 44.05.020 and 2011 c 60 s 41 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter, unless the context requires otherwise.

(1) "Chief election officer" means the secretary of state.

(2) "Federal census" means the decennial census required by federal law to be prepared by the United States bureau of the census in each year ending in zero.

(3) "Lobbyist" means an individual required to register with the Washington public disclosure commission pursuant to RCW 42.17A.600 (as recodified by this act).

(4) "Plan" means a plan for legislative and congressional redistricting mandated by Article II, section 43 of the state Constitution.

Sec. 529. RCW 44.05.080 and 2018 c 301 s 10 are each amended to read as follows:

In addition to other duties prescribed by law, the commission shall:

(1) Adopt rules pursuant to the Administrative Procedure Act, chapter 34.05 RCW, to carry out the provisions of Article II, section 43 of the state Constitution and of this chapter, which rules shall provide that three voting members of the commission constitute a quorum to do business, and that the votes of three of the voting members are required for any official action of the commission;

(2) Act as the legislature's recipient of the final redistricting data and maps from the United States Bureau of the Census;

(3) Comply with requirements to disclose and preserve public records as specified in chapters 40.14 and 42.56 RCW;

(4) Hold open meetings pursuant to the open public meetings act, chapter 42.30 RCW;

(5) Prepare and disclose its minutes pursuant to RCW 42.30.035;

(6) Be subject to the provisions of RCW 42.17A.700 (as recodified by this act);

(7) Prepare and publish a report with the plan; the report will be made available to the public at the time the plan is published. The report will include but will not be limited to: (a) The population and percentage deviation from the average district population for every district; (b) an explanation of the criteria used in developing the plan with a justification of any deviation in a district from the average district population; (c) a map of all the districts; and (d) the estimated cost incurred by the counties for adjusting precinct boundaries;

(8) Adopt a districting plan for a noncharter county with a population of ((~~four hundred thousand~~)) 400,000 or more, pursuant to RCW 36.32.054.

Sec. 530. RCW 53.57.060 and 2015 c 35 s 7 are each amended to read as follows:

A port development authority created under this chapter must comply with applicable laws including, but not limited to, the following:

(1) Requirements concerning local government audits by the state auditor and applicable accounting requirements set forth in chapter 43.09 RCW;

(2) The public records act, chapter 42.56 RCW;

(3) Prohibitions on using facilities for campaign purposes under RCW 42.17A.555 (as recodified by this act);

(4) The open public meetings act, chapter 42.30 RCW;

(5) The code of ethics for municipal officers under chapter 42.23 RCW; and

(6) Local government whistleblower protection laws set forth in chapter 42.41 RCW.

Sec. 531. RCW 68.52.220 and 2020 c 83 s 6 are each amended to read as follows:

(1) The affairs of the cemetery district must be managed by a board of cemetery district commissioners composed of three members. The board may provide, by resolution passed by the commissioners, for the payment of compensation to each of its commissioners at a rate of up to ((~~ninety dollars~~))

$90 for each day or portion of a day spent in actual attendance at official meetings of the district commission, or in performance of other official services or duties on behalf of the district. However, the compensation for each commissioner must not exceed ((~~eight thousand six hundred forty dollars~~)) $8,640 per year.

(2) Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the clerk of the board. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver must specify the month or period of months for which it is made. The board must fix the compensation to be paid the secretary and other employees of the district. Cemetery district commissioners and candidates for cemetery district commissioner are exempt from the requirements of ((~~chapter 42.17A~~)) Title 29B RCW.

(3) The initial cemetery district commissioners must assume office immediately upon their election and qualification. Staggering of terms of office must be accomplished as follows: (a) The person elected receiving the greatest number of votes is elected to a six-year term of office if the election is held in an odd-numbered year or a five-year term of office if the election is held in an even-numbered year; (b) the person who is elected receiving the next greatest number of votes is elected to a four-year term of office if the election is held in an odd-numbered year or a three-year term of office if the election is held in an even-numbered year; and (c) the other person who is elected is elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year. The initial commissioners must assume office immediately after they are elected and qualified but their terms of office must be calculated from the first day of January after the election.

(4) Thereafter, commissioners are elected to six-year terms of office. Commissioners must serve until their successors are elected and qualified and assume office as provided in RCW 29A.60.280.

(5) The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning January 1, 2024, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. 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 must be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

(6) A person holding office as commissioner for two or more special purpose districts may receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an

official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Sec. 532. RCW 70A.02.120 and 2021 c 314 s 21 are each amended to read as follows:

(1) Nothing in chapter 314, Laws of 2021 prevents state agencies that are not covered agencies from adopting environmental justice policies and processes consistent with chapter 314, Laws of 2021.

(2) The head of a covered agency may, on a case-by-case basis, exempt a significant agency action or decision process from the requirements of RCW 70A.02.060 and 70A.02.080 upon determining that:

(a) Any delay in the significant agency action poses a potentially significant threat to human health or the environment, or is likely to cause serious harm to the public interest;

(b) An assessment would delay a significant agency decision concerning the assessment, collection, or administration of any tax, tax program, debt, revenue, receipt, a regulated entity's financial filings, or insurance rate or form filing;

(c) The requirements of RCW 70A.02.060 and 70A.02.080 are in conflict with:

(i) Federal law or federal program requirements;

(ii) The requirements for eligibility of employers in this state for federal unemployment tax credits; or

(iii) Constitutional limitations or fiduciary obligations, including those applicable to the management of state lands and state forestlands as defined in RCW 79.02.010.

(3) A covered agency may not, for the purposes of implementing any of its responsibilities under this chapter, contract with an entity that employs a lobbyist registered under RCW 42.17A.600 (as recodified by this act) that is lobbying on behalf of that entity.

Sec. 533. RCW 79A.25.830 and 2011 c 60 s 48 are each amended to read as follows:

The recreation and conservation funding board or office may receive gifts, grants, or endowments from public and private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of RCW 79A.25.800 through 79A.25.830 and spend gifts, grants, or endowments or income from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560 (as recodified by this act).

Sec. 534. RCW 82.04.759 and 2023 c 286 s 2 are each amended to read as follows:

(1) This chapter does not apply to amounts received by any person for engaging in any of the following activities:

(a) Printing a newspaper, publishing a newspaper, or both; or

(b) Publishing eligible digital content by a person who reported under the printing and publishing tax classification for the reporting period that covers January 1, 2008, for engaging in printing and/or publishing a newspaper, as defined on January 1, 2008.

(2) The exemption under this section must be reduced by an amount equal to the value of any expenditure made by the person during the tax reporting period. For purposes of this subsection, "expenditure" has the meaning provided in ((~~RCW 42.17A.005~~)) section 223 of this act.

(3) If a person who is primarily engaged in printing a newspaper, publishing a newspaper, or publishing eligible digital content, or any combination of these activities, charges a single, nonvariable amount to advertise in, subscribe to, or access content in both a publication identified in subsection (1) of this section and another type of publication, the entire amount is exempt under this section.

(4) For purposes of this section, "eligible digital content" means a publication that:

(a) Is published at regularly stated intervals of at least once per month;

(b) Features written content, the largest category of which, as determined by word count, contains material that identifies the author or the original source of the material; and

(c) Is made available to readers exclusively in an electronic format.

(5) The exemption under this section applies only to persons primarily engaged in printing a newspaper, publishing a newspaper, or publishing eligible digital content, or any combination of these activities, unless these business activities were previously engaged in by an affiliated person and were not the affiliated person's primary business activity.

(6) For purposes of this section, the following definitions apply:

(a) "Affiliated" has the same meaning as provided in RCW 82.04.299.

(b) "Primarily" means, with respect to a business activity or combination of business activities of a taxpayer, more the 50 percent of the taxpayer's gross worldwide income from all business activities, whether subject to tax under this chapter or not, comes from such activity or activities.

NEW SECTION. **Sec. 535.** Section 534 of this act expires January 1, 2034.

NEW SECTION. **Sec. 536.** This act takes effect January 1, 2026.

Passed by the Senate March 4, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 165

[Substitute Senate Bill 5920]

PSYCHIATRIC HOSPITALS AND BEDS—CERTIFICATE OF NEED REQUIREMENTS

AN ACT Relating to lifting certificate of need requirements for the construction of psychiatric hospitals and the addition of psychiatric beds; amending RCW 70.38.111, 70.38.260, and 70.38.270; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.38.111 and 2021 c 277 s 1 are each amended to read as follows:

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

(a) A health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of

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

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

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

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

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

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

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

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

such services. The department shall approve an application submitted under this subsection if it determines that the applicable requirements of subsection (1) of this section are met.

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

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

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

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

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

(i) Offers services only to contractual members;

(ii) Provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some assistance with daily living activities;

(iii) Contractually assumes responsibility for the cost of services exceeding the member's financial responsibility under the contract, so that no third party, with the exception of insurance purchased by the retirement community or its members, but including the medicaid program, is liable for costs of care even if the member depletes his or her personal resources;

(iv) Has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home;

(v) Maintains a binding agreement with the state assuring that financial liability for services to members, including nursing home services, will not fall upon the state;

(vi) Does not operate, and has not undertaken a project that would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and

(vii) Has obtained a professional review of pricing and long-term solvency within the prior five years which was fully disclosed to members.

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

(i) It has submitted an application for exemption at least thirty days prior to commencing construction of, is submitting an application for the licensure of, or is commencing operation of a nursing home, whichever comes first; and

(ii) The application documents to the department that the continuing care retirement community qualifies for exemption.

(c) The sale, lease, acquisition, or use of part or all of a continuing care retirement community nursing home that qualifies for exemption under this subsection shall require prior certificate of need approval to qualify for licensure as a nursing home unless the department determines such sale, lease, acquisition, or use is by a continuing care retirement community that meets the conditions of (a) of this subsection.

(6) A rural hospital, as defined by the department, reducing the number of licensed beds to become a rural primary care hospital under the provisions of Part A Title XVIII of the Social Security Act Section 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction of beds licensed under chapter 70.41 RCW, increase the number of licensed beds to no more than the previously licensed number without being subject to the provisions of this chapter.

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

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

(9)(a) A nursing home that voluntarily reduces the number of its licensed beds to provide assisted living, licensed assisted living facility care, adult day care, adult day health, respite care, hospice, outpatient therapy services, congregate meals, home health, or senior wellness clinic, or to reduce to one or two the number of beds per room or to otherwise enhance the quality of life for

residents in the nursing home, may convert the original facility or portion of the facility back, and thereby increase the number of nursing home beds to no more than the previously licensed number of nursing home beds without obtaining a certificate of need under this chapter, provided the facility has been in continuous operation and has not been purchased or leased. Any conversion to the original licensed bed capacity, or to any portion thereof, shall comply with the same life and safety code requirements as existed at the time the nursing home voluntarily reduced its licensed beds; unless waivers from such requirements were issued, in which case the converted beds shall reflect the conditions or standards that then existed pursuant to the approved waivers.

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

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

(ii) Give notice to the department of health and to the department of social and health services of the intent to convert beds back. If construction is required for the conversion of beds back, the notice of intent to convert beds back must be given, at a minimum, one year prior to the effective date of license modification reflecting the restored beds; otherwise, the notice must be given a minimum of ninety days prior to the effective date of license modification reflecting the restored beds. Prior to any license modification to convert beds back to nursing home beds under this section, the licensee must demonstrate that the nursing home meets the certificate of need exemption requirements of this section.

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

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

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

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

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

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

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

(A) Operates a facility, or group of facilities, that offers a comprehensive continuum of long-term care services, including, at a minimum, a licensed, medicare-certified nursing home, assisted living, independent living, day health,

and various community-based support services, designed to meet the unique social, cultural, and religious needs of a specific cultural and ethnic minority group;

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

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

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

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

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

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

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

(11) To alleviate the need to board psychiatric patients in emergency departments and increase capacity of hospitals to serve individuals on ninety-day or one hundred eighty-day commitment orders, for the period of time from May 5, 2017, through June 30, ((~~2023~~)) 2028:

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

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

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

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

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

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

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

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

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

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

(b) The exemption under this subsection:

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

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

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

Sec. 2. RCW 70.38.260 and 2021 c 277 s 2 are each amended to read as follows:

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

(2)(a) Until June 30, ((~~2023~~)) 2028, a hospital licensed under chapter 70.41 RCW is exempt from certificate of need requirements for the addition of new psychiatric beds.

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

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

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

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

(3)(a) Until June 30, ((~~2023~~)) 2028, a psychiatric hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements for the one-time addition of up to 30 new psychiatric beds devoted solely for 90-day and 180-day civil commitment services and for the one-time addition of up to 30 new voluntary psychiatric beds or involuntary psychiatric beds for patients on a 120 hour detention or 14-day civil commitment order, if the hospital makes a commitment to maintain a payer mix of at least fifty percent medicare and medicaid based on a calculation using patient days for a period of five consecutive years after the beds are made available for use by patients, if it demonstrates to the satisfaction of the department:

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

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

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

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

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

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

(4)(a) Until June 30, ((~~2023~~)) 2028, an entity seeking to construct, develop, or establish a psychiatric hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements if the proposed psychiatric hospital will have no more than sixteen beds and dedicate a portion of the beds to providing treatment to adults on ninety or one hundred eighty-day involuntary commitment orders. The psychiatric hospital may also provide treatment to adults on a 120 hour detention or 14-day involuntary commitment order.

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

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

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

(c) Entities granted an exemption under RCW 70.38.111(11)(b)(ii) may not exceed sixteen beds unless a certificate of need is granted to increase the psychiatric hospital's capacity.

(5) This section expires June 30, ((~~2025~~)) 2029.

Sec. 3. RCW 70.38.270 and 2015 3rd sp.s. c 22 s 3 are each amended to read as follows:

(1) New psychiatric beds added under RCW 70.38.260 must remain psychiatric beds unless a certificate of need is granted to change their use or the hospital or psychiatric hospital voluntarily reduces its licensed capacity.

(2) This section expires June 30, 2029.

Passed by the Senate February 7, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 166

[Substitute Senate Bill 5936]

PALLIATIVE CARE BENEFIT WORK GROUP

AN ACT Relating to convening a work group to design a palliative care benefit for fully insured health plans; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The office of the insurance commissioner, in consultation with the health care authority, shall convene a work group to design

the parameters of a palliative care benefit and payment model for the benefit of fully insured health plans, as defined in RCW 48.43.005. The work group must coordinate its work with the ongoing work at the health care authority related to designing a palliative care benefit for the state medicaid program and the employee and retiree benefits program.

(2) The work group shall consider the following elements of a palliative care benefit:

(a) Clinical eligibility criteria;

(b) The services included in a palliative care benefit;

(c) Appropriate staffing, including staffing models and provider training;

(d) Evaluation criteria and reporting requirements; and

(e) Payment models.

(3) The commissioner may contract with a vendor to conduct actuarial analysis if necessary.

(4) The work group shall consist of the following members:

(a) One representative from the office of the insurance commissioner to be appointed by the commissioner;

(b) One representative from the health care authority to be selected by the director of the health care authority;

(c) One representative from the department of social and health services to be appointed by the secretary of the department;

(d) One representative from the department of health in-home services program to be appointed by the secretary of health;

(e) One representative from the Washington health benefit exchange to be appointed by the chief executive officer of the exchange;

(f) One representative from the Washington state hospice and palliative care organization;

(g) Four representatives currently providing palliative care, either as clinicians or operational leaders for a hospice or palliative care program, including at least one physician, to be selected by the Washington state hospice and palliative care organization;

(h) One representative from the association of Washington health care plans;

(i) One representative from a commercial health carrier and one representative from a medicaid managed care organization to be selected by the association of Washington health care plans;

(j) One representative from the Washington state hospital association;

(k) One representative from the home care association of Washington;

(l) One representative from the Washington health alliance; and

(m) One representative from the Washington state nurses association.

(5) The work group shall convene its first meeting by July 30, 2024, and shall submit a report to the legislature detailing its work and any recommendations, including any legislation, by November 1, 2025.

(6) For the purposes of this section, "palliative care" means expert assessment and management of a patient's symptoms, including coordination of care, attending to the physical, functional, psychological, practical, and spiritual consequences of serious illness, and assessment and support of caregiver needs. Palliative care is a person- and family-centered approach to care, providing people living with serious illness relief from the symptoms and stress of an illness, and can be delivered alongside life-prolonging or curative care.

(7) This section expires June 1, 2026.

Passed by the Senate January 24, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 167

[Senate Bill 5952]

DEPUTY BOILER AND PRESSURE VESSEL INSPECTORS—QUALIFICATIONS

AN ACT Relating to aligning deputy inspector credentials with national standards; and amending RCW 70.79.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.79.120 and 1994 c 164 s 27 are each amended to read as follows:

The director shall employ deputy inspectors who ((~~shall~~)) have ((~~had~~)) met at the time of appointment ((~~not less than five years practical experience in the construction, maintenance, repair, or operation of high pressure boilers and unfired pressure vessels as a mechanical engineer, steam engineer, boilermaker, or boiler inspector~~)) the qualification requirements for a commission as set forth by the national board of boiler and pressure vessel inspectors, and who shall have passed the examination provided for in RCW 70.79.170.

Passed by the Senate February 9, 2024.
Passed by the House March 1, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 168

[Engrossed Senate Bill 6098]

ACCOUNTS—VARIOUS PROVISIONS

AN ACT Relating to accounts; amending RCW 82.45.240, 27.34.400, and 70A.535.160; reenacting and amending RCW 43.79A.040, 43.79A.040, 43.84.092, and 43.84.092; adding a new section to chapter 41.05 RCW; adding new sections to chapter 43.79 RCW; adding a new section to chapter 70A.535 RCW; adding a new section to chapter 74.09 RCW; creating new sections; repealing RCW 43.83.330, 43.83.350, 27.34.410, 43.79.487, 70A.305.140, 43.79.530, 43.41.444, and 43.79.515; providing effective dates; providing expiration dates; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.45.240 and 2023 c 337 s 9 are each amended to read as follows:

(1) The down payment assistance account is created in the custody of the state treasurer. Receipts from the real estate excise tax on sales of condominiums or townhouses to persons using a down payment assistance program offered by the Washington state housing finance commission must be deposited in the account, as provided in subsection (2) of this section. Expenditures from the account may be used only for payment toward a person's down payment assistance loan that was used to purchase a condominium or townhouse for which the tax was collected. Only the ((~~Washington state housing finance~~

~~commission~~)) director of the department of commerce or the ((~~commission's~~)) 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)(a) Beginning June 15, 2024, and each June 15th thereafter, the department must notify the economic and revenue forecast council of the total amount received under RCW 82.45.060 from sales of condominiums or townhouses to persons using a down payment assistance program offered by the Washington state housing finance commission during the prior calendar year.

(b) Beginning in fiscal year 2025, and each fiscal year thereafter, the legislature must appropriate from the general fund to this account the lesser of (i) the amount received under RCW 82.45.060 on sales of condominiums or townhouses to persons using a down payment assistance program offered by the Washington state housing finance commission during the prior calendar year, as determined under (a) of this subsection, or (ii) $250,000 per fiscal year.

(c) On or before March 1, 2024, and each March 1st thereafter, the Washington state housing finance commission must provide the department with the following information for each sale of a condominium or townhouse to a person using a down payment assistance program offered by the Washington state housing finance commission that occurred during the prior calendar year:

(i) The real estate excise tax affidavit number associated with the sale;

(ii) The date of sale;

(iii) The parcel number of the property sold;

(iv) The street address of the property sold;

(v) The county in which the property sold is located;

(vi) The full legal name of the seller, or sellers, as shown on the real estate excise tax affidavit;

(vii) The full legal name of the buyer, or buyers, as shown on the real estate excise tax affidavit; and

(viii) Any additional information the department may require to verify the property sold is a condominium or townhouse sold to persons using a down payment assistance program offered by the Washington state housing finance commission.

(d) For the purposes of this subsection, "townhouse" means dwelling units constructed in a row of two or more attached units where each dwelling unit shares at least one common wall with an adjacent unit and is accessed by a separate outdoor entrance.

(3) This section expires January 1, 2034.

NEW SECTION. **Sec. 2.** The following acts or parts of acts are each repealed:

(1) RCW 43.83.330 (State and local improvements revolving account—Definitions) and 2015 1st sp.s. c 4 s 34, 1991 sp.s. c 13 s 43, 1985 c 57 s 44, & 1972 ex.s. c 127 s 3;

(2) RCW 43.83.350 (State and local improvements revolving account, Waste Disposal Facilities, 1980—Definitions) and 2021 c 65 s 46, 2015 1st sp.s. c 4 s 40, 1991 sp.s. c 13 s 44, 1985 c 57 s 56, & 1980 c 159 s 3;

(3) RCW 27.34.410 (Heritage barn preservation fund) and 2015 c 225 s 24 & 2007 c 333 s 4;

(4) RCW 43.79.487 (Basic health plan stabilization account) and 2011 c 5 s 711;

(5) RCW 70A.305.140 (Brownfield redevelopment trust fund account—Created—Report to the office of financial management and the legislature—Rules) and 2020 c 20 s 1316, 2019 c 422 s 414, & 2013 2nd sp.s. c 1 s 3;

(6) RCW 43.79.530 (Dairy nutrient infrastructure account) and 2016 sp.s. c 35 s 6016;

(7) RCW 43.41.444 (Shared information technology system revolving account—Contracts for administration, development, maintenance, and operations of shared information technology systems—"Shared information technology system" defined) and 2015 3rd sp.s. c 1 s 504; and

(8) RCW 43.79.515 (State efficiency and restructuring account) and 2010 1st sp.s. c 37 s 946.

Sec. 3. RCW 27.34.400 and 2007 c 333 s 2 are each amended to read as follows:

(1) The Washington state heritage barn preservation program is created in the department.

(2) The director, in consultation with the heritage barn preservation advisory board, shall conduct a thematic study of Washington state's barns. The study shall include a determination of types, an assessment of the most unique and significant barns in the state, and a condition and needs assessment of historic barns in the state.

(3)(a) The department, in consultation with the heritage barn preservation advisory board, shall establish a heritage barn recognition program. To apply for recognition as a heritage barn, the barn owner shall supply to the department photos of the barn, photos of the farm and surrounding landscape, a brief history of the farm, and a construction date for the barn.

(b) Three times a year, the governor's advisory council on historic places shall review the list of barns submitted by the department for formal recognition as a heritage barn.

(4) Eligible applicants for heritage barn preservation ((~~fund~~)) program awards include property owners, nonprofit organizations, and local governments.

(5) To apply for support from the heritage barn preservation ((~~fund~~)) program, an applicant must submit an application to the department in a form prescribed by the department. Applicants must provide at least fifty percent of the cost of the project through in-kind labor, the applicant's own moneys, or other funding sources.

(6) The following types of projects are eligible for funding:

(a) Stabilization of endangered heritage barns and related agricultural buildings, including but not limited to repairs to foundations, sills, windows, walls, structural framework, and the repair and replacement of roofs; and

(b) Work that preserves the historic character, features, and materials of a historic barn.

(7) In making awards, the advisory board shall consider the following criteria:

(a) Relative historical and cultural significance of the barn;

(b) Urgency of the threat and need for repair;

(c) Extent to which the project preserves historic character and extends the useful life of the barn or associated agricultural building;

(d) Visibility of the barn from a state designated scenic byway or other publicly traveled way;

(e) Extent to which the project leverages other sources of financial assistance;

(f) Provision for long-term preservation;

(g) Readiness of the applicant to initiate and complete the project; and

(h) Extent to which the project contributes to the equitable geographic distribution of heritage barn preservation ((~~fund~~)) program awards across the state.

(8) In awarding funds, special consideration shall be given to barns that are:

(a) Still in agricultural use;

(b) Listed on the national register of historic places; or

(c) Outstanding examples of their type or era.

(9) The conditions in this subsection must be met by recipients of funding in order to satisfy the public benefit requirements of the heritage barn preservation program.

(a) Recipients must execute a contract with the department before commencing work. The contract must include a historic preservation easement for between five to fifteen years depending on the amount of the award. The contract must specify public benefit and minimum maintenance requirements.

(b) Recipients must proactively maintain their historic barn for a minimum of ten years.

(c) Public access to the exterior of properties that are not visible from a public right-of-way must be provided under reasonable terms and circumstances, including the requirement that visits by nonprofit organizations or school groups must be offered at least one day per year.

(10) All work must comply with the United States secretary of the interior's standards for the rehabilitation of historic properties; however, exceptions may be made for the retention or installation of metal roofs on a case-by-case basis.

(11) The heritage barn preservation ((~~fund~~)) program shall be acknowledged on any materials produced and in publicity for the project. A sign acknowledging the ((~~fund~~)) program shall be posted at the worksite for the duration of the preservation agreement.

(12) Projects must be initiated within one year of funding approval and completed within two years, unless an extension is provided by the department in writing.

(13) If a recipient of a heritage barn preservation ((~~fund~~)) program award, or subsequent owner of a property that was assisted by the ((~~fund~~)) program, takes any action within ten years of the funding award with respect to the assisted property such as dismantlement, removal, or substantial alteration, which causes it to be no longer eligible for listing in the Washington heritage register, the ((~~fund~~)) program shall be repaid in full within one year.

NEW SECTION. **Sec. 4.** A new section is added to chapter 41.05 RCW to read as follows:

The Fern Lodge maintenance account is created in the custody of the state treasurer. All receipts from the collection of rents for the Snohomish county long-term civil commitment facility known as Fern Lodge must be deposited

into the account. Expenditures from the account may only be used for the ongoing maintenance and operational costs of Fern Lodge. Only the director or the director's designee may authorize expenses 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. 5.** A new section is added to chapter 43.79 RCW to read as follows:

The inflation reduction elective pay account is created in the state treasury. All receipts from elective pay provided under P.L. 117-169 (inflation reduction act of 2022) must be deposited into the account. Moneys in the account may be spent only after appropriation.

NEW SECTION. **Sec. 6.** A new section is added to chapter 70A.535 RCW to read as follows:

The clean fuels credit account is created in the state treasury. All receipts from clean fuel credits generated under this chapter by state agency activities not funded through an appropriation in an omnibus transportation appropriations 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 state agencies to complete investments to reduce state agency transportation-related emissions including, but not limited to, electric vehicle infrastructure, electric vehicles, electric vessels, and electric boats.

Sec. 7. RCW 70A.535.160 and 2023 c 431 s 14 are each amended to read as follows:

The clean fuels transportation investment account is created in the state treasury. All receipts to the state from clean fuel credits generated under this chapter from transportation investments funded in an omnibus transportation appropriations act, including those listed under RCW 70A.535.050(3), must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used for activities and projects that reduce greenhouse gas emissions and decarbonize the transportation sector.

NEW SECTION. **Sec. 8.** A new section is added to chapter 74.09 RCW to read as follows:

The family medicine workforce development account is created in the state treasury. All receipts from funding available for the family medicine residency network pursuant to RCW 74.60.090 and 70.112.060 and any other funds collected for the medicaid direct payment program established in chapter . . ., Laws of 2024 (the omnibus operating appropriations 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 to supplement primary care graduate medical education.

NEW SECTION. **Sec. 9.** A new section is added to chapter 43.79 RCW to read as follows:

(1) The legislature recognizes the honor of Seattle being chosen as a host city for the 2026 FIFA World Cup soccer competition. The matches will attract hundreds of thousands of fans to our region and bring unprecedented attention to Seattle and the state of Washington as a whole. In recognition of the economic

benefit to the state, the legislature intends to provide assistance in making the capital improvements necessary to host this event.

(2) The stadium world cup capital account is created in the state treasury for the purpose of advancing moneys to the Washington state public stadium authority for capital improvements required to host the 2026 World Cup. Moneys in the account may be spent only after appropriation.

(3) The department of commerce must enter into a loan agreement with the Washington state public stadium authority to advance funds for capital improvements necessary to host the 2026 World Cup. The department must work with the state treasurer to record distributions from the stadium world cup capital account and calculate the repayment obligation for amounts expended. Loan terms shall include interest at a rate that is 0.5 percent higher than the interest rate that the account would have earned without the transfer, with funds to be repaid no later than September 30, 2026.

(4) It is the intent of the legislature that loan funds be repaid from admissions taxes collected from World Cup events hosted at the stadium and deposited into the stadium and exhibition center account created in RCW 43.99N.060. If not earlier paid, on September 30, 2026, the director of the office of financial management shall direct the state treasurer to transfer any amounts due from the stadium and exhibition center account to the general fund.

Sec. 10. RCW 43.79A.040 and 2023 c 389 s 8, 2023 c 387 s 2, 2023 c 380 s 6, 2023 c 213 s 9, 2023 c 170 s 19, and 2023 c 12 s 2 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 Rosa Franklin legislative internship program 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 Washington career and

college pathways innovation challenge program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the behavioral health loan repayment program account, the Billy Frank Jr. national statuary hall collection 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 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the energy facility site evaluation council account, the fair fund, the family and medical leave insurance account, the Fern Lodge maintenance 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 educator 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 account, the medication for people living with HIV rebate revenue account, the homeowner recovery account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the pollution liability insurance program trust account, the produce railcar pool account, the public use general aviation airport loan revolving 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 library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth 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 public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive 80 percent of their proportionate share of earnings based upon each account's or fund's average

daily balance for the period: The advance 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. 11. RCW 43.79A.040 and 2023 c 389 s 8, 2023 c 387 s 2, 2023 c 380 s 6, 2023 c 213 s 9, and 2023 c 12 s 2 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 Rosa Franklin legislative internship program 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 Washington career and college pathways innovation challenge program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the behavioral health loan repayment program account, the Billy Frank Jr. national statuary hall collection 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 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the energy facility site evaluation council account, the fair fund, the family and medical leave insurance account, the Fern Lodge maintenance 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 educator 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 account, the medication for people living with HIV rebate revenue account, the homeowner recovery account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the produce railcar pool account, the public use general aviation airport loan revolving 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 library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth 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 public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive 80 percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance 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. 12. RCW 43.84.092 and 2023 c 435 s 14, 2023 c 431 s 10, 2023 c 389 s 10, 2023 c 377 s 7, 2023 c 340 s 10, 2023 c 110 s 3, 2023 c 73 s 10, and 2023 c 41 s 4 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, ((~~the brownfield redevelopment trust fund account,~~)) the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the clean fuels credit account, the clean fuels transportation investment account, the cleanup settlement account, the climate active transportation account, the climate transit programs 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 covenant homeownership account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the opioid abatement settlement account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the family medicine workforce development account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the higher education retirement plan supplemental benefit fund, the Washington student loan account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 5 bridge replacement project account, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the reserve officers' relief and pension principal fund, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the second injury 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 hazard mitigation revolving loan account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the JUDY transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 13. RCW 43.84.092 and 2023 c 435 s 14, 2023 c 431 s 10, 2023 c 389 s 10, 2023 c 377 s 7, 2023 c 340 s 10, 2023 c 110 s 3, 2023 c 73 s 10, and 2023 c 41 s 4 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, ((~~the brownfield redevelopment trust fund account,~~)) the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the clean fuels credit account, the clean fuels transportation investment account, the cleanup settlement account, the climate active transportation account, the climate transit programs 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 covenant homeownership account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the opioid abatement settlement account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy

freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the family medicine workforce development account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the higher education retirement plan supplemental benefit fund, the Washington student loan account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 5 bridge replacement project account, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the reserve officers' relief and pension principal fund, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the second injury 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 hazard mitigation revolving loan account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the JUDY transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the

traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 14.** The Washington sexual assault kit account was created in section 9, chapter 173, Laws of 2016, with an expiration date of June 30, 2022. Any residual balance of funds remaining in the Washington sexual assault kit account as of the date of the account's expiration must be transferred by the state treasurer to the fingerprint identification account no later than June 1, 2024.

NEW SECTION. **Sec. 15.** Any residual balance of funds remaining in any account abolished in this act on June 30, 2024, shall be transferred by the state treasurer to the state general fund.

NEW SECTION. **Sec. 16.** Except for sections 4 through 13 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 June 1, 2024.

NEW SECTION. **Sec. 17.** (1) Sections 4 through 10 and 12 of this act take effect July 1, 2024.

(2) Section 11 of this act takes effect July 1, 2030.

(3) Section 13 of this act takes effect July 1, 2028.

NEW SECTION. **Sec. 18.** (1) Section 10 of this act expires July 1, 2030.

(2) Section 12 of this act expires July 1, 2028.

Passed by the Senate March 7, 2024.
Passed by the House March 6, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 169

[Senate Bill 6263]

1955 ACT FOR FIREFIGHTERS' RELIEF AND PENSIONS—DEATH BENEFITS

AN ACT Relating to death benefits provided by the 1955 act for firefighters' relief and pensions; and amending RCW 41.18.140.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.18.140 and 2007 c 218 s 54 are each amended to read as follows:

The board shall pay from the firefighters' pension fund upon the death of any active or retired firefighter the sum of ((~~five hundred dollars~~)) $1,000, to assist in defraying the funeral expenses of such firefighter.

Passed by the Senate February 12, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 170

[Engrossed Substitute Senate Bill 6291]

STATE BUILDING CODE COUNCIL—VARIOUS PROVISIONS

AN ACT Relating to streamlining the state building code council operating procedures by establishing criteria for statewide amendments to the state building code; amending RCW 19.27.031, 19.27.070, 19.27.074, 19.27A.025, 19.27A.045, and 19.27.015; and adding new sections to chapter 19.27 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 19.27.031 and 2018 c 189 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, there shall be in effect in all counties and cities the state building code which shall consist of the following model codes which are hereby adopted by reference:

((~~(1)~~))(a)(i) The International Building Code, published by the International Code Council, Inc.;

((~~(b)~~)) (ii) The International Residential Code, published by the International Code Council, Inc.;

((~~(2)~~)) (b) The International Mechanical Code, published by the International Code Council, Inc., except that the standards for liquefied petroleum gas installations shall be NFPA 58 (Storage and Handling of Liquefied Petroleum Gases) and ANSI Z223.1/NFPA 54 (National Fuel Gas Code);

((~~(3)~~)) (c) The International Fire Code, published by the International Code Council, Inc., including those standards of the National Fire Protection Association specifically referenced in the International Fire Code: PROVIDED,

That, notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying handheld candles;

(((~~(4)~~))) (d) Portions of the International Wildland Urban Interface Code, published by the International Code Council Inc., as set forth in RCW 19.27.560;

(((~~(5)~~))) (e) Except as provided in RCW 19.27.170, the Uniform Plumbing Code and Uniform Plumbing Code Standards, published by the International Association of Plumbing and Mechanical Officials: PROVIDED, That any provisions of such code affecting sewers or fuel gas piping are not adopted;

(((~~(6)~~))) (f) The rules adopted by the council establishing standards for making buildings and facilities accessible to and usable by individuals with disabilities or elderly persons as provided in RCW 70.92.100 through 70.92.160; and

(((~~(7)~~))) (g) The state's climate zones for building purposes are designated in RCW 19.27A.020(3) and may not be changed through the adoption of a model code or rule.

(2) In case of conflict among the codes enumerated in subsection((~~s~~)) (1)((~~, (2), (3), (4), and (5)~~)) of this section, the first named code shall govern over those following.

(3)(a) The model codes enumerated in this section shall be adopted or amended by the council as provided in RCW 19.27.074 and sections 6 through 8 of this act in a three-year state building code adoption cycle. The state building code adoption cycle follows the adoption cycle of the model codes. Substantive changes to the state building code may only be adopted within the three-year cycle except as provided in section 6 of this act.

(b) The council shall review the most recent editions of each of the model codes enumerated in subsection (1) of this section and take action on adoption no later than 30 months after the date of publication of each such code. The "date of publication" is the date of publication printed in each model code. If only a month and year are shown, the date of publication for such code shall be the last day of the month shown.

(4) The council may initiate and implement an interim code adoption cycle for all Washington state building codes if a majority of its voting membership determines one is needed to correct errors and omissions, or eliminate obsolete, conflicting, redundant, or unnecessary regulations as provided in sections 6 through 8 of this act.

(5) Petitions for emergency statewide amendments to the building code may be submitted, considered, and adopted at any time in accordance with RCW 34.05.350 and sections 6 through 8 of this act.

(6) Off-cycle amendments to any of the Washington state building codes may be initiated and implemented at any time if directed by the legislature.

(7) The council shall solicit input from first responders to ensure that firefighter safety issues are addressed during the code adoption process.

(8) The council may issue opinions relating to the codes at the request of a local official charged with the duty to enforce the enumerated codes.

Sec. 2. RCW 19.27.070 and 2018 c 207 s 3 are each amended to read as follows:

There is hereby established in the department of enterprise services a state building code council, to be appointed by the governor.

(1) The state building code council shall consist of ((~~fifteen~~)) 15 members:

(a) Two members must be county elected legislative body members or elected executives;

(b) Two members must be city elected legislative body members or mayors;

(c) One member must be a local government building code enforcement official;

(d) One member must be a local government fire service official;

(e) One member must be a person with a physical disability and shall represent the disability community;

(f) One member, who is not eligible for membership on the council in any other capacity, and who has not previously been nominated or appointed to the council to represent any other group, must represent the general public; and

(g) Seven members must represent the private sector or professional organizations as follows:

(i) One member shall represent general construction, specializing in commercial and industrial building construction;

(ii) One member shall represent general construction, specializing in residential and multifamily building construction;

(iii) One member shall represent the architectural design profession;

(iv) One member shall represent the structural engineering profession;

(v) One member shall represent the mechanical engineering profession;

(vi) One member shall represent the construction building trades;

(vii) One member shall represent manufacturers, installers, or suppliers of building materials and components.

(2) At least six of these ((~~fifteen~~)) 15 members shall reside east of the crest of the Cascade mountains.

(3) The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of membership. Ex officio members shall not be counted for purposes of quorums, calling special meetings, or voting thresholds.

(4)(a) Terms of office shall be for three years, or for so long as the member remains qualified for the appointment.

(b) The council shall elect a member to serve as chair of the council for one-year terms of office.

(c) Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment.

(d) Any member who is appointed to represent a specific private sector industry must maintain sufficiently similar private sector employment or circumstances throughout the term of office to remain qualified to represent the specified industry. Retirement or unemployment is not cause for termination. However, if a councilmember appointed to represent a specific private sector industry enters into employment outside of the industry, or outside of the private sector, he or she has been appointed to represent, then he or she must be removed from the council.

(e) Any member who no longer qualifies for appointment under this section may not vote on council actions, but may participate as an ex officio, nonvoting member until a replacement member is appointed. A member must notify the council staff and the governor's office within ((~~thirty~~)) 30 days of the date the member no longer qualifies for appointment under this section. The governor shall appoint a qualified replacement for the member within ((~~sixty~~)) 60 days of notice.

(f) Each of the 15 councilmembers appointed by the governor shall hold office until the appointment of a successor, not to exceed 90 days after the term has expired. If no appointment is made to replace the member after 90 days, the member's position shall become vacant. Vacant positions shall not be counted for purposes of quorums, calling special meetings, or voting thresholds.

(5) Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests identified in this section. The governor shall select appointees to represent private sector industries from a list of three nominations provided by the largest trade associations representing the industry((~~,~~)) unless no names or insufficient qualifying names are put forth by the trade associations. Within three days after a councilmember's term has expired, the council must post a message on the council website informing the stakeholders and members of the public that there is an open council position. The trade associations must provide nominations no later than 30 days after a council position is open. The governor shall appoint a qualified replacement within 60 days after the qualified nominations are received.

(6) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) Within one year of employment or appointment, employees of the state building code council and members of the state building code council must receive training on ethics in public service including, but not limited to, provisions of chapter 42.52 RCW.

(8) For purposes of this section, a "professional organization" includes an entity whose members are engaged in a particular lawful vocation, occupation, or field of activity of a specialized nature, including but not limited to associations, boards, educational institutions, and nonprofit organizations.

Sec. 3. RCW 19.27.074 and 2018 c 207 s 4 are each amended to read as follows:

(1) The state building code council shall:

(a) Adopt and maintain the codes to which reference is made in RCW 19.27.031 in a status which is consistent with the state's interest as set forth in RCW 19.27.020. In maintaining these codes, the council shall regularly review updated versions of the codes referred to in RCW 19.27.031 and other pertinent information and shall amend the codes pursuant to RCW 19.27.031 and sections 6 through 8 of this act as deemed appropriate by the council;

(b) Approve or deny all county or city amendments to any code referred to in RCW 19.27.031 to the degree the amendments apply to single-family or multifamily residential buildings;

(c) As required by the legislature, develop and adopt any codes relating to buildings; and

(d) Approve a proposed budget for the operation of the state building code council to be submitted by the department of enterprise services to the office of financial management pursuant to RCW 43.88.090.

(2) The state building code council may:

(a) Appoint technical advisory ((~~committees which may include members of the council~~)) groups in accordance with section 7 of this act;

(b) Approve contracts for services; and

(c) Conduct research into matters relating to any code or codes referred to in RCW 19.27.031 or any related matter.

(3) The department of enterprise services, with the advice and input from the members of the building code council, shall:

(a) Employ a managing director of the council, and permanent and temporary staff ((~~and contract for services~~)) to perform all duties necessary to carry out the intent and purposes of this chapter and chapter 19.27A RCW;

(b) Contract with an independent, third-party entity to perform ((~~a Washington energy code baseline economic analysis and economic analysis of code proposals~~)) comparative economic and energy analyses of proposed Washington energy code amendments and prior versions of the Washington energy code, including compliance with RCW 34.05.328 and 19.27A.160; and

(c) Provide all administrative and information technology services required for the building code council.

(4) Rule-making authority as authorized in this chapter resides within the building code council.

(5)(a) All meetings of the state building code council, its standing committees, ad hoc committees, and technical advisory groups shall be open to the public under the open public meetings act, chapter 42.30 RCW. All actions of the state building code council which adopt or amend any code of statewide applicability shall be pursuant to the administrative procedure act, chapter 34.05 RCW.

(b) All council decisions relating to the codes enumerated in RCW 19.27.031 shall require approval by at least a majority of the voting members of the council.

(c) All decisions to adopt or amend codes of statewide application through a three-year code adoption cycle shall be made prior to December 1st of any year and shall not take effect before the end of the regular legislative session in the next year.

Sec. 4. RCW 19.27A.025 and 2019 c 285 s 17 are each amended to read as follows:

(1) The minimum state energy code for new and renovated nonresidential buildings, as specified in this chapter, 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, RCW 19.27.031, and sections 6 through 8 of this act, 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 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~~)) group in accordance with section 7 of this act 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 of the voting members. Substantial amendments to the code shall be adopted no more frequently than every three years except as allowed in RCW 19.27.031 and section 6 of this act.

Sec. 5. RCW 19.27A.045 and 1990 c 2 s 5 are each amended to read as follows:

The state building code council shall maintain the state energy code for residential structures in a status which is consistent with the state's interest as set forth in section 1, chapter 2, Laws of 1990. In maintaining the Washington state energy code for residential structures, beginning in 1996 the council shall review the Washington state energy code every three years. After January 1, 1996, by rule adopted pursuant to chapter 34.05 RCW, RCW 19.27.031, and sections 6 through 8 of this act, the council may amend any provisions of the Washington state energy code to increase the energy efficiency of newly constructed residential buildings. Decisions to amend the Washington state energy code for residential structures shall be made prior to December 1 of any year and shall not take effect before the end of the regular legislative session in the next year.

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

(1) Adoption or amendment of the state building code or statewide amendments to the state building code as defined in RCW 19.27.031 must meet the following criteria:

(a) Substantive updates to the state building code shall occur only once during the three-year state building code adoption cycle as described in RCW 19.27.031(3). No substantive provision may be adopted, amended, or repealed except during the three-year code adoption cycle, or as provided in (c) or (d) of this subsection.

(b) An interim code adoption cycle as outlined in RCW 19.27.031(4) shall not be performed earlier than 12 months nor later than 18 months from the effective date of the codes adopted pursuant to (a) of this subsection.

(c)(i) The council may adopt emergency amendments to the code at any time under the following conditions:

(A) The amendment is necessary for the preservation of the public health, safety, or general welfare; or

(B) The amendment is necessary for consistency with state or federal laws and regulations.

(ii) The council may not act on a petition for emergency statewide amendments at the meeting when the petition is introduced.

(iii) The council may accept a petition for emergency statewide amendments only when the petition provides a concise statement of the reasons for a finding that an emergency basis exists, and the council approves a finding that such an emergency basis exists by a two-thirds vote of voting members. The approval of emergency amendments requires a majority vote of the voting members.

(d) The council may adopt or amend the state building code or code sections at any time pursuant to legislative direction as reflected in legislation signed into law.

(2) Any person or entity may submit to the council a petition in writing for statewide amendments within the time periods established by the council. The petition for statewide amendment must comply with format and content requirements approved by the council.

(3) Incomplete petitions for statewide amendments or petitions that exceed the specific delegation of authority provided by the legislature shall not be considered by the council for action.

(4) The council shall approve the referral of a statewide amendment to a standing committee or technical advisory group.

(5) The council shall develop a process for council meetings that allows members of the public to understand amendments being proposed for adoption. The process shall include requirements for modifications to proposed rule text to be in writing, specify the reason for the amendment, and be available to the council and the members of the public at least seven days prior to a vote on final amendment adoption. The council shall adopt rules that encourage councilmembers and technical advisory group members to make proposed amendments and text changes available to other members and the public at least 48 hours prior to the meeting at which they will be discussed.

(6) The council must adopt policies and procedures for the adoption or amendment of the state building code that comply with the rule-making requirements in chapter 34.05 RCW and this act.

NEW SECTION. **Sec. 7.** A new section is added to chapter 19.27 RCW to read as follows:

(1) The state building code council may appoint technical advisory groups to review petitions for statewide amendments as authorized in this chapter and chapter 19.27A RCW.

(a) A technical advisory group may include one voting councilmember.

(b) A technical advisory group must consist of subject matter experts as designated by the council. A subject matter expert is defined as an individual who by education, training, or experience is a recognized expert on a particular subject, topic, or system.

(c) A technical advisory group member may be removed by the state building code council if the member no longer meets the qualifications necessary to fill the position.

(d) Three consecutive absences of a technical advisory group member from meetings of the technical advisory group are grounds for the state building code

council to designate the member's status as ex officio, until a reappointment is made. Ex officio members are not considered when determining a quorum.

(e) Within three months of appointment, technical advisory group members must receive training on ethics in public service including, but not limited to, provisions of chapter 42.52 RCW.

(f) Technical advisory group members and the industry or stakeholder groups they are representing must be posted on the council website.

(2) Any person who wishes to be appointed to serve on a technical advisory group must submit an application that satisfies the requirements for an application set by the council. Any application for such appointment must be approved or denied within 30 days after the closing of the application submittal period.

(3) A petition for an amendment referred to a technical advisory group must be approved by a majority of the technical advisory group voting members to be taken up for consideration by the state building code council.

NEW SECTION. **Sec. 8.** A new section is added to chapter 19.27 RCW to read as follows:

Following the close of the public comment period and any public hearing required by chapter 34.05 RCW, the state building code council shall approve or disapprove the final adoption or amendment of codes of statewide application.

(1) Proposals must meet one or more of the criteria in section 6 of this act to be considered for approval.

(2) Proposals that do not meet these criteria may be considered in a future three-year code adoption cycle.

(3) The council may not adopt a proposal that is substantially different from the proposal made available for public testimony except as provided by RCW 34.05.340.

Sec. 9. RCW 19.27.015 and 2018 c 207 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Agricultural structure" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure may not be a place of human habitation or a place of employment where agricultural products are processed, treated, or packaged, nor may it be a place used by the public.

(2) "Approval," "approved," or "adopted," unless otherwise defined or otherwise indicated by context, means an affirmative vote by a majority of voting members of the council, committee, or advisory group present at the time of the vote.

(3) "City" means a city or town.

(((~~(3)~~))) (4) "Commercial building permit" means a building permit issued by a city or a county to construct, enlarge, alter, repair, move, demolish, or change the occupancy of any building not covered by a residential building permit.

(((~~(4)~~))) (5) "Emergency statewide amendment" means any proposed statewide amendment meeting the criteria in RCW 34.05.350. A rule shall be considered an emergency rule if the council, for good cause, finds that immediate adoption or amendment of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time

requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to public interest.

(6) "Model codes" means the codes developed by the model code organizations and adopted by reference in RCW 19.27.031.

(7) "Model code organizations" means the national code-adopting organizations that develop the model codes, as defined in this section, such as the international code council, international association of plumbing and mechanical officials, and national fire protection association.

(8) "Multifamily residential building" means common wall residential buildings that consist of four or fewer units, that do not exceed two stories in height, that are less than ((~~five thousand~~)) 5,000 square feet in area, and that have a one-hour fire-resistive occupancy separation between units.

(((~~(5)~~))) (9) "Off-cycle amendments" means amendments to the state building code outside of the three-year state building code adoption cycle.

(10) "Residential building permit" means a building permit issued by a city or a county to construct, enlarge, alter, repair, move, demolish, or change the occupancy of any building containing only dwelling units used for independent living of one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation, and structures accessory to dwelling units, such as detached garages and storage buildings.

(((~~(6)~~))) (11) "State building code" means the codes adopted and amended by the council as follows:

(a) The codes referenced in this chapter;

(b) The state energy code referenced in chapter 19.27A RCW; and

(c) Any other codes so designated by the Washington state legislature as adopted and amended by the council.

(12) "State building code adoption cycle" means that period during which the state building code is adopted, updated, and amended by the council.

(13) "Statewide amendment" means any amendment to the state building code initiated through council action or by petition to the council from any agency, city, county, or interested individual or organization, that would have the effect of amending the state building code for the entire state of Washington. A statewide amendment may have a regional effect.

(14) "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention.

NEW SECTION. **Sec. 10.** 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.

Passed by the Senate February 7, 2024.

Passed by the House March 1, 2024.

Approved by the Governor March 18, 2024.

Filed in Office of Secretary of State March 19, 2024.

CHAPTER 171

[Substitute House Bill 1105]

NOTICE OF PUBLIC COMMENT PERIODS

AN ACT Relating to requiring public agencies to provide notice for public comment that includes the first and last date and time by which such public comment must be submitted; and adding a new section to chapter 42.30 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 42.30 RCW to read as follows:

(1) A public agency that is required by state law to solicit public comment for a statutorily specified period of time, and is required by state law to provide notice that it is soliciting public comment, must specify the first and last date and time by which written public comment may be submitted.

(2) An agency that provides a notice that violates this section is subject to the same fines under the same procedures as other violations of this chapter are subject to under RCW 42.30.120.

Passed by the House March 4, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 18, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 172

[Substitute House Bill 1012]

EXTREME WEATHER RESPONSE GRANT PROGRAM

AN ACT Relating to responding to extreme weather events; amending RCW 38.52.105; adding a new section to chapter 38.52 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This act may be known and cited as the extreme weather protection act.

NEW SECTION. **Sec. 2.** (1) The legislature finds that cold storm patterns in the winter months, dangerous heat waves in the summer, and other major weather events present severe public health challenges for individuals and families in Washington.

(2) Moreover, the legislature finds that these challenges are not experienced equally across the population. The elderly, people with disabilities, people with low incomes, farmworkers, people experiencing homelessness, and people who historically were zoned to areas that faced increased environmental impacts during weather events are the most at risk for losing their life or being severely impacted by weather-related ailments.

(3) The legislature finds that pets are particularly vulnerable to extreme weather conditions, including increased risk of heatstroke-related illness and death, and the inability for pet owners to find pet friendly accommodations is a major barrier to accessing heating and cooling centers and other resources and prevents individuals from evacuating to safety.

(4) The legislature finds that during the record heatwave of 2021, the deadliest weather-related disaster in Washington on record, over 100 people in

Washington and nearly 800 people in the northwest region lost their lives as a result of inability to access cooling centers or resources and hundreds more visited emergency rooms with heat-related illnesses.

(5) The legislature acknowledges that according to scientists at the Pacific Northwest national laboratory, it is predicted that these severe weather events will happen more frequently because of the changing climate.

(6) The legislature finds that the cost to local governments to provide heating and cooling centers are sometimes insurmountable and intends to provide supplemental resources to local jurisdictions and tribal partners where local resources are not available during extreme weather events.

NEW SECTION. **Sec. 3.** A new section is added to chapter 38.52 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department shall develop and implement an extreme weather response grant program for the purpose of assisting political subdivisions and federally recognized tribes, in geographic areas where vulnerable populations face combined, multiple environmental harms and health impacts as determined by the department, with the costs of responding to community needs during periods of extremely hot or cold weather or in situations of severe poor air quality from wildfire smoke. The department may adopt rules to administer the extreme weather response grant program.

(2)(a) The department may award grants to political subdivisions and federally recognized tribes, in geographic areas where vulnerable populations face combined, multiple environmental harms and health impacts as determined by the department, for reimbursement of costs in accordance with subsection (3) of this section if the costs were incurred by communities that have demonstrated a lack of local resources to address community needs and were incurred for the benefit of vulnerable populations. For the purposes of this section, vulnerability refers to the resilience of communities when confronted by external stresses on human health, such as natural or human-caused disasters. Vulnerable populations include, but are not limited to, individuals with disabilities, individuals without vehicles, older adults, individuals with low incomes or experiencing homelessness, and individuals with limited English proficiency.

(b) The department may utilize grant dollars to purchase temporary, movable shelters, which shall remain in the custody of the department to be loaned out to political subdivisions when requested by the executive head to assist with emergency response to extreme weather events.

(3) The costs associated with the following activities are eligible for reimbursement under the extreme weather response grant program:

(a) Establishing and operating warming and cooling centers, including rental of equipment, purchase of supplies and water, staffing, and other associated costs;

(b) Transporting individuals and their pets to warming and cooling centers;

(c) Purchasing fans or other supplies needed for cooling of congregate living settings;

(d) Providing emergency temporary housing such as rental of a hotel or convention center;

(e) Retrofitting or establishing facilities within warming and cooling centers that are pet friendly in order to permit individuals to evacuate with their pets; and

(f) Other related activities necessary for life safety during a period of extremely hot or cold weather or in situations of severe poor air quality from wildfire smoke as determined by the department.

(4) The department shall, upon request, provide information to political subdivisions and federally recognized tribes regarding the establishment and operation of warming and cooling centers.

(5) Grant funding awarded under this section must be used to supplement, not supplant, other federal, state, and local funding for emergency response.

(6) For purposes of this section, "political subdivision" means any county, city, or town that has established a local organization for emergency management or any joint local organization for emergency management established pursuant to RCW 38.52.070.

Sec. 4. RCW 38.52.105 and 2022 c 157 s 10 are each amended to read as follows:

The disaster response account is created in the state treasury. Moneys may be placed in the account from legislative appropriations and transfers, federal appropriations, or any other lawful source. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for support of state agency and local government disaster response and recovery efforts, including the awarding of grants under section 3 of this act, response by state and local government and federally recognized tribes to the novel coronavirus pursuant to the gubernatorial declaration of emergency of February 29, 2020, and to reimburse the workers' compensation funds and self-insured employers under RCW 51.16.220. Expenditures from the disaster response account may be used for military department operations and to support wildland fire suppression preparedness, prevention, and restoration activities by state agencies and local governments. The legislature may direct the treasurer to make transfers of moneys in the disaster response account to the state general fund.

Passed by the House March 5, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 173

[Engrossed Substitute House Bill 1277]

FUNDAMENTAL COURSE OF STUDY FOR PARAEDUCATORS—REQUIREMENTS

AN ACT Relating to improving the consistency and quality of the implementation of the fundamental course of study for paraeducators; amending RCW 28A.413.060; adding a new section to chapter 28A.413 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature acknowledges that it created the paraeducator board to adopt standards of practice and required school districts to provide to paraeducators a four-day fundamental course of study on the standards to paraeducators. The legislature finds that it required that at least

one day of the fundamental course of study be provided in person due to the benefits of in-person instruction, including that instructors can confirm the participant's application of learning objectives.

(2) The legislature recognizes that paraeducators benefit from in-person training that is part of the hiring and onboarding process. The legislature intends to expand this benefit by generally requiring two days of the fundamental course of study be provided to paraeducators in person. The legislature recognizes that an exemption from this in-person requirement is necessary for some small school districts that experience barriers to providing the fundamental course of study in person due to long commute times for paraeducators, irregular hiring dates in small school districts, and other extenuating circumstances.

(3) However, it is the intent of the legislature to ensure that all paraeducators in Washington receive high quality and consistent professional development through the fundamental course of study, with a significant majority of paraeducators being trained in person.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.413 RCW to read as follows:

(1) By July 1, 2025, the board must update rules on the implementation of the fundamental course of study under RCW 28A.413.060 to require that a significant majority of paraeducators are provided with the course in person. Under the rules, the board may grant an exemption from the in-person requirement of RCW 28A.413.060 for second-class school districts hiring paraeducators after the beginning of the school year.

(2) By July 1, 2025, the board must publish guidance for school districts on how to provide the fundamental course of study under RCW 28A.413.060 to improve the consistency and quality of staff development.

Sec. 3. RCW 28A.413.060 and 2019 c 268 s 3 are each amended to read as follows:

(1) School districts must implement this section only in school years for which state funding is appropriated specifically for the purposes of this section and only for the number of days that are funded by the appropriation.

(2)(a) School districts must provide a four-day fundamental course of study on the state standards of practice, as defined by the board, to paraeducators who have not completed the course, either in the district or in another district within the state. ((~~At least one day of the fundamental course of study must be provided in person.~~))

(b) School districts must use best efforts to provide the fundamental course of study before the paraeducator begins to work with students and their families, and at a minimum by the following deadlines ((~~provided in subsection (3) of this section.~~

~~(3) Except as provided in (b) of this subsection, school districts must provide the fundamental course of study required in subsection (2) of this section by the deadlines provided in (a) of this subsection~~)):

(((~~(a)~~)))(i) For paraeducators hired ((~~on or~~)) before ((~~September 1st~~)) the beginning of the school year, the first two days of the fundamental course of study must be provided ((~~by September 30th of that year~~)) in person before the beginning of the school year and the second two days of the fundamental course

of study must be provided within six months of the date of hire((~~, regardless of the size of the district~~)); and

(ii) For paraeducators hired after ((~~September 1st~~)) the beginning of the school year:

(A) For paraeducators hired by first-class districts ((~~with ten thousand or more students~~)), the first two days of the fundamental course of study must be provided in person within four months of the date of hire and the second two days of the fundamental course of study must be provided within six months of the date of hire or by September 1st of the following year, whichever is sooner; and

(B) For paraeducators hired by second-class districts ((~~with fewer than ten thousand students~~)), the four-day fundamental course of study must be provided no later than September 1st of the following year, with two of the days provided in person unless the district has applied for and received an exemption under section 2 of this act.

(((~~(b)(i) For paraeducators hired for the 2018-19 school year, by September 1, 2020; and~~

~~(ii) For paraeducators not hired for the 2018-19 school year, but hired for the 2019-20 school year, by September 1, 2021.~~

~~(4)~~)) (3) School districts may collaborate with other school districts or educational service districts to meet the requirements of this section.

Passed by the House March 5, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 174

[Engrossed Substitute House Bill 1652]

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES—CHILD SUPPORT PASS THROUGH

AN ACT Relating to child support pass through; amending RCW 26.23.035; adding a new section to chapter 74.08A RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 26.23.035 and 2020 c 349 s 1 are each amended to read as follows:

(1) The department of social and health services shall adopt rules for the distribution of support money collected by the division of child support. These rules shall:

(a) Comply with Title IV-D of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996 and the federal deficit reduction act of 2005;

(b) Direct the division of child support to distribute support money within eight days of receipt, unless one of the following circumstances, or similar circumstances specified in the rules, prevents prompt distribution:

(i) The location of the custodial parent is unknown;

(ii) The support debt is in litigation;

(iii) The division of child support cannot identify the responsible parent or the custodian;

(c) Provide for proportionate distribution of support payments if the responsible parent owes a support obligation or a support debt for two or more Title IV-D cases; and

(d) Authorize the distribution of support money, except money collected under 42 U.S.C. Sec. 664, to satisfy a support debt owed to the IV-D custodian before the debt owed to the state when the custodian stops receiving a public assistance grant.

(2) The division of child support may distribute support payments to the payee under the support order or to another person who has lawful physical custody of the child or custody with the payee's consent. The payee may file an application for an adjudicative proceeding to challenge distribution to such other person. Prior to distributing support payments to any person other than the payee, the registry shall:

(a) Obtain a written statement from the child's physical custodian, under penalty of perjury, that the custodian has lawful custody of the child or custody with the payee's consent;

(b) Mail to the responsible parent and to the payee at the payee's last known address a copy of the physical custodian's statement and a notice which states that support payments will be sent to the physical custodian; and

(c) File a copy of the notice with the clerk of the court that entered the original support order.

(3) If the Washington state support registry distributes a support payment to a person in error, the registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment, or may act according to RCW 74.20A.270 as deemed appropriate. Any set-off against future support payments shall be limited to amounts collected on the support debt and ((~~ten~~)) 10 percent of amounts collected as current support.

(4) ((~~Effective February 1, 2021, consistent~~)) Consistent with 42 U.S.C. Sec. 657(a) as amended by section 7301(b)(7)(B) of the federal deficit reduction act of 2005, the department shall pass through ((~~child support that does not exceed fifty dollars per month collected on behalf of a family, or in the case of a family that includes two or more children an amount that is not more than one hundred dollars per month~~)) to a family all amounts collected as current child support each month on behalf of the family. The department has rule-making authority to implement this subsection.

NEW SECTION. **Sec. 2.** A new section is added to chapter 74.08A RCW to read as follows:

The department shall disregard and not count as income any amount of current child support passed through to applicants or recipients pursuant to RCW 26.23.035 in determining eligibility for and the amount of temporary assistance for needy families or WorkFirst.

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, 2024, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 4.** This act takes effect January 1, 2026.

Passed by the House March 5, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 175

[Second Substitute House Bill 1929]

BEHAVIORAL HEALTH TREATMENT—POSTINPATIENT HOUSING PROGRAM FOR YOUNG ADULTS

AN ACT Relating to supporting young adults following inpatient behavioral health treatment; adding a new section to chapter 74.09 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature has committed to and invested in ensuring that young people exiting the system of care do so with safe housing and developmentally responsive services through the enactment of Substitute Senate Bill No. 6560 (2018) and Second Substitute House Bill No. 1905 (2022).

(2) The legislature finds that young people who exit behavioral health inpatient treatment are the largest group of people who become homeless within three to 12 months of all the young people who exit any publicly funded system of care, as identified in a 2023 report produced by the research and data analysis division of the department of social and health services.

(3) The legislature has invested significant funding in the behavioral health system and finds that ensuring a person's safe return to the community postinpatient treatment is a high priority and a major opportunity to end their experience with homelessness. In addition, the legislature finds that a young person who enters treatment demonstrates the courage to engage in their personal health and creates the opportunity for family and community reunification, career development, and a full life.

(4) The legislature further finds that it often takes more time and resources than expected during a person's inpatient treatment episode to identify a return to community plan that includes long-term, safe housing and a developmentally and culturally responsive support system that includes relationships, services, and passions.

(5) For these reasons, the legislature finds that having an interim housing option that provides a safe and soft landing postinpatient treatment, located on each side of the state, that has well-trained staff and peers who have behavioral health expertise, is a sound investment in our young people and our collective goals to prevent and end homelessness.

NEW SECTION. **Sec. 2.** 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 postinpatient housing program for young adults is established to provide supportive transitional housing with behavioral health support focused on securing long-term housing for young adults exiting inpatient behavioral health treatment.

(2) To be eligible for the postinpatient housing program for young adults created under this section, a person must:

(a) Be 18 through 24 years of age;

(b)(i) Be exiting inpatient behavioral health treatment; or

(ii) Have exited inpatient behavioral health treatment within the last month and be engaged in a recovery plan; and

(c) Not have secured long-term housing.

(3) Subject to the availability of amounts appropriated for this specific purpose and to fulfill the requirements of this section, the authority shall:

(a) Provide funding to a community-based organization or organizations or federally recognized tribes within Washington or tribal organizations that serve American Indians and Alaska Natives in Washington with expertise in working with young people experiencing unaccompanied homelessness, behavioral health conditions, or both, to operate a residential program or programs as described in this subsection (3)(a). The organization selected to operate a residential program or programs in this subsection (3)(a) may choose whether or not to serve individuals eligible according to the criteria established in subsection (2) of this section. The residential program or programs must be voluntary for participants and may not be a secure facility, or a facility that limits residents' ingress and egress pursuant to chapter 71.24 RCW, or a facility at which individuals may be detained pursuant to chapter 71.05 RCW. In addition, the authority shall consult with a transition support provider when soliciting and selecting a community-based organization or organizations under this subsection. The funding provided under this subsection must be used to:

(i) Establish at least two residential programs with six to 10 beds with one program on either side of the Cascade mountain range;

(ii) Establish a developmentally and culturally responsive environment that values healing and recovery;

(iii) Engage peers with behavioral health experience in the support and recovery of individuals served by the program;

(iv) Serve individuals determined eligible according to the criteria established in subsection (2) of this section for up to 90 days; and

(v) Support and strengthen the ongoing healing and learning that occurred for those served by the program during their inpatient treatment;

(b) Provide additional funding to the transition support provider for:

(i) Consultation and training services to the residential program or programs selected under (a) of this subsection;

(ii) Return-to-community planning for the individuals served by the residential programs described under (a) of this subsection; and

(iii) To the extent possible, making contact with individuals served by the residential programs described under (a) of this subsection at regular intervals after those individuals leave the residential program and reporting this information to the authority;

(c) Provide flexible funding to support individuals served by the residential programs described under (a) of this subsection. The flexible funding provided under this subsection may be provided to support the immediate needs of the individual. Uses of the flexible funding provided under this subsection may include, but are not limited to, the following:

(i) Car repair or other transportation assistance;

(ii) Rental application fees, a security deposit, or short-term rental assistance; or

(iii) Other uses that will help support the person's housing stability, education, or employment, or meet immediate basic needs; and

(d) Provide funding to contract with individuals or entities that provide behavioral health support to individuals determined eligible according to the criteria established in subsection (2) of this section, which may include, but are not limited to:

(i) On-site and community-based behavioral health supports;

(ii) Peer supports; and

(iii) Medication management.

(4) For purposes of this section, "transition support provider" means a community-based organization selected by the authority that continues to:

(a) Provide information and support services related to safe housing and support services for youth exiting inpatient behavioral health treatment; and

(b) Organize a coalition of community housing providers, federally recognized tribes within Washington or tribal organizations that serve American Indians and Alaska Natives in Washington, inpatient behavioral health discharge planners, and young people with lived experience of behavioral health conditions or unaccompanied homelessness.

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, 2024, in the omnibus appropriations act, this act is null and void.

Passed by the House February 10, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 176

[Substitute House Bill 1939]
SOCIAL WORK LICENSURE COMPACT

AN ACT Relating to adopting the social work licensure compact; adding a new chapter to Title 18 RCW; creating a new section; and providing a contingent effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) It is the intent of the legislature to allow clinical social workers in compact member states the opportunity to provide behavioral health services in the state of Washington, while broadening and simplifying the opportunities for Washington-licensed clinical social workers to practice in other states belonging to the compact. It is further the intent of the legislature to maintain standards already adopted in Washington by making it explicitly clear that this legislation in no way conflicts with either chapter 192, Laws of 2023 or chapter 193, Laws of 2023.

(2) The legislature acknowledges that the association of social work boards licensing test has been shown to have severe disparities in outcomes based on the race, age, and language of test takers. Because of these disparities, the state of Washington aims to collaborate with other states and interested parties to find alternatives to this test.

NEW SECTION. **Sec. 2.** The purpose of this compact is to facilitate interstate practice of regulated social workers by improving public access to

competent social work services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This compact is designed to achieve the following objectives:

(1) Increase public access to social work services;

(2) Reduce overly burdensome and duplicative requirements associated with holding multiple licenses;

(3) Enhance the member states' ability to protect the public's health and safety;

(4) Encourage the cooperation of member states in regulating multistate practice;

(5) Promote mobility and address workforce shortages by eliminating the necessity for licenses in multiple states by providing for the mutual recognition of other member state licenses;

(6) Support military families;

(7) Facilitate the exchange of licensure and disciplinary information among member states;

(8) Authorize all member states to hold a regulated social worker accountable for abiding by a member state's laws, regulations, and applicable professional standards in the member state in which the client is located at the time care is rendered; and

(9) Allow for the use of telehealth to facilitate increased access to regulated social work services.

NEW SECTION. **Sec. 3.** As used in this compact, and except as otherwise provided, the following definitions shall apply:

(1) "Active military member" means any individual with full-time duty status in the active armed forces of the United States including members of the national guard and reserve.

(2) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing authority or other authority against a regulated social worker, including actions against an individual's license or multistate authorization to practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a regulated social worker's authorization to practice, including issuance of a cease and desist action.

(3) "Alternative program" means a nondisciplinary monitoring or practice remediation process approved by a licensing authority to address practitioners with an impairment.

(4) "Charter member states" means member states who have enacted legislation to adopt this compact where such legislation predates the effective date of this compact as described in section 15 of this act.

(5) "Compact commission" or "commission" means the government agency whose membership consists of all states that have enacted this compact, which is known as the social work licensure compact commission, as described in section 11 of this act, and which shall operate as an instrumentality of the member states.

(6) "Current significant investigative information" means:

(a) Investigative information that a licensing authority, after a preliminary inquiry that includes notification and an opportunity for the regulated social

worker to respond has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction as may be defined by the commission; or

(b) Investigative information that indicates that the regulated social worker represents an immediate threat to public health and safety, as may be defined by the commission, regardless of whether the regulated social worker has been notified and has had an opportunity to respond.

(7) "Data system" means a repository of information about licensees including continuing education, examination, licensure, current significant investigative information, disqualifying event, multistate license(s), and adverse action information or other information as required by the commission.

(8) "Disqualifying event" means any adverse action or incident which results in an encumbrance that disqualifies or makes the licensee ineligible to either obtain, retain, or renew a multistate license.

(9) "Domicile" means the jurisdiction in which the licensee resides and intends to remain indefinitely.

(10) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of social work licensed and regulated by a licensing authority.

(11) "Executive committee" means a group of delegates elected or appointed to act on behalf of, and within the powers granted to them by, the compact and commission.

(12) "Home state" means the member state that is the licensee's primary domicile.

(13) "Impairment" means a condition(s) that may impair a practitioner's ability to engage in full and unrestricted practice as a regulated social worker without some type of intervention and may include alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

(14) "Licensee(s)" means an individual who currently holds a license from a state to practice as a regulated social worker.

(15) "Licensing authority" means the board or agency of a member state, or equivalent, that is responsible for the licensing and regulation of regulated social workers.

(16) "Member state" means a state, commonwealth, district, or territory of the United States of America that has enacted this compact.

(17) "Multistate authorization to practice" means a legally authorized privilege to practice, which is equivalent to a license, associated with a multistate license permitting the practice of social work in a remote state.

(18) "Multistate license" means a license to practice as a regulated social worker issued by a home state licensing authority that authorizes the regulated social worker to practice in all member states under multistate authorization to practice.

(19) "Qualifying national exam" means a national licensing examination approved by the commission.

(20) "Regulated social worker" means any clinical, master's or bachelor's social worker licensed by a member state regardless of the title used by that member state.

(21) "Remote state" means a member state other than the licensee's home state.

(22) "Rule(s)" or "rule(s) of the commission" means a regulation or regulations duly promulgated by the commission, as authorized by the compact, that has the force of law.

(23) "Single state license" means a social work license issued by any state that authorizes practice only within the issuing state and does not include multistate authorization to practice in any member state.

(24) "Social work" or "social work services" means the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities through the care and services provided by a regulated social worker as set forth in the member state's statutes and regulations in the state where the services are being provided.

(25) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of social work.

(26) "Unencumbered license" means a license that authorizes a regulated social worker to engage in the full and unrestricted practice of social work.

NEW SECTION. **Sec. 4.** (1) To be eligible to participate in the compact, a potential member state must currently meet all of the following criteria:

(a) License and regulate the practice of social work at either the clinical, master's, or bachelor's category;

(b) Require applicants for licensure to graduate from a program that:

(i) Is operated by a college or university recognized by the licensing authority;

(ii) Is accredited, or in candidacy by an institution that subsequently becomes accredited, by an accrediting agency recognized by either:

(A) The council for higher education accreditation, or its successor; or

(B) The United States department of education; and

(iii) Corresponds to the licensure sought as outlined in section 5 of this act;

(c) Require applicants for clinical licensure to complete a period of supervised practice; and

(d) Have a mechanism in place for receiving, investigating, and adjudicating complaints about licensees.

(2) To maintain membership in the compact, a member state shall:

(a) Require that applicants for a multistate license pass a qualifying national exam for the corresponding category of multistate license sought as outlined in section 5 of this act;

(b) Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

(c) Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of current significant investigative information regarding a licensee;

(d) Implement procedures for considering the criminal history records of applicants for a multistate license. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the

federal bureau of investigation and the agency responsible for retaining that state's criminal records;

(e) Comply with the rules of the commission;

(f) Require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable home state laws;

(g) Authorize a licensee holding a multistate license in any member state to practice in accordance with the terms of the compact and rules of the commission; and

(h) Designate a delegate to participate in the commission meetings.

(3) A member state meeting the requirements of subsections (1) and (2) of this section shall designate the categories of social work licensure that are eligible for issuance of a multistate license for applicants in such member state. To the extent that any member state does not meet the requirements for participation in the compact at any particular category of social work licensure, such member state may choose, but is not obligated to, issue a multistate license to applicants that otherwise meet the requirements of section 5 of this act for issuance of a multistate license in such category or categories of licensure.

(4) The home state may charge a fee for granting the multistate license.

NEW SECTION. **Sec. 5.** (1) To be eligible for a multistate license under the terms and provisions of the compact, an applicant, regardless of category must:

(a) Hold or be eligible for an active, unencumbered license in the home state;

(b) Pay any applicable fees, including any state fee, for the multistate license;

(c) Submit, in connection with an application for a multistate license, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;

(d) Notify the home state of any adverse action, encumbrance, or restriction on any professional license taken by any member state or nonmember state within 30 days from the date the action is taken;

(e) Meet any continuing competence requirements established by the home state; and

(f) Abide by the laws, regulations, and applicable standards in the member state where the client is located at the time care is rendered.

(2) An applicant for a clinical-category multistate license must meet all of the following requirements:

(a) Fulfill a competency requirement, which shall be satisfied by either:

(i) Passage of a clinical-category qualifying national exam; or

(ii) Licensure of the applicant in their home state at the clinical category, beginning prior to such time as a qualifying national exam was required by the home state and accompanied by a period of continuous social work licensure thereafter, all of which may be further governed by the rules of the commission; or

(iii) The substantial equivalency of the foregoing competency requirements which the commission may determine by rule.

(b) Attain at least a master's degree in social work from a program that is:

(i) Operated by a college or university recognized by the licensing authority; and

(ii) Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

(A) The council for higher education accreditation or its successor; or

(B) The United States department of education;

(c) Fulfill a practice requirement, which shall be satisfied by demonstrating completion of either:

(i) A period of postgraduate supervised clinical practice equal to a minimum of 3,000 hours; or

(ii) A minimum of two years of full-time postgraduate supervised clinical practice; or

(iii) The substantial equivalency of the foregoing practice requirements which the commission may determine by rule.

(3) An applicant for a master's-category multistate license must meet all of the following requirements:

(a) Fulfill a competency requirement, which shall be satisfied by either:

(i) Passage of a master's-category qualifying national exam;

(ii) Licensure of the applicant in their home state at the master's category, beginning prior to such time as a qualifying national exam was required by the home state at the master's category and accompanied by a continuous period of social work licensure thereafter, all of which may be further governed by the rules of the commission; or

(iii) The substantial equivalency of the foregoing competency requirements which the commission may determine by rule;

(b) Attain at least a master's degree in social work from a program that is:

(i) Operated by a college or university recognized by the licensing authority; and

(ii) Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

(A) The council for higher education accreditation or its successor; or

(B) The United States department of education.

(4) An applicant for a bachelor's-category multistate license must meet all of the following requirements:

(a) Fulfill a competency requirement, which shall be satisfied by either:

(i) Passage of a bachelor's-category qualifying national exam;

(ii) Licensure of the applicant in their home state at the bachelor's category, beginning prior to such time as a qualifying national exam was required by the home state and accompanied by a period of continuous social work licensure thereafter, all of which may be further governed by the rules of the commission; or

(iii) The substantial equivalency of the foregoing competency requirements which the commission may determine by rule;

(b) Attain at least a bachelor's degree in social work from a program that is:

(i) Operated by a college or university recognized by the licensing authority; and

(ii) Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

(A) The council for higher education accreditation or its successor; or

(B) The United States department of education.

(5) The multistate license for a regulated social worker is subject to the renewal requirements of the home state. The regulated social worker must maintain compliance with the requirements of subsection (1) of this section to be eligible to renew a multistate license.

(6) The regulated social worker's services in a remote state are subject to that member state's regulatory authority. A remote state may, in accordance with due process and that member state's laws, remove a regulated social worker's multistate authorization to practice in the remote state for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of its citizens.

(7) If a multistate license is encumbered, the regulated social worker's multistate authorization to practice shall be deactivated in all remote states until the multistate license is no longer encumbered.

(8) If a multistate authorization to practice is encumbered in a remote state, the regulated social worker's multistate authorization to practice may be deactivated in that state until the multistate authorization to practice is no longer encumbered.

NEW SECTION. **Sec. 6.** (1) Upon receipt of an application for a multistate license, the home state licensing authority shall determine the applicant's eligibility for a multistate license in accordance with section 5 of this act.

(2) If such applicant is eligible pursuant to section 5 of this act, the home state licensing authority shall issue a multistate license that authorizes the applicant or regulated social worker to practice in all member states under a multistate authorization to practice.

(3) Upon issuance of a multistate license, the home state licensing authority shall designate whether the regulated social worker holds a multistate license in the bachelor's, master's, or clinical category of social work.

(4) A multistate license issued by a home state to a resident in that state shall be recognized by all compact member states as authorizing social work practice under a multistate authorization to practice corresponding to each category of licensure regulated in each member state.

NEW SECTION. **Sec. 7.** (1) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict, or in any way reduce the ability of a member state to enact and enforce laws, regulations, or other rules related to the practice of social work in that state, where those laws, regulations, or other rules are not inconsistent with the provisions of this compact.

(2) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single state license.

(3) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict, or in any way reduce the ability of a member state to take adverse action against a licensee's single state license to practice social work in that state.

(4) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict, or in any way reduce the ability of a remote state to take adverse action against a licensee's multistate authorization to practice in that state.

(5) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict, or in any way reduce the ability of a licensee's home state to take adverse action against a licensee's multistate license based upon information provided by a remote state.

NEW SECTION. **Sec. 8.** (1) A licensee can hold a multistate license, issued by their home state, in only one member state at any given time.

(2) If a licensee changes their home state by moving between two member states:

(a) The licensee shall immediately apply for the reissuance of their multistate license in their new home state. The licensee shall pay all applicable fees and notify the prior home state in accordance with the rules of the commission.

(b) Upon receipt of an application to reissue a multistate license, the new home state shall verify that the multistate license is active, unencumbered, and eligible for reissuance under the terms of the compact and the rules of the commission. The multistate license issued by the prior home state will be deactivated and all member states notified in accordance with the applicable rules adopted by the commission.

(c) Prior to the reissuance of the multistate license, the new home state shall conduct procedures for considering the criminal history records of the licensee. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

(d) If required for initial licensure, the new home state may require completion of jurisprudence requirements in the new home state.

(e) Notwithstanding any other provision of this compact, if a licensee does not meet the requirements set forth in this compact for the reissuance of a multistate license by the new home state, then the licensee shall be subject to the new home state requirements for the issuance of a single state license in that state.

(3) If a licensee changes their primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, then the licensee shall be subject to the state requirements for the issuance of a single state license in the new home state.

(4) Nothing in this compact shall interfere with a licensee's ability to hold a single state license in multiple states; however, for the purposes of this compact, a licensee shall have only one home state, and only one multistate license.

(5) Nothing in this compact shall interfere with the requirements established by a member state for the issuance of a single state license.

NEW SECTION. **Sec. 9.** An active military member or their spouse shall designate a home state where the individual has a multistate license. The individual may retain their home state designation during the period the service member is on active duty.

NEW SECTION. **Sec. 10.** (1) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

(a) Take adverse action against a regulated social worker's multistate authorization to practice only within that member state, and issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing authority in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing licensing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(b) Only the home state shall have the power to take adverse action against a regulated social worker's multistate license.

(2) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(3) The home state shall complete any pending investigations of a regulated social worker who changes their home state during the course of the investigations. The home state shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the data system shall promptly notify the new home state of any adverse actions.

(4) A member state, if otherwise permitted by state law, may recover from the affected regulated social worker the costs of investigations and dispositions of cases resulting from any adverse action taken against that regulated social worker.

(5) A member state may take adverse action based on the factual findings of another member state, provided that the member state follows its own procedures for taking the adverse action.

(6) Joint investigations:

(a) In addition to the authority granted to a member state by its respective social work practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

(b) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(7) If adverse action is taken by the home state against the multistate license of a regulated social worker, the regulated social worker's multistate authorization to practice in all other member states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against the license of a regulated social worker shall include a statement that the regulated social worker's multistate authorization to practice is deactivated in all member states until all conditions of the decision, order, or agreement are satisfied.

(8) If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state and all other member states of any adverse actions by remote states.

(9) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

(10) Nothing in this compact shall authorize a member state to demand the issuance of subpoenas for attendance and testimony of witnesses or the production of evidence from another member state for lawful actions within that member state.

(11) Nothing in this compact shall authorize a member state to impose discipline against a regulated social worker who holds a multistate authorization to practice for lawful actions within another member state.

NEW SECTION. **Sec. 11.** (1) The compact member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact known as the social work licensure compact commission. The commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in section 15 of this act.

(2) Membership, voting, and meetings.

(a) Each member state shall have and be limited to one delegate selected by that member state's state licensing authority.

(b) The delegate shall be either:

(i) A current member of the state licensing authority at the time of appointment, who is a regulated social worker or public member of the state licensing authority; or

(ii) An administrator of the state licensing authority or their designee.

(c) The commission shall by rule or bylaw establish a term of office for delegates and may by rule or bylaw establish term limits.

(d) The commission may recommend removal or suspension of any delegate from office.

(e) A member state's state licensing authority shall fill any vacancy of its delegate occurring on the commission within 60 days of the vacancy.

(f) Each delegate shall be entitled to one vote on all matters before the commission requiring a vote by commission delegates.

(g) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, videoconference, or other means of communication.

(h) The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, video conference, or other similar electronic means.

(3) The commission shall have the following powers:

(a) Establish the fiscal year of the commission;

(b) Establish code of conduct and conflict of interest policies;

(c) Establish and amend rules and bylaws;

(d) Maintain its financial records in accordance with the bylaws;

(e) Meet and take such actions as are consistent with the provisions of this compact, the commission's rules, and the bylaws;

(f) Initiate and conclude legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law shall not be affected;

(g) Maintain and certify records and information provided to a member state as the authenticated business records of the commission, and designate an agent to do so on the commission's behalf;

(h) Purchase and maintain insurance and bonds;

(i) Borrow, accept, or contract for services of personnel including, but not limited to, employees of a member state;

(j) Conduct an annual financial review;

(k) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(l) Assess and collect fees;

(m) Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(n) Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

(o) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(p) Establish a budget and make expenditures;

(q) Borrow money;

(r) Appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(s) Provide and receive information from, and cooperate with, law enforcement agencies;

(t) Establish and elect an executive committee, including a chair and a vice chair;

(u) Determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact; and

(v) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.

(4) The executive committee.

(a) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact. The powers, duties, and responsibilities of the executive committee shall include:

(i) Oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its rules and bylaws, and other such duties as deemed necessary;

(ii) Recommend to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact member states, fees charged to licensees, and other fees;

(iii) Ensure compact administration services are appropriately provided, including by contract;

(iv) Prepare and recommend the budget;

(v) Maintain financial records on behalf of the commission;

(vi) Monitor compact compliance of member states and provide compliance reports to the commission;

(vii) Establish additional committees as necessary;

(viii) Exercise the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

(ix) Other duties as provided in the rules or bylaws of the commission.

(b) The executive committee shall be composed of up to 11 members:

(i) The chair and vice chair of the commission shall be voting members of the executive committee;

(ii) The commission shall elect five voting members from the current membership of the commission;

(iii) Up to four ex-officio, nonvoting members from four recognized national social work organizations; and

(iv) The ex-officio members will be selected by their respective organizations.

(c) The commission may remove any member of the executive committee as provided in the commission's bylaws.

(d) The executive committee shall meet at least annually.

(i) Executive committee meetings shall be open to the public, except that the executive committee may meet in a closed, nonpublic meeting as provided in subsection (6)(b) of this section.

(ii) The executive committee shall give seven days' notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the commission.

(iii) The executive committee may hold a special meeting in accordance with subsection (6)(a)(ii) of this section.

(5) The commission shall adopt and provide to the member states an annual report.

(6) Meetings of the commission.

(a) All meetings shall be open to the public, except that the commission may meet in a closed, nonpublic meeting as provided in (b) of this subsection.

(i) Public notice for all meetings of the full commission of meetings shall be given in the same manner as required under the rule-making provisions in section 13 of this act, except that the commission may hold a special meeting as provided in (a)(ii) of this subsection.

(ii) The commission may hold a special meeting when it must meet to conduct emergency business by giving 48 hours' notice to all commissioners, on the commission's website, and other means as provided in the commission's rules. The commission's legal counsel shall certify that the commission's need to meet qualifies as an emergency.

(b) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting for the commission or executive committee or other committees of the commission to receive legal advice or to discuss:

(i) Noncompliance of a member state with its obligations under the compact;

(ii) The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees;

(iii) Current or threatened discipline of a licensee by the commission or by a member state's licensing authority;

(iv) Current, threatened, or reasonably anticipated litigation;

(v) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(vi) Accusing any person of a crime or formally censuring any person;

(vii) Trade secrets or commercial or financial information that is privileged or confidential;

(viii) Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(ix) Investigative records compiled for law enforcement purposes;

(x) Information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;

(xi) Matters specifically exempted from disclosure by federal or member state law; or

(xii) Other matters as promulgated by the commission by rule.

(c) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

(d) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(7) Financing of the commission.

(a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The commission may accept any and all appropriate revenue sources as provided in subsection (3)(m) of this section.

(c) The commission may levy on and collect an annual assessment from each member state and impose fees on licensees of member states to whom it grants a multistate license to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states shall be allocated based upon a formula that the commission shall promulgate by rule.

(d) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(e) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the

commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(8) Qualified immunity, defense, and indemnification.

(a) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing in this subsection (8)(a) shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

(b) The commission shall defend any member, officer, executive director, employee, and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(c) The commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

(d) Nothing herein shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(e) Nothing in this compact shall be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman act, Clayton act, or any other state or federal antitrust or anticompetitive law or regulation.

(f) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the member states or by the commission.

NEW SECTION. **Sec. 12.** (1) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated data system.

(2) The commission shall assign each applicant for a multistate license a unique identifier, as determined by the rules of the commission.

(3) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(a) Identifying information;

(b) Licensure data;

(c) Adverse actions against a license and information related thereto;

(d) Nonconfidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under member state law;

(e) Any denial of application for licensure, and the reason(s) for such denial;

(f) The presence of current significant investigative information; and

(g) Other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

(4) The records and information provided to a member state pursuant to this compact or through the data system, when certified by the commission or an agent thereof, shall constitute the authenticated business records of the commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi judicial or administrative proceedings in a member state.

(5) Current significant investigative information pertaining to a licensee in any member state will only be available to other member states. It is the responsibility of the member states to report any adverse action against a licensee and to monitor the database to determine whether adverse action has been taken against a licensee. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(6) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(7) Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the member state contributing the information shall be removed from the data system.

NEW SECTION. **Sec. 13.** (1) The commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer the purposes and provisions of the compact. A rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rule-making authority in a manner that is beyond the scope and purposes of the compact, or the powers granted hereunder, or based upon another applicable standard of review.

(2) The rules of the commission shall have the force of law in each member state, provided however that where the rules of the commission conflict with the laws of the member state that establish the member state's laws, regulations, and applicable standards that govern the practice of social work as held by a court of competent jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the conflict.

(3) The commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules shall

become binding on the day following adoption or the date specified in the rule or amendment, whichever is later.

(4) If a majority of the legislatures of the member states rejects a rule or portion of a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(5) Rules shall be adopted at a regular or special meeting of the commission.

(6) Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

(7) Prior to adoption of a proposed rule by the commission, and at least 30 days in advance of the meeting at which the commission will hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rule making:

(a) On the website of the commission or other publicly accessible platform;

(b) To persons who have requested notice of the commission's notices of proposed rule making; and

(c) In such other way(s) as the commission may by rule specify.

(8) The notice of proposed rule making shall include:

(a) The time, date, and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date, and location of the meeting where the commission will consider and vote on the proposed rule;

(b) If the hearing is held via telecommunication, video conference, or other electronic means, the commission shall include the mechanism for access to the hearing in the notice of proposed rule making;

(c) The text of the proposed rule and the reason therefor;

(d) A request for comments on the proposed rule from any interested person; and

(e) The manner in which interested persons may submit written comments.

(9) All hearings will be recorded. A copy of the recording and all written comments and documents received by the commission in response to the proposed rule shall be available to the public.

(10) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(11) The commission shall, by majority vote of all members, take final action on the proposed rule based on the rule-making record and the full text of the rule.

(a) The commission may adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.

(b) The commission shall provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

(c) The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection (12) of this section, the effective date of the rule shall be no sooner than 30 days after issuing the notice that it adopted or amended the rule.

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 48 hours' notice, with opportunity to comment, provided that the usual rule-making procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) Meet an imminent threat to public health, safety, or welfare;

(b) Prevent a loss of commission or member state funds;

(c) Meet a deadline for the promulgation of a rule that is established by federal law or rule; or

(d) Protect public health and safety.

(13) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

(14) No member state's rule-making requirements shall apply under this compact.

NEW SECTION. **Sec. 14.** (1) Oversight.

(a) The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

(b) Except as otherwise provided in this compact, venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

(c) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(2) Default, technical assistance, and termination.

(a) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the commission may take, and shall offer training and specific technical assistance regarding the default.

(b) The commission shall provide a copy of the notice of default to the other member states.

(3) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the delegates of the member states, and all rights, privileges, and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(4) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's state licensing authority, and each of the member states' state licensing authority.

(5) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(6) Upon the termination of a state's membership from this compact, that state shall immediately provide notice to all licensees within that state of such termination. The terminated state shall continue to recognize all licenses granted pursuant to this compact for a minimum of six months after the date of said notice of termination.

(7) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(8) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(9) Dispute resolution.

(a) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(b) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(10) Enforcement.

(a) By majority vote as provided by rule, the commission may initiate legal action against a member state in default in the United States district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting member state's law.

(b) A member state may initiate legal action against the commission in the United States district court for the District of Columbia or the federal district

where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(c) No person other than a member state shall enforce this compact against the commission.

NEW SECTION. **Sec. 15.** (1) The compact shall come into effect on the date on which the compact statute is enacted into law in the seventh member state.

(a) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the first seven member states ("charter member states") to determine if the statute enacted by each such charter member state is materially different than the model compact statute.

(i) A charter member state whose enactment is found to be materially different from the model compact statute shall be entitled to the default process set forth in section 14 of this act.

(ii) If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of member states should be less than seven.

(b) Member states enacting the compact subsequent to the seven initial charter member states shall be subject to the process set forth in section 11(3)(u) of this act to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.

(c) All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence shall be considered to be actions of the commission unless specifically repudiated by the commission.

(d) Any state that joins the compact subsequent to the commission's initial adoption of the rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(2) Any member state may withdraw from this compact by enacting a statute repealing the same.

(a) A member state's withdrawal shall not take effect until 180 days after enactment of the repealing statute.

(b) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(c) Upon the enactment of a statute withdrawing from this compact, a state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

(3) Nothing contained in this compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(4) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

NEW SECTION. **Sec. 16.** (1) This compact and the commission's rule-making authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rule-making authority solely for those purposes.

(2) The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is held by a court of competent jurisdiction to be contrary to the Constitution of any member state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.

(3) Notwithstanding subsection (2) of this section, the commission may deny a state's participation in the compact or, in accordance with the requirements of section 14(2) of this act, terminate a member state's participation in the compact, if it determines that a constitutional requirement of a member state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the Constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

NEW SECTION. **Sec. 17.** (1) A licensee providing services in a remote state under a multistate authorization to practice shall adhere to the laws and regulations, including laws, regulations, and applicable standards, of the remote state where the client is located at the time care is rendered.

(2) Nothing herein shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.

(3) Any laws, statutes, regulations, or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.

(4) All permissible agreements between the commission and the member states are binding in accordance with their terms.

NEW SECTION. **Sec. 18.** Sections 2 through 17 of this act constitute a new chapter in Title 18 RCW.

Passed by the House January 29, 2024.

Passed by the Senate February 28, 2024.

Approved by the Governor March 19, 2024.

Filed in Office of Secretary of State March 19, 2024.

CHAPTER 177

[Second Substitute House Bill 1941]

HEALTH HOME SERVICES—MEDICAID-ELIGIBLE CHILDREN WITH MEDICALLY COMPLEX CONDITIONS

AN ACT Relating to providing for health home services for medicaid-eligible children with medically complex conditions; adding a new section to chapter 74.09 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

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

(a) Children with medical complexity deserve coordinated and effective care delivered in a high quality setting. Families should be able to focus solely on their child's needs and not waste precious time fighting a fragmented care system or the complexities of medicaid;

(b) In 2019, the federal government adopted the advancing care for exceptional kids act to address these concerns. This law created a new health home model that will coordinate prompt care for children with medically complex conditions, develop an individualized, comprehensive, pediatric, family-centered care plan, coordinate access to subspecialized care, and coordinate appropriate care with out-of-state providers; and

(c) The federal law provides health homes with a higher federal matching rate, making this proposal beneficial to Washington's children with medical complexities while also being financially prudent.

(2) The legislature, therefore, intends to actively support these medically complex children by taking the steps necessary to implement health homes in Washington.

NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09 RCW to read as follows:

By January 1, 2025, the authority shall submit a state plan amendment to the federal centers for medicare and medicaid services to allow medicaid-eligible children with medically complex conditions to voluntarily enroll in a health home as provided in section 3 of the medicaid services investment and accountability act of 2019 (P.L. 116-16).

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, 2024, in the omnibus appropriations act, this act is null and void.

Passed by the House February 12, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 178

[House Bill 1943]

WASHINGTON NATIONAL GUARD POSTSECONDARY EDUCATION GRANT PROGRAM—MODIFICATION

AN ACT Relating to the Washington national guard postsecondary education grant program; amending RCW 28B.103.010, 28B.103.020, and 28B.103.030; and adding a new section to chapter 28B.103 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.103.010 and 2022 c 68 s 1 are each amended to read as follows:

((~~Unless the context clearly requires otherwise, the~~)) The definitions in this section apply throughout this ((~~section and RCW 28B.103.020 and 28B.103.030~~)) chapter unless the context clearly requires otherwise.

(1) "Dependent" means a person enrolled as a dependent in the defense enrollment eligibility reporting system.

(2) "Eligible student" means a member of the Washington national guard ((~~who attends an institution of higher education that is located in this state and accredited by the Northwest Association of Schools and Colleges, or an institution that is located in this state that provides approved training under the Montgomery GI Bill, and who~~)) or the spouse or dependent of, and designated by, a member who agrees to fulfill his or her service obligation and meets any additional selection criteria adopted by the office and all of the following participation requirements:

(a) ((~~Enrolled~~)) Is enrolled in courses or a program that lead to a postsecondary degree or certificate at an institution of higher education located in the state and accredited by the Northwest Association of Schools and Colleges, or an institution that is located in the state that provides approved training under the Montgomery GI Bill;

(b) Is an active drilling member, or the spouse or dependent of, and designated by, an active drilling member. The member must be in good standing in the Washington national guard as specified in rules adopted by the office for implementation of the ((~~Washington national guard postsecondary education~~)) grant;

(c) Has completed and submitted an application for student aid approved by the office; and

(d) Is a resident student as defined in RCW 28B.15.012((~~; and~~

~~(e) Agrees to fulfill his or her service obligation~~)).

((~~(2)~~)) (3) "Forgiven" or "to forgive" or "forgiveness" means either to render service in the Washington national guard in lieu of monetary repayment, or to be relieved of the service obligation under rules adopted by the office.

((~~(3)~~)) (4) "Grant" means the Washington national guard postsecondary education grant as established in RCW 28B.103.020.

((~~(4)~~)) (5) "Maximum benefit" means the maximum grant a Washington national guard member and the guard member's spouse and dependents are eligible to receive.

(6) "Member" means a member of the Washington national guard who has received, or whose spouse or dependent has received, a grant under this chapter.

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

((~~(5)~~)) (8) "Participant" means an eligible student who has received a ((~~Washington national guard postsecondary education~~)) grant under this chapter.

((~~(6)~~)) (9) "Service obligation" means ((~~serving~~)) an obligation by the member to serve in the Washington national guard for a time period of at least one year of service in the Washington national guard for each year the ((~~student~~)) participant receives a ((~~Washington national guard postsecondary education~~)) grant.

Sec. 2. RCW 28B.103.020 and 2022 c 68 s 2 are each amended to read as follows:

Subject to amounts appropriated for this specific purpose, the Washington national guard postsecondary education grant program is established. The program shall be administered by the office. In administering the program, the powers and duties of the office shall include, but need not be limited to:

(1) With the assistance of the Washington military department, the selection of eligible students to receive the ((~~Washington national guard postsecondary education~~)) grant as follows:

(a) An eligible student may receive a grant under this section to help pay for postsecondary education program costs as approved by the office. Grants may not:

(i) Exceed the maximum Washington college grant as defined in RCW 28B.92.030, plus $500 for books and supplies;

(ii) Exceed the ((~~student's~~)) participant's cost of attendance, when combined with all other public and private grants, scholarships, and waiver assistance the ((~~student~~)) participant receives; and

(iii) Result in reduction of a participant's federal or other state financial aid.

(b) The Washington military department shall ensure that data needed to identify eligible ((~~recipients~~)) students are promptly transmitted to the office.

(c) The annual amount of each ((~~Washington national guard postsecondary education~~)) grant may vary, but may not exceed the annual cost of undergraduate tuition fees and services and activities fees at the University of Washington, plus an allowance for books and supplies.

(d) ((~~Washington national guard postsecondary education grant eligibility~~)) The maximum benefit a single guard member, or a combination of the guard member and the guard member's designated spouse or dependents, may receive may not extend beyond ((~~five years or one hundred twenty-five percent of the published length of the program in which the student is enrolled~~)) six full-time years, or the credit or clock-hour equivalent;

(2) The award of grants funded by federal and state funds, private donations, or repayments from any participant who does not complete the participant's service obligation;

(3) The adoption of necessary rules and policies, including establishing a priority for eligible students attending an institution of higher education located in this state that is accredited by the Northwest Association of Schools and Colleges;

(4) The adoption of participant selection criteria. The criteria may include but need not be limited to requirements for: Satisfactory academic progress, enrollment in courses or programs that lead to a baccalaureate degree or an associate degree or a certificate, and satisfactory participation as a member of the Washington national guard;

(5) With the assistance of the Washington military department, the notification of ((~~participants~~)) members of their additional service obligation or required repayment of the ((~~Washington national guard postsecondary education~~)) grant; and

(6) The collection of repayments from ((~~participants~~)) members who do not meet the service obligations.

Sec. 3. RCW 28B.103.030 and 2020 c 297 s 3 are each amended to read as follows:

(1) ((~~Participants in the Washington national guard postsecondary education grant program~~)) Members incur an obligation to repay the grant, with interest, unless they serve in the Washington national guard for one year for each year they or their spouse or dependent received the grant, under rules adopted by the office.

(2) The office shall adopt rules addressing the terms for repayment, including applicable interest rates, fees, ((~~and~~)) deferments, and appeals, by a ((~~participant~~)) member who does not render service as a member of the Washington national guard necessary to satisfy his or her service obligation.

(3) The office is responsible for collection of repayments made under this section. The office 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 law, including wage garnishment if necessary. 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.

(4) Receipts from the payment of principal or interest paid by or on behalf of participants shall be deposited with the office and shall be used to cover the costs of administration of the grant, maintaining necessary records, and making collections under subsection (3) 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 make grant awards to eligible students.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.103 RCW to read as follows:

A guard member and the guard member's designated spouse and dependents may simultaneously use the grant, subject to any rules adopted by the office, and the limitation on the maximum benefit.

Passed by the House March 5, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 179

[House Bill 1983]

CRIMINAL JUSTICE TREATMENT ACCOUNT—ALLOWED USES

AN ACT Relating to the criminal justice treatment account; and amending RCW 71.24.580.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 71.24.580 and 2023 c 475 s 941 are each 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((~~, during the 2021-2023 and 2023-2025 fiscal biennia,~~)) for 180 days following graduation from the 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 2019-2021 and 2021-2023 fiscal biennia, funding from the criminal justice treatment account may be used to provide treatment and support services through the conclusion of an individual's treatment plan to individuals participating in a drug court program as of February 24, 2021, if that individual wishes to continue treatment following dismissal of charges they were facing under RCW 69.50.4013(1). Such participation is voluntary and contingent upon substantial compliance with drug court program requirements. The legislature may appropriate from the account for municipal drug courts and increased treatment options. During the 2019-2021 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the criminal justice treatment account to the home security fund account created in RCW 43.185C.060.~~)) 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 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).

(11) 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.

Passed by the House February 8, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 180

[Engrossed Substitute House Bill 1998]
CO-LIVING HOUSING

AN ACT Relating to legalizing inexpensive housing choices through co-living housing; adding a new section to chapter 36.70A RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature makes the following findings:

(a) Washington state is experiencing a housing affordability crisis;

(b) Co-living housing is a type of housing that can provide rental homes affordable to people with moderate to low incomes without requiring any public funding, and rents in newly constructed, market-rate co-living housing in the Puget Sound region can be affordable to people with incomes as low as 50 percent of area median income;

(c) Co-living housing is a residential development with sleeping units that are independently rented and provide living and sleeping space, in which residents share kitchen facilities with residents of other units in the building;

(d) Co-living housing historically provided a healthy inventory of rental homes on the lowest rung of the private housing market, comprising up to 10 percent of housing in some cities;

(e) Starting in the mid-20th century, local governments began adopting restrictive zoning and other rules that increasingly prohibited co-living housing, or made it impractical to build or operate, and its numbers plummeted;

(f) Today, many cities and counties outright prohibit co-living housing on most of their residential land, or they enforce any number of restrictions that make it effectively impossible to build new co-living housing or to convert existing buildings into co-living housing;

(g) Co-living housing provides options for people who:

(i) Wish to lower their housing expenses by paying less for a smaller home;

(ii) Prefer a living arrangement with shared community spaces that facilitate social connections;

(iii) Wish to trade off location for space and, by living in a small home, also get to live in a high opportunity neighborhood they could not otherwise afford; or

(iv) Want a low-cost, more private alternative to having a roommate in a traditional rental;

(h) Many communities throughout Washington face a severe shortage of workforce housing, and co-living housing provides housing affordable to that income range and below, without public funding;

(i) Co-living housing reduces pressure on the limited amount of publicly funded affordable housing by providing housing that is affordable to lower income residents who might otherwise wait years for subsidized housing;

(j) Co-living housing works best for single-person households, but the housing for singles that it provides reduces demand for family-sized rentals from singles who would otherwise group together to rent large homes;

(k) Co-living housing provides a good option for seniors, especially those who want to downsize, or those who desire a living arrangement that is more social than a standard apartment. When located in walkable neighborhoods, co-living housing gives mobility options to seniors who can no longer drive;

(l) Co-living housing is well-suited for the conversion of office buildings to housing, because it typically requires less plumbing and fixtures for kitchens and bathrooms;

(m) Co-living housing is well-suited for very low-income people, supportive and recovery housing, and "housing first" homes for the formerly homeless;

(n) State building codes have established minimum sizes and other standards to ensure that co-living housing meets modern health and safety standards;

(o) Creating co-living housing near transit hubs, employment centers, and public amenities can help the state achieve its greenhouse gas reduction goals by increasing walkability, shortening household commutes, curtailing sprawl, and reducing the pressure to develop natural and working lands; and

(p) Co-living housing, because the units are small, is inherently more energy efficient than standard apartments, both saving residents money and reducing the state's energy demand.

(2) Therefore, the legislature intends to allow the creation of co-living housing as a means to address the need for additional affordable housing options for a diversity of Washington residents.

NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW to read as follows:

(1) Cities and counties planning under this chapter must allow co-living housing as a permitted use on any lot located within an urban growth area that allows at least six multifamily residential units, including on a lot zoned for mixed use development.

(2) A city or county subject to the provisions of this section may not require co-living housing to:

(a) Contain room dimensional standards larger than that required by the state building code, including dwelling unit size, sleeping unit size, room area, and habitable space;

(b) Provide a mix of unit sizes or number of bedrooms; or

(c) Include other uses.

(3)(a) A city or county subject to the provisions of this section also may not require co-living housing to:

(i) Provide off-street parking within one-half mile walking distance of a major transit stop; or

(ii) Provide more than 0.25 off-street parking spaces per sleeping unit.

(b) The provisions of (a) of this subsection do not apply:

(i) If a city or county submits to the department an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and the department finds and certifies, that the application of the parking limitations of (a) of this subsection will be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists than if the jurisdiction's parking requirements were applied to the same location. The department must develop guidance to assist cities and counties on items to include in the study; or

(ii) To portions of cities within a one-mile radius of a commercial airport in Washington with at least 9,000,000 annual enplanements.

(4) A city or county may not require through development regulations any standards for co-living housing that are more restrictive than those that are required for other types of multifamily residential uses in the same zone.

(5) A city or county may only require a review, notice, or public meeting for co-living housing that is required for other types of residential uses in the same location, unless otherwise required by state law including, but not limited to, shoreline regulations under chapter 90.58 RCW.

(6) A city or county may not exclude co-living housing from participating in affordable housing incentive programs under RCW 36.70A.540.

(7) A city or county may not treat a sleeping unit in co-living housing as more than one-quarter of a dwelling unit for purposes of calculating dwelling unit density.

(8) A city or county may not treat a sleeping unit in co-living housing as more than one-half of a dwelling unit for purposes of calculating fees for sewer connections, unless the city or county makes a finding, based on facts, that the connection fees should exceed the one-half threshold.

(9)(a) A city or county subject to the requirements of this section must adopt or amend by ordinance and incorporate into their development regulations, zoning regulations, and other official controls the requirements of this section to take effect no later than December 31, 2025.

(b) In any city or county that has not adopted or amended ordinances, regulations, or other official controls as required under this section, the requirements of this section supersede, preempt, and invalidate any conflicting local development regulations.

(10) Any action taken by a city or county to comply with the requirements of this section is not subject to legal challenge under this chapter or chapter 43.21C RCW.

(11) For the purposes of this section, the following definitions apply:

(a) "Co-living housing" means a residential development with sleeping units that are independently rented and lockable and provide living and sleeping space, and residents share kitchen facilities with other sleeping units in the building. Local governments may use other names to refer to co-living housing including, but not limited to, congregate living facilities, single room occupancy, rooming house, boarding house, lodging house, and residential suites.

(b) "Major transit stop" means:

(i) A stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW;

(ii) Commuter rail stops;

(iii) Stops on rail or fixed guideway systems, including transitways;

(iv) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(v) Stops for a bus or other transit mode providing actual fixed route service at intervals of at least 15 minutes for at least five hours during the peak hours of operation on weekdays.

Passed by the House March 4, 2024.
Passed by the Senate February 22, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 181

[Substitute House Bill 2007]

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES—TIME LIMIT EXTENSIONS

AN ACT Relating to expanding time limit exemptions applicable to cash assistance programs; amending RCW 74.08A.010; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.08A.010 and 2023 c 418 s 3 are each amended to read as follows:

(1) A family that includes an adult who has received temporary assistance for needy families for 60 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 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.

(4) The department shall add to adopted rules related to temporary assistance for needy families time limit extensions, the following criteria by which the department shall exempt a recipient and the recipient's family from the application of subsection (1) of this section:

(a) By reason of hardship, including when:

(i) The recipient's family includes a child or youth who is without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter VI, part B) as it existed on January 1, 2020;

(ii) The recipient received temporary assistance for needy families during a month on or after March 1, 2020, when Washington state's unemployment rate as published by the Washington employment security department was equal to or greater than seven percent, and the recipient is otherwise eligible for temporary assistance for needy families except that they have exceeded 60 months. The extension provided for under this subsection (4)(a)(ii) is equal to the number of months that the recipient received temporary assistance for needy families during a month on or after March 1, 2020, when the unemployment rate was

equal to or greater than seven percent, and is applied sequentially to any other hardship extensions that may apply under this subsection (4) or in rule; or

(iii) Beginning July 1, 2022, the Washington state unemployment rate most recently published by the Washington employment security department is equal to or greater than seven percent; ((~~or~~))

(b) 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; or

(c) If the recipient or applicant is a parent or legal guardian to a child under the age of two who lives in the same household and qualifies for an infant, toddler, or postpartum exemption from WorkFirst activities.

(5) The department shall not exempt a recipient and his or her family from the application of subsection (1) of this section until after the recipient has received 52 months of assistance under this chapter.

(6) The department shall provide transitional food assistance for a period of five months to a household that ceases to receive temporary assistance for needy families assistance and is not in full-family sanction status. If a member of a household has been sanctioned but the household is still receiving benefits, the remaining eligible household members may receive transitional food assistance. If necessary, the department shall extend the household's basic food certification until the end of the transition period.

(7) The department may adopt rules specifying which published employment security department unemployment rates to use for the purposes of subsection (4)(a)(ii) and (iii) of this section.

NEW SECTION. **Sec. 2.** This act takes effect July 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, 2024, in the omnibus appropriations act, this act is null and void.

Passed by the House March 5, 2024.
Passed by the Senate March 1, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 182

[Substitute House Bill 2025]

STATE WORK-STUDY PROGRAM—PLACEMENT AND SALARY MATCHING

AN ACT Relating to modifying placement and salary matching requirements for the state work-study program; and amending RCW 28B.12.030, 28B.12.040, and 28B.12.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.12.030 and 2019 c 406 s 26 are each amended to read as follows:

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

(1) "Eligible institution" means any postsecondary institution in this state accredited by the Northwest Association of Schools and Colleges, or a campus of a member institution of an accrediting association recognized by rule of the student achievement council for purposes of this section, that is eligible for

federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years within the state of Washington, or any public technical college in the state.

(2) "Financial need" has the same meaning as in RCW 28B.92.030.

(3) "Office" means the office of student financial assistance.

Sec. 2. RCW 28B.12.040 and 2012 c 229 s 520 are each amended to read as follows:

The ((~~student achievement council~~)) office shall develop and administer the state work-study program. The ((~~council shall be authorized to~~)) office may create and enter into agreements with employers and eligible institutions ((~~for the operation of the program. These agreements shall include such provisions as the council may deem necessary or appropriate to carry out the purposes of this chapter.~~

~~With the exception of off-campus community service placements, the share from moneys disbursed under the state work-study program of the compensation of students employed under such program in accordance with such agreements shall not exceed eighty percent of the total such compensation paid such students.~~

~~By rule, the council shall define community service placements and may determine any salary matching requirements for any community service employers~~)) to implement this chapter.

Sec. 3. RCW 28B.12.050 and 2011 1st sp.s. c 11 s 144 are each amended to read as follows:

(1) The office ((~~of student financial assistance~~)) shall disburse state work-study funds. In performing its duties under this section, the office shall consult eligible institutions and postsecondary education advisory and governing bodies. The office shall establish criteria designed to achieve such distribution of assistance under this chapter among students attending eligible institutions as will most effectively carry out the purposes of this chapter.

(2) Funds appropriated for compensation of students placed at state work-study employers must not exceed 80 percent of the total compensation paid to students, subject to the following exceptions:

(a) Off-campus community service placements; and

(b) Placements at public and nonprofit employers that seek to increase postsecondary enrollment for high school students.

(3) The office shall define and approve, and may determine salary matching requirements for, community service placements and placements at public and nonprofit employers that seek to increase postsecondary enrollment for high school students.

Passed by the House February 9, 2024.

Passed by the Senate March 1, 2024.

Approved by the Governor March 19, 2024.

Filed in Office of Secretary of State March 19, 2024.

CHAPTER 183

[Second Substitute House Bill 2071]

RESIDENTIAL BUILDING CODES—VARIOUS PROVISIONS

AN ACT Relating to residential housing regulations; adding new sections to chapter 19.27 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 19.27 RCW to read as follows:

(1) The legislature finds that lowering the cost of middle and multiplex housing construction will increase the housing supply and help address the state's shortage of affordable housing. It further finds that home builders and residentially focused architects are more familiar with the provisions of the international residential code. Allowing middle and multiplex housing to be built according to the standards of the international residential code will result in housing being easier to build and more affordable without sacrificing quality and safety. Therefore, the legislature intends to simplify the production of middle and multiplex housing by allowing more types of housing to use provisions of the international residential code.

(2) The state building code council shall convene a technical advisory group for the purpose of recommending the additions or amendments to rules or codes that are necessary for the council to apply the Washington state residential code to multiplex housing. The technical advisory group shall determine the most efficient mechanism to implement these changes in the Washington state residential code. These recommendations must include those code changes necessary to ensure public health and safety in multifamily housing under the international residential code and must consider the life safety systems and accessibility requirements for multiplex housing from the Washington state building code.

(3) The advisory group shall provide its recommendations to the council in time for the council to adopt or amend rules or codes as necessary for implementation in the 2024 international building code. The council shall take action to adopt additions and amendments to rules or codes as necessary to apply the international residential code to multiplex housing by November 1, 2026.

(4) For the purposes of this section, "multiplex housing" means a building with up to six dwelling units consolidated into a single structure with common walls and floors and a functional primary street entrance, or a building of up to three stories containing up to six dwelling units consolidated into a single structure.

NEW SECTION. **Sec. 2.** A new section is added to chapter 19.27 RCW to read as follows:

(1) The state building code council shall convene a technical advisory group for the purpose of recommending amendments to the international building code that would allow for a minimum dwelling unit size that is less than the requirements for an efficiency dwelling unit in the international building code. The technical advisory group shall consider aligning the state building code sections related to interior environment with the relevant sections of the national healthy housing standard published by the national center for healthy housing. When developing the recommendations, the technical advisory group must

review the differences between the state building code and the national healthy housing standard and allow experts in public health and fire safety to comment during the process.

(2) The technical advisory group shall provide its recommendations to the council in time for the council to adopt or amend rules or codes as necessary for implementation in the 2024 international building code. The council shall take action to adopt additions and amendments to rules or codes as necessary by November 1, 2026.

NEW SECTION. **Sec. 3.** The office of regulatory innovation and assistance shall contract with a qualified external consultant or entity to develop a standard energy code plan set demonstrating a prescriptive compliance pathway that will meet or exceed all energy code regulations for residential housing in the state subject to the international residential code. The standard energy code plan set may be used, but is not required, by local governments and building industries. In developing the standard energy code plan set, the consultant shall, at a minimum, seek feedback from cities, counties, building industries, and building officials. The standard energy code plan set must be completed by June 30, 2025.

Passed by the House March 5, 2024.
Passed by the Senate February 27, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 184

[Substitute House Bill 2382]

TRANSPORTATION NETWORK COMPANIES—DRIVER DEATH BENEFITS

AN ACT Relating to death benefits applicable to drivers of transportation network companies; amending RCW 51.16.250; adding a new section to chapter 51.32 RCW; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature intends to extend survivor death benefits under the industrial insurance act for the surviving dependents of transportation network company drivers when certain conditions are met. The legislature recognizes the devastating impact that such a death has on the surviving family members.

(2) By the enactment of section 2 of this act, the legislature honors the memory of transportation network company drivers who have died while working in Washington in recent years, including Cherno Ceesay, who died in 2020, Mohamed Kediye, who died in 2022, Mohamadou Kabba and Amare Geda, who died in 2023, and Abdikadir Gedi Shariif, who died in 2024.

NEW SECTION. **Sec. 2.** A new section is added to chapter 51.32 RCW to read as follows:

(1) In addition to the coverage provided in RCW 51.16.250, death benefits shall be payable in accordance with RCW 51.32.050 when a transportation network company driver's death results from an injury occurring while the driver is:

(a) Logged onto the transportation network company's digital network as available for work;

(b) Physically inside the transportation network company driver's vehicle or within the immediate proximity of the transportation network company driver's vehicle; and

(c) Not otherwise covered by this title.

(2) As applicable, for the purposes of this section, the definitions in RCW 49.46.300 apply.

(3) For the purposes of this section, the applicable statute of limitations begins upon the driver's death.

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

Sec. 3. RCW 51.16.250 and 2022 c 281 s 11 are each amended to read as follows:

(1) Beginning January 1, 2023, the department shall assess premiums for transportation network companies, as defined in RCW 49.46.300, in accordance with RCW 51.16.035 and this section, for workers' compensation coverage applicable to drivers, as defined in RCW 49.46.300, while the driver is engaged in passenger platform time and dispatch platform time, as those terms are defined in RCW 49.46.300.

(2) For the purposes of calculating the premium for drivers under subsection (1) of this section, the department shall multiply the total number of hours spent by drivers in passenger platform time and dispatch platform time on the transportation network company's driver platform by the rates established for taxicab companies. The department may subsequently adjust premiums in accordance with department rules.

(3) For a death that is covered under section 2 of this act, the cost of the benefits must be included in the consideration of rate increases for the risk class and not attributed to a single transportation network company. Such cost shall not be included in the calculation of any individual transportation network company's experience modification factor.

(4) Transportation network companies, not qualifying as a self-insurer, shall insure with the state and shall, on or before the last day of January, April, July, and October of each year thereafter, furnish the department with a true and accurate statement of the hours for which drivers, as defined in RCW 49.46.300, were engaged in passenger platform time and dispatch platform time on the transportation network company's driver platform during the preceding calendar quarter and the total amount paid to such drivers engaged in passenger platform time on the transportation network company's driver platform during the preceding calendar quarter, and shall pay its premium based on the total passenger platform time and dispatch platform time to the appropriate fund. Premiums for a calendar quarter, whether reported or not, shall become due and delinquent on the day immediately following the last day of the month following the calendar quarter. The sufficiency of such statement shall be subject to the approval of the director: PROVIDED, That the director may in his or her discretion and for the effective administration of this title require a transportation network company in individual instances to furnish a supplementary report containing the name of each individual driver, his or her hours engaged in passenger platform time and dispatch platform time on the transportation network company's driver platform, and his or her compensation: PROVIDED

FURTHER, That the department may promulgate rules and regulations in accordance with chapter 34.05 RCW to establish other reporting periods and payment due dates in lieu of reports and payments following each calendar quarter, and may also establish terms and conditions for payment of premiums and assessments based on estimated passenger platform time and dispatch platform time on the transportation network company's driver platform, with such payments being subject to approval as to sufficiency of the estimated passenger platform time and dispatch platform time on the transportation network company's driver platform by the department, and also subject to appropriate periodic adjustments made by the department based on actual passenger platform time and dispatch platform time on the transportation network company's driver platform.

(((~~(4)~~))) (5) The department may adopt rules to carry out the purposes of this section, including rules providing for alternative reporting requirements.

(((~~(5)~~))) (6) This section does not apply to any worker who is not a driver, and who is employed by the transportation network company. For those workers the processes for determining coverage, calculating premiums, reporting requirements, reporting periods, and payment due dates are subject to the provisions of this title that apply generally to employers and workers.

NEW SECTION. **Sec. 4.** (1) The department of labor and industries shall conduct or contract out for a study using administrative and other available data and report to the legislature by July 1, 2029. The study shall include, but not be limited to: The number and frequency of transportation network company drivers filing claims with the department of labor and industries who are victims of crime while connected to work through a transportation network company's digital network; whether those claims were accepted or denied; and if denied, the reason for the denial. The study shall not include remote workers working from their homes.

(2) This section expires December 31, 2029.

Passed by the House March 4, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 185

[House Bill 2481]

PUBLIC EMPLOYEES' BENEFITS BOARD HEALTH BENEFIT PREMIUMS—MONTH OF DEATH

AN ACT Relating to waiving health benefit premiums in the public employees' benefits board; and reenacting and amending RCW 41.05.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.05.080 and 2023 c 312 s 1 and 2023 c 13 s 5 are each reenacted and amended to read as follows:

(1) Under the qualifications, terms, conditions, and benefits set by the public employees' benefits board:

(a)(i) Retired or disabled state employees, retired or disabled school employees, or retired or disabled employees of employer groups covered by this

chapter may continue their participation in insurance plans and contracts after retirement or disablement.

(ii) The retired or disabled employees of employer groups whose contractual agreement with the authority terminates may continue their participation in insurance plans and contracts after the contractual agreement is terminated. The retired or disabled employees of employer groups whose contractual agreement with the authority terminates are not eligible for any subsidy provided under RCW 41.05.085;

(b) Separated employees may continue their participation in insurance plans and contracts if participation is selected immediately upon separation from employment;

(c) Surviving spouses, surviving state registered domestic partners, and dependent children of emergency service personnel killed in the line of duty may participate in insurance plans and contracts.

(2) Rates charged surviving spouses and surviving state registered domestic partners of emergency service personnel killed in the line of duty, retired or disabled employees, separated employees, spouses, or dependent children who are not eligible for parts A and B of medicare shall be based on the experience of the community-rated risk pool established under RCW 41.05.022.

(3) Rates charged to surviving spouses and surviving state registered domestic partners of emergency service personnel killed in the line of duty, retired or disabled employees, separated employees, spouses, or children who are eligible for parts A and B of medicare shall be calculated from a separate experience risk pool comprised only of individuals eligible for parts A and B of medicare; however, the premiums charged to medicare-eligible retirees and disabled employees shall be reduced by the amount of the subsidy provided under RCW 41.05.085, except as provided in subsection (1)(a)(ii) of this section.

(4) Surviving spouses, surviving state registered domestic partners, and dependent children of emergency service personnel killed in the line of duty and retired or disabled and separated employees shall be responsible for payment of premium rates developed by the authority which shall include the cost to the authority of providing insurance coverage including any amounts necessary for reserves and administration in accordance with this chapter. These self pay rates will be established based on a separate rate for the employee, the spouse, state registered domestic partners, and the children.

(5) When a person described in subsection (1)(a)(i), (b), or (c) of this section dies, the authority shall waive the payment of the decedent's premiums and any applicable premium surcharges for the medical, dental, or vision plan for the month in which the death occurred. The authority shall enroll any eligible surviving dependents in the same medical, dental, or vision plan that they had been enrolled in, which shall be made effective on the first day of the month in which the death occurred, and the eligible surviving dependent shall be responsible for the payment of premiums and any applicable premium surcharges for themselves and any other eligible dependents.

(6) The term "retired state employees" for the purpose of this section shall include but not be limited to members of the legislature whether voluntarily or involuntarily leaving state office.

Passed by the House February 13, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 186

[Engrossed Senate Bill 5592]

FITNESS CENTERS—SEMIAUTOMATIC EXTERNAL DEFIBRILLATORS

AN ACT Relating to requiring semiautomatic external defibrillators at fitness centers; and adding a new section to chapter 70.54 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 70.54 RCW to read as follows:

(1) The owner of a fitness center shall acquire and maintain at least one semiautomatic external defibrillator on premises.

(2) The fitness center must comply with the requirements of RCW 70.54.310, including instruction of personnel on the use of the defibrillator, maintenance of the defibrillator, and notification of the local emergency medical services organization about the location of the defibrillator.

(3) An employee of a fitness center who has completed the instruction required under RCW 70.54.310 may render emergency care or treatment using a semiautomatic external defibrillator on the fitness center premises.

(4) A person who uses a semiautomatic external defibrillator at the scene of an emergency is immune from civil liability pursuant to RCW 70.54.310.

(5)(a) "Fitness center" means any premises used for recreation, instruction, training, physical exercise, body building, weight loss, figure development, martial arts, or other similar activity, that offers access on a membership basis.

(b) "Fitness center" does not include: (i) Public common schools, private schools approved under RCW 28A.195.010, and public or private institutions of higher education; (ii) facilities operated by bona fide nonprofit organizations which have been granted tax-exempt status by the internal revenue service, the functions of which as fitness centers are only incidental to their overall functions; and (iii) private facilities operated out of a home that do not offer memberships.

Passed by the Senate March 4, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 187

[Substitute Senate Bill 5649]

FLOODPLAIN MANAGEMENT—IMPROVEMENTS TO RESIDENTIAL STRUCTURES

AN ACT Relating to improvements to residential structures to reduce risk of flood damage; amending RCW 86.16.041; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that the office of Chehalis basin in the department of ecology is directed to aggressively pursue implementation of an integrated strategy for long-term flood damage reduction in the Chehalis river basin. The legislature recognizes that restrictions on improvements to residential structures located in floodways may impede the office's ability to successfully carry out the Chehalis basin strategy. Therefore, the legislature intends to create additional regulatory flexibility to allow substantial improvements to residential structures for the primary purpose of reducing risk of flood damage in floodways.

Sec. 2. RCW 86.16.041 and 2000 c 222 s 1 are each amended to read as follows:

(1) Beginning July 26, 1987, every county and incorporated city and town shall submit to the department of ecology any new floodplain management ordinance or amendment to any existing floodplain management ordinance. Such ordinance or amendment shall take effect ((~~thirty~~)) 30 days from filing with the department unless the department disapproves such ordinance or amendment within that time period.

(2) The department may disapprove any ordinance or amendment submitted to it under subsection (1) of this section if it finds that an ordinance or amendment does not comply with any of the following:

(a) Restriction of land uses within designated floodways including the prohibition of construction or reconstruction, repair, or replacement of residential structures, except for: (i) Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction, or improvements to a structure the cost of which does not exceed ((~~fifty~~)) 50 percent of the market value of the structure either, (A) before the repair, reconstruction, or repair is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code or building enforcement official and which are the minimum necessary to ensure safe living conditions shall not be included in the ((~~fifty~~)) 50 percent determination. However, the floodway prohibition in this subsection does not apply to existing farmhouses in designated floodways that meet the provisions of subsection (3) of this section, ((~~or~~)) to ((~~substantially damaged~~)) existing residential structures other than farmhouses that meet the depth and velocity and erosion analysis in subsection (4) of this section, or to structures identified as historic places;

(b) The minimum requirements of the national flood insurance program; and

(c) The minimum state requirements adopted pursuant to RCW 86.16.031(8) that are applicable to the particular county, city, or town.

(3) Repairs, reconstruction, replacement, or improvements to existing farmhouse structures located in designated floodways and which are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170 shall be permitted subject to the following:

(a) The new farmhouse is a replacement for an existing farmhouse on the same farm site;

(b) There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;

(c) Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;

(d) A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;

(e) A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within ((~~ninety~~)) 90 days after occupancy of a new farmhouse;

(f) For substantial improvements, and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is a minimum of one foot higher than the base flood elevation;

(g) New and replacement water supply systems are designed to eliminate or minimize infiltration of flood waters into the system;

(h) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters; and

(i) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

(4)(a) For all substantially damaged residential structures other than farmhouses that are located in a designated floodway, the department, at the request of the town, city, or county with land use authority over the structure, is authorized to assess the risk of harm to life and property posed by the specific conditions of the floodway, and, based upon scientific analysis of depth, velocity, and flood-related erosion, may exercise best professional judgment in recommending to the permitting authority, repair, replacement, or relocation of such damaged structures. The effect of the department's recommendation, with the town, city, or county's concurrence, to allow repair or replacement of a substantially damaged residential structure within the designated floodway is a waiver of the floodway prohibition.

(b) For proposed projects that substantially improve residential structures in a designated floodway for the primary purpose of reducing risk of flood damage, the department, at the request of the town, city, or county with land use authority over the structures, is authorized to assess the risk of harm to life and property posed by the specific conditions of the floodway, and, based upon scientific analysis of depth, velocity, and flood-related erosion, may exercise best professional judgment in recommending to the permitting authority whether a project should proceed. The effect of the department's recommendation, with the town, city, or county's concurrence, to allow a project to proceed within the designated floodway is a waiver of the floodway prohibition.

(5) The department shall develop a rule or rule amendment guiding the assessment procedures and criteria described in subsections (3) and (4) of this section no later than December 31, 2000.

(6) For the purposes of this section, "farmhouse" means a single-family dwelling located on a farm site where resulting agricultural products are not produced for the primary consumption or use by the occupants and the farm owner.

Passed by the Senate March 4, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 188

[Substitute Senate Bill 5787]

UNIFORM ELECTRONIC ESTATE PLANNING DOCUMENTS ACT

AN ACT Relating to the uniform electronic estate planning documents act; amending RCW 1.80.020; and adding a new chapter to Title 11 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** TITLE. This chapter may be cited as the uniform electronic estate planning documents act.

NEW SECTION. **Sec. 2.** DEFINITIONS. In this chapter:

(1) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

(2) "Electronic signature" means an electronic symbol or process attached to or logically associated with a record that uses a security procedure and is executed or adopted by a person with the intent to sign the record.

(3) "Information" includes data, text, images, codes, computer programs, software, databases, and the like, and does not include videos or sounds.

(4) "Nontestamentary estate planning document" means a record relating to estate planning that is readable as text at the time of signing and is not a will or contained in a will. The term:

(a) Includes a record readable as text at the time of signing that creates, exercises, modifies, releases, or revokes:

(i) An inter vivos trust governed by chapters 11.97, 11.98, 11.98B, 11.103, 11.110, and 11.118 RCW;

(ii) A trust power held by a trustor, a trustee, a beneficiary or a third party that is granted under the terms of a trust, under this title, specifically including chapters 11.97, 11.98, 11.98B, 11.103, 11.110, and 11.118 RCW, or by any other statute or rule of law related to trusts that requires a writing, written instrument, or a signed record or document;

(iii) A certification of a trust under RCW 11.98.075;

(iv) A power of attorney, including for health care of the principal or of the principal's minor children, that is durable under chapter 11.125 RCW;

(v) An agent's certification under RCW 11.125.430 of the validity of a power of attorney and the agent's authority;

(vi) A power of appointment;

(vii) A health care directive under chapter 70.122 RCW;

(viii) A document appointing an agent to dispose of an individual's remains, directing disposition of an individual's remains after death, or expressing wishes regarding an anatomical gift;

(ix) A nomination of a guardian or conservator for the signing individual;

(x) A nomination of a guardian or conservator for a minor child or disabled adult child or a delegation of parental powers for a minor child pursuant to RCW 11.130.145;

(xi) A mental health advance directive under chapter 71.32 RCW;

(xii) A community property agreement as described in RCW 26.16.120;

(xiii) A disclaimer under RCW 11.86.011(5);

(xiv) A trust decanting under chapter 11.107 RCW;

(xv) A separate writing directing the disposition of tangible personal property under RCW 11.12.260; and

(xvi) Any other record intended to carry out an individual's intent regarding property or health care while incapacitated or on death; and

(b) Does not include:

(i) A deed of real property or certificate of title for a motor vehicle, watercraft, or aircraft; or

(ii) A nonjudicial settlement agreement under RCW 11.96A.220.

(5) "Person" means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(6) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(7) "Sign" means, with present intent to authenticate or adopt a record, to:

(a) Execute or adopt a tangible symbol; or

(b) Attach to or logically associate with the record an electronic signature.

(8) "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 an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

NEW SECTION. **Sec. 3.** CONSTRUCTION. This chapter must be construed and applied to:

(1) Facilitate electronic estate planning-related documents and signatures consistent with other law; and

(2) Be consistent with reasonable practices concerning electronic documents and signatures and continued expansion of those practices.

NEW SECTION. **Sec. 4.** SCOPE. (1) Except as provided in subsection (2) of this section, this chapter applies to an electronic nontestamentary estate planning document and an electronic signature on a nontestamentary estate planning document.

(2) This chapter does not apply to a nontestamentary estate planning document if the document precludes use of an electronic record or electronic signature.

(3) This chapter does not affect the validity of an electronic record or electronic signature that is valid under:

(a) Chapter 1.80 RCW;

(b) Chapter 5.50 RCW;

(c) RCW 11.12.400 through 11.12.491; or

(d) Chapter 42.45 RCW.

NEW SECTION. **Sec. 5.** PRINCIPLES OF LAW AND EQUITY. The law of this state and principles of equity applicable to a nontestamentary estate planning document apply to an electronic nontestamentary estate planning document except as modified by this chapter.

NEW SECTION. **Sec. 6.** USE OF ELECTRONIC RECORD OR SIGNATURE NOT REQUIRED. (1) This chapter does not require a nontestamentary estate planning document or signature on a nontestamentary estate planning document to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(2) A person is not required to have a nontestamentary estate planning document in electronic form or signed electronically even if the person previously created or signed a nontestamentary estate planning document by electronic means.

(3) A person may not waive the provisions of this section.

NEW SECTION. **Sec. 7.** RECOGNITION OF ELECTRONIC NONTESTAMENTARY ESTATE PLANNING DOCUMENT AND ELECTRONIC SIGNATURE. (1) A nontestamentary estate planning document or a signature on a nontestamentary estate planning document may not be denied legal effect or enforceability solely because it is in electronic form.

(2) If other law of this state requires a nontestamentary estate planning document to be in writing, an electronic record of the document satisfies the requirement.

(3) If other law of this state requires a signature on a nontestamentary estate planning document, an electronic signature satisfies the requirement.

(4) A person that refuses in violation of this section to accept a nontestamentary estate planning document or a signature on a nontestamentary estate planning document is subject to:

(a) A court order mandating acceptance of the document or signature; and

(b) Liability for reasonable attorneys' fees and costs incurred in any action or proceeding that confirms the validity of the document or signature or mandates acceptance of the document or signature.

NEW SECTION. **Sec. 8.** ATTRIBUTION AND EFFECT OF ELECTRONIC RECORD AND ELECTRONIC SIGNATURE. (1) An electronic nontestamentary estate planning document or electronic signature on an electronic nontestamentary estate planning document is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including by showing the efficacy of a security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(2) The effect of attribution to a person under subsection (1) of this section of a document or signature is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption and as provided by other law.

NEW SECTION. **Sec. 9.** NOTARIZATION AND ACKNOWLEDGMENT. If other law of this state requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied with respect to an electronic nontestamentary estate planning document

if an individual authorized to perform the notarization, acknowledgment, verification, or oath attaches or logically associates the individual's electronic signature on the document together with all other information required to be included under the other law. The individual making the statement or executing the signature may appear physically or, as provided in RCW 42.45.280, remotely.

NEW SECTION. **Sec. 10.** WITNESSING AND ATTESTATION. (1) If other law of this state bases the validity of a nontestamentary estate planning document on whether it is signed, witnessed, or attested by another individual, the signature, witnessing, or attestation of that individual may be electronic.

(2) If other law of this state bases the validity of a nontestamentary estate planning document on whether it is signed, witnessed, or attested by another individual in the presence of the individual signing the document, the presence requirement is satisfied if the individuals are in each other's electronic presence, as defined in RCW 11.02.005.

NEW SECTION. **Sec. 11.** RETENTION OF ELECTRONIC RECORD—ORIGINAL. (1) Except as provided in subsection (2) of this section, if other law of this state requires an electronic nontestamentary estate planning document to be retained, transmitted, copied, or filed, the requirement is satisfied by retaining, transmitting, copying, or filing an electronic record that:

(a) Accurately reflects the information in the document after it was first generated in final form as an electronic record or under section 12 of this act; and

(b) Remains accessible to the extent required by the other law.

(2) A requirement under subsection (1) of this section to retain a record does not apply to information the sole purpose of which is to enable the record to be sent, communicated, or received.

(3) If other law of this state requires a nontestamentary estate planning document to be presented or retained in its original form, or provides consequences if a nontestamentary estate planning document is not presented or retained in its original form, an electronic record retained in accordance with subsection (1) of this section satisfies the other law.

(4) This section does not preclude a governmental agency from specifying requirements for the retention of a record subject to the agency's jurisdiction in addition to those in this section. In this subsection, "governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.

NEW SECTION. **Sec. 12.** CERTIFICATION OF PAPER COPY. An individual may create a certified paper copy of an electronic nontestamentary estate planning document by affirming under penalty of perjury that the paper copy is a complete and accurate copy of the document.

NEW SECTION. **Sec. 13.** ADMISSIBILITY IN EVIDENCE. Evidence relating to an electronic nontestamentary estate planning document or an electronic signature on the document may not be excluded in a proceeding solely because such evidence is in electronic form.

NEW SECTION. **Sec. 14.** UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

NEW SECTION. **Sec. 15.** 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 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

NEW SECTION. **Sec. 16.** TRANSITIONAL PROVISION. This chapter applies to an electronic nontestamentary estate planning document created, signed, generated, sent, communicated, received, or stored before, on, or after the effective date of this section.

Sec. 17. RCW 1.80.020 and 2020 c 57 s 3 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, this chapter applies to electronic records and electronic signatures relating to a transaction.

(2) This chapter does not apply to a transaction to the extent it is governed by:

(a) A law governing the creation and execution of wills, codicils, or testamentary trusts. However, this chapter applies to nonjudicial settlement agreements under RCW 11.96A.220; and

(b) Title 62A RCW other than RCW 62A.1-306 and chapters 62A.2 and 62A.2A RCW.

(3) This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under subsection (2) of this section to the extent it is governed by a law other than those specified in subsection (2) of this section.

(4) A transaction subject to this chapter is also subject to other applicable substantive law.

NEW SECTION. **Sec. 18.** 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. 19.** CODIFICATION. Sections 1 through 16 of this act constitute a new chapter in Title 11 RCW.

Passed by the Senate January 24, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 189

[Substitute Senate Bill 5812]

ELECTRIC VEHICLE FIRES—STUDY

AN ACT Relating to responding to electric vehicle fires; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The Washington state patrol, in consultation with the department of ecology, local fire protection districts, a representative of the towing and recovery industry, and other entities, must study the following elements of electric vehicle fires:

(a) Impacts to the environment and proximate residential areas, and health impacts to responding firefighters;

(b) Best practices for fire response; and

(c) Best practices regarding clean-up and disposal efforts.

(2) By January 1, 2025, the Washington state patrol must report to the appropriate committees of the legislature study findings and any resulting policy or legislative recommendations.

Passed by the Senate February 6, 2024.
Passed by the House March 1, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 190

[Substitute Senate Bill 5869]
SUBDIVISIONS—RURAL FIRE DISTRICT STATIONS

AN ACT Relating to rural fire district stations; amending RCW 58.17.040; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that fire protection is a critical component in maximizing fire preparedness and response in rural and suburban areas of the state that are living with increasing fire danger. Even though this year was not characterized by excessive forest fires, the fires that did happen were devastating. The legislature finds that areas with existing communities that oftentimes include rural school districts and fire districts need the ability to increase fire preparedness and response times. The experiences of the last few years have shown that rapid response is highly effective in reducing the destruction of wildfires. The legislature intends to be a partner with these communities in maximizing fire protection by enabling existing fire districts to expand their services.

Sec. 2. RCW 58.17.040 and 2019 c 352 s 2 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 RCW 35.21.686, 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; and

(10) A division of land into lots or tracts of less than two 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 a rural fire district station, provided the proposed lots or tracts contain sufficient area and dimensions to meet minimum building site width and area requirements, and appropriate provisions are made for potable water supplies and sanitary wastes.

Passed by the Senate February 9, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 191

[Second Substitute Senate Bill 5882]

PROTOTYPICAL SCHOOL STAFFING—MODIFICATION

AN ACT Relating to increasing prototypical school staffing to better meet student needs; amending RCW 28A.150.260 and 28A.400.007; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** Youth mental and behavioral health has been a rising crisis for a decade. As youth grapple with new pressures from social media and impacts of a pandemic, their needs can manifest as disruptive behaviors in the school environment. Teachers, counselors, administrators, and education support professionals have identified the need to have more caring and committed education staff in schools to meet the needs of students.

Education support professionals are vital team members in a school and often directly support students. Educational staff professionals drive students safely to school, provide one-on-one individualized instruction for special education students, run small group instruction for English language learners and for students struggling with certain academic concepts, supervise and monitor students before and after school, at lunch, and during recess, provide

physical and behavioral health services in schools, serve lunches, keep buildings clean and maintained, and many other support services that are essential to school operations and student learning.

Therefore, to improve the individualized support for student learning and behavioral needs, the legislature intends to increase staffing allocations for paraprofessionals in instructional and noninstructional roles. The intent of this additional funding is to assist school districts in hiring additional support staff or providing the staff they already employ with better wages.

Sec. 2. RCW 28A.150.260 and 2023 c 379 s 6 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2)(a) The distribution formula under this section shall be for allocation purposes only. Except as may be required under subsections (4)(b) and (c), (5)(b) and (c), and (9) of this section, chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(b) To promote transparency in state funding allocations, the superintendent of public instruction must report state per-pupil allocations for each school district for the general apportionment, special education, learning assistance, transitional bilingual, highly capable, and career and technical education programs. The superintendent must report this information in a user-friendly format on the main page of the office's website. School districts must include a link to the superintendent's per-pupil allocations report on the main page of the school district's website. In addition, the budget documents published by the legislature for the enacted omnibus operating appropriations act must report statewide average per-pupil allocations for general apportionment and the categorical programs listed in this subsection.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class

size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has 600 average annual full-time equivalent students in grades nine through 12;

(ii) A prototypical middle school has 432 average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has 400 average annual full-time equivalent students in grades kindergarten through six.

(4)(a)(i) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

	General education average class size
Grades K-3	17.00
Grade 4	27.00
Grades 5-6	27.00
Grades 7-8	28.53
Grades 9-12	28.74

(ii) The minimum class size allocation for each prototypical high school shall also provide for enhanced funding for class size reduction for two laboratory science classes within grades nine through 12 per full-time equivalent high school student multiplied by a laboratory science course factor of 0.0833, based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours in RCW 28A.150.220, and providing at least one teacher planning period per school day:

	Laboratory science average class size
Grades 9-12	19.98

(b)(i) Beginning September 1, 2019, funding for average K-3 class sizes in this subsection (4) may be provided only to the extent of, and proportionate to, the school district's demonstrated actual class size in grades K-3, up to the funded class sizes.

(ii) The office of the superintendent of public instruction shall develop rules to implement this subsection (4)(b).

(c)(i) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

	Career and technical education average class size
Approved career and technical education offered at the middle school and high school level	23.00
Skill center programs meeting the standards established by the office of the superintendent of public instruction	19.00

(ii) Funding allocated under this subsection (4)(c) is subject to RCW 28A.150.265.

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) A high-poverty average class size in schools where more than 50 percent of the students are eligible for free and reduced-price meals; and

(ii) A specialty average class size for advanced placement and international baccalaureate courses.

(5)(a) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

	Elementary School	Middle School	High School
Principals, assistant principals, and other certificated building-level administrators	1.253	1.353	1.880
Teacher-librarians, a function that includes information literacy, technology, and media to support school library media programs	0.663	0.519	0.523
((~~Teaching assistance~~)) Paraeducators, including any aspect of educational instructional services provided by classified employees	((~~0.936~~)) 1.012	((~~0.700~~)) 0.776	((~~0.652~~)) 0.728
Office support and other noninstructional aides	((~~2.012~~)) 2.088	((~~2.325~~)) 2.401	((~~3.269~~)) 3.345
Custodians	1.657	1.942	2.965
Nurses	0.585	0.888	0.824
Social workers	0.311	0.088	0.127
Psychologists	0.104	0.024	0.049
Counselors	0.993	1.716	3.039
Classified staff providing student and staff safety	0.079	0.092	0.141

	Elementary School	Middle School	High School
Parent involvement coordinators	0.0825	0.00	0.00

(b)(i) The superintendent may only allocate funding, up to the combined minimum allocations, for nurses, social workers, psychologists, counselors, classified staff providing student and staff safety, and parent involvement coordinators under (a) of this subsection to the extent of and proportionate to a school district's demonstrated actual ratios of: Full-time equivalent physical, social, and emotional support staff to full-time equivalent students.

(ii) The superintendent must adopt rules to implement this subsection (5)(b) and the rules must require school districts to prioritize funding allocated as required by (b)(i) of this subsection for physical, social, and emotional support staff who hold a valid educational staff associate certificate appropriate for the staff's role.

(iii) For the purposes of this subsection (5)(b), "physical, social, and emotional support staff" include nurses, social workers, psychologists, counselors, classified staff providing student and staff safety, parent involvement coordinators, and other school district employees and contractors who provide physical, social, and emotional support to students as defined by the superintendent.

(c) The superintendent shall develop rules that require school districts to use the additional funding provided under (a) of this subsection to support increased staffing, prevent layoffs, or increase salaries for the following staff types in the 2024-25 school year: Paraeducators, office support, and noninstructional aides. The superintendent shall collect data from school districts on how the increased allocations are used.

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

	Staff per 1,000 K-12 students
Technology	0.628
Facilities, maintenance, and grounds	1.813
Warehouse, laborers, and mechanics	0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs as provided in the 2017-18 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

	Per annual average full-time equivalent student in grades K-12
Technology	$130.76
Utilities and insurance	$355.30
Curriculum and textbooks	$140.39
Other supplies	$278.05
Library materials	$20.00
Instructional professional development for certificated and classified staff	$21.71
Facilities maintenance	$176.01
Security and central office administration	$121.94

(b) In addition to the amounts provided in (a) of this subsection, beginning in the 2014-15 school year, the omnibus appropriations act shall provide the following minimum allocation for each annual average full-time equivalent student in grades nine through 12 for the following materials, supplies, and operating costs, to be adjusted annually for inflation:

	Per annual average full-time equivalent student in grades 9-12
Technology	$36.35
Curriculum and textbooks	$39.02
Other supplies	$77.28
Library materials	$5.56
Instructional professional development for certificated and classified staff	$6.04

(9) In addition to the amounts provided in subsection (8) of this section and subject to RCW 28A.150.265, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

(a) Exploratory career and technical education courses for students in grades seven through 12;

(b) Preparatory career and technical education courses for students in grades nine through 12 offered in a high school; and

(c) Preparatory career and technical education courses for students in grades 11 and 12 offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a)(i) To provide supplemental instruction and services for students who are not meeting academic standards through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the greater of either: The district percentage of students in kindergarten through grade 12 who were eligible for free or reduced-price meals for the school year immediately preceding the district's participation, in whole or part, in the United States department of agriculture's community eligibility provision, or the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program

shall, except as provided in (a)(iii) of this subsection, provide for each level of prototypical school resources to provide, on a statewide average, 2.3975 hours per week in extra instruction with a class size of 15 learning assistance program students per teacher.

(ii) In addition to funding allocated under (a)(i) of this subsection, to provide supplemental instruction and services for students who are not meeting academic standards in qualifying schools. A qualifying school, except as provided in (a)(iv) of this subsection, means a school in which the three-year rolling average of the prior year total annual average enrollment that qualifies for free or reduced-price meals equals or exceeds 50 percent or more of its total annual average enrollment. A school continues to meet the definition of a qualifying school if the school: Participates in the United States department of agriculture's community eligibility provision; and met the definition of a qualifying school in the year immediately preceding their participation. The minimum allocation for this additional high poverty-based allocation must provide for each level of prototypical school resources to provide, on a statewide average, 1.1 hours per week in extra instruction with a class size of 15 learning assistance program students per teacher, under RCW 28A.165.055, school districts must distribute the high poverty-based allocation to the schools that generated the funding allocation.

(iii) For the 2024-25 and 2025-26 school years, allocations under (a)(i) of this subsection for school districts providing meals at no charge to students under RCW 28A.235.135 that are not participating, in whole or in part, in the United States department of agriculture's community eligibility provision shall be based on the school district percentage of students in grades K-12 who were eligible for free or reduced-price meals in school years 2019-20 through 2022-23 or the prior school year, whichever is greatest.

(iv) For the 2024-25 and 2025-26 school years, a school providing meals at no charge to students under RCW 28A.235.135 that is not participating in the department of agriculture's community eligibility provision continues to meet the definition of a qualifying school under (a)(ii) of this subsection if the school met the definition during one year of the 2019-20 through 2022-23 school years, or in the prior school year.

(b)(i) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction for students in grades kindergarten through six and 6.7780 hours per week in extra instruction for students in grades seven through 12, with 15 transitional bilingual instruction program students per teacher. Notwithstanding other provisions of this subsection (10), the actual per-student allocation may be scaled to provide a larger allocation for students needing more intensive intervention and a commensurate reduced allocation for students needing less intensive intervention, as detailed in the omnibus appropriations act.

(ii) To provide supplemental instruction and services for students who have exited the transitional bilingual program, allocations shall be based on the head

count number of students in each school who have exited the transitional bilingual program within the previous two years based on their performance on the English proficiency assessment and are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.040(1)(g). The minimum allocation for each prototypical school shall provide resources to provide, on a statewide average, 3.0 hours per week in extra instruction with 15 exited students per teacher.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on 5.0 percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

Sec. 3. RCW 28A.400.007 and 2022 c 109 s 5 are each amended to read as follows:

(1) In addition to the staffing units in RCW 28A.150.260, the superintendent of public instruction must provide school districts with allocations for the following staff units if and to the extent that funding is specifically appropriated and designated for that category of staffing unit in the omnibus operating appropriations act.

(a) Additional staffing units for each level of prototypical school in RCW 28A.150.260:

	Elementary School	Middle School	High School
Principals, assistant principals, and other certificated building-level administrators	0.0470	0.0470	0.0200
Teacher-librarians, a function that includes information literacy, technology, and media to support school library media programs	0.3370	0.4810	0.4770
((~~Teaching assistance~~)) Paraeducators, including any aspect of educational instructional services provided by classified employees	((~~1.0640~~)) 0.988	((~~0.3000~~)) 0.224	((~~0.3480~~)) 0.272
Office support and other noninstructional aides	((~~0.9880~~)) 0.912	((~~1.1750~~)) 1.099	((~~0.2310~~)) 0.155
Custodians	0.0430	0.0580	0.0350
Classified staff providing student and staff safety	0.0000	0.6080	1.1590
Parent involvement coordinators	0.9175	1.0000	1.0000

(b) Additional certificated instructional staff units sufficient to achieve the following reductions in class size in each level of prototypical school under RCW 28A.150.260:

	General education certificated instructional staff units sufficient to achieve class size reduction of:
Grades K-3 class size	0.00
Grade 4	2.00
Grades 5-6	2.00
Grades 7-8	3.53
Grades 9-12	3.74
CTE	4.00
Skills	3.00

	High poverty certificated instructional staff units sufficient to achieve class size reduction of:
Grades K-3 class size	2.00
Grade 4	5.00
Grades 5-6	4.00
Grades 7-8	5.53
Grades 9-12	5.74

(2) The staffing units in subsection (1) of this section are an enrichment to and are beyond the state's statutory program of basic education in RCW 28A.150.220 and 28A.150.260. However, if and to the extent that any of these additional staffing units are funded by specific reference to this section in the omnibus operating appropriations act, those units become part of prototypical school funding formulas and a component of the state funding that the legislature deems necessary to support school districts in offering the statutory program of basic education under Article IX, section 1 of the state Constitution.

NEW SECTION. **Sec. 4.** The state must provide the full school year amount for paraeducators, including any aspect of educational instructional services provided by classified employees, and office support and other noninstructional aides provided in this act, for the 2023-24 school year. The first month's distribution of additional amounts provided under this act in the 2023-24 school year must be a proportion of the total annual additional amount provided in this act equal to the sum of the proportional shares under RCW 28A.510.250 from September 2023 to the first month's distribution. Staff units for nurses, social workers, psychologists, and counselors in this act, above those provided in section 5, chapter 379, Laws of 2023 may not be allocated until the 2024-25 school year.

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, 2024, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 4, 2024.
Passed by the House February 29, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 192

[Engrossed Second Substitute Senate Bill 5908]
EXTENDED FOSTER CARE SERVICES—VARIOUS PROVISIONS

AN ACT Relating to the provision of extended foster care services to youth ages 18 to 21; amending RCW 13.34.267, 74.13.031, and 74.13.336; reenacting and amending RCW 13.34.030 and 74.13.020; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes that the extended foster care program strives to help hundreds of young Washingtonians in foster care prepare for adulthood and to prevent them from experiencing homelessness.

The legislature finds that extended foster care can reduce homelessness, receipt of public assistance, use of medical emergency departments, diagnosis of substance abuse and treatment, criminal convictions, and involvement of children in the child welfare system. An analysis from the department of social and health services found that, at age 18, 41 percent of youth exiting the foster care system experienced homelessness or housing instability compared to 23 percent of youth in extended foster care.

The legislature finds that the Washington state institute for public policy's benefit-cost analysis found that the extended foster care program produces $3.95 of lifetime benefits for each $1 invested. Furthermore, of the total benefits, 40 percent represents savings and revenue that would accrue to state, local, and federal governments.

However, the legislature recognizes that young people in foster care still experience barriers to accessing the program: In 2022, 27 percent of young people leaving foster care did not participate in extended foster care. The legislature intends to improve outcomes for youth in the foster care system by improving access to the foster care program.

Therefore, the legislature resolves to reduce barriers that young people currently experience when seeking to participate in extended foster care and to make the transition from foster care to extended foster care as seamless as possible, such that all dependent youth are aware of the program when they turn 18 and all youth who want to participate are able to participate.

Sec. 2. RCW 13.34.030 and 2021 c 304 s 1 and 2021 c 67 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) "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~~)) 18 to ((~~twenty-one~~)) 21 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) "Experiencing homelessness" means lacking a fixed, regular, and adequate nighttime residence, including circumstances such as sharing the housing of other persons due to loss of housing, economic hardship, fleeing domestic violence, or a similar reason as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

(10) "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; supervised independent living subsidy; medical assistance; and counseling or treatment.

(11) "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.

(12) "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.

(13) "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.

(14) "Guardianship" means a guardianship pursuant to chapter 13.36 RCW or a limited guardianship of a minor pursuant to RCW 11.130.215 or equivalent laws of another state or a federally recognized Indian tribe.

(15) "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 family reunification service as described in RCW 13.34.025(2).

(16) "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~~)) 125 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.

(17) "Nonminor dependent" means any individual age ((~~eighteen~~)) 18 to ((~~twenty-one~~)) 21 years who is participating in extended foster care services authorized under RCW 74.13.031.

(18) "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.

(19) "Parent" means the biological or adoptive parents of a child, or an individual who has established a parent-child relationship under RCW 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.

(20) "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).

(21) "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.

(22) "Qualified residential treatment program" means a program that meets the requirements provided in RCW 13.34.420, qualifies for funding under the family first prevention services act under 42 U.S.C. Sec. 672(k), and, if located within Washington state, is licensed as a group care facility under chapter 74.15 RCW.

(23) "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~~)) 18 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~~)) 24 hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(24) "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.

(25) "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.

(26) "Social study" means a written evaluation of matters relevant to the disposition of the case that contains the information required by RCW 13.34.430.

(27) "Supervised independent living setting" 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.

(28) "Supervised independent living subsidy" has the same meaning as in RCW 74.13.020.

(29) "Voluntary placement agreement" ((~~means~~)) has, 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~~)) the same meaning as in RCW 74.13.336.

Sec. 3. RCW 13.34.267 and 2021 c 210 s 10 are each amended to read as follows:

(1) In order to facilitate the delivery of extended foster care services, the court, upon the agreement of the youth to participate in the extended foster care program, shall maintain the dependency proceeding for any youth who is

dependent at the age of ((~~eighteen~~)) 18 years ((~~and who, at the time of his or her eighteenth birthday,~~)) until the youth turns 21 or withdraws their agreement to participate.

(2) For the purposes of pursuing federal reimbursement only, the department may request judicial findings that a youth is:

(a) Enrolled in a secondary education program or a secondary education equivalency program;

(b) Enrolled and participating in a postsecondary academic or postsecondary vocational program, or has applied for and can demonstrate that he or she intends to timely enroll in a postsecondary academic or postsecondary vocational program;

(c) Participating in a program or activity designed to promote employment or remove barriers to employment;

(d) Engaged in employment for ((~~eighty~~)) 80 hours or more per month; or

(e) Not able to engage in any of the activities described in (a) through (d) of this subsection due to a documented medical condition.

((~~(2) If~~)) (3) When the court maintains the dependency proceeding of a youth pursuant to subsection (1) of this section, the youth is eligible to receive extended foster care services pursuant to RCW 74.13.031, subject to the youth's continuing ((~~eligibility and~~)) agreement to participate.

((~~(3)~~)) (4) A dependent youth receiving extended foster care services is a party to the dependency proceeding. The youth's parent or guardian must be dismissed from the dependency proceeding when the youth reaches the age of ((~~eighteen~~)) 18.

((~~(4)~~)) (5) The court shall dismiss the dependency proceeding for any youth who is a dependent and who, at the age of ((~~eighteen~~)) 18 years, ((~~does not meet any of the criteria described in subsection (1)(a) through (e) of this section or~~)) does not agree to participate in the program.

((~~(5)~~)) (6) The court shall order a youth participating in extended foster care services to be under the placement and care authority of the department, subject to the youth's continuing agreement to participate in extended foster care services. The department may establish foster care rates appropriate to the needs of the youth participating in extended foster care services. The department's placement and care authority over a youth receiving extended foster care services is solely for the purpose of providing services and does not create a legal responsibility for the actions of the youth receiving extended foster care services.

((~~(6)(a) The~~)) (7)(a) If a youth does not already have counsel, the court shall appoint counsel to represent a youth, as defined in RCW 13.34.030(2)(b), in dependency proceedings under this section. Subject to amounts appropriated, the state shall pay the costs of legal services provided by an attorney appointed pursuant to this subsection based on the phase-in schedule outlined in RCW 13.34.212, provided that the legal services are provided in accordance with the rules of professional conduct, the standards of practice, caseload limits, and training guidelines adopted by the children's representation work group established in section 9, chapter 210, Laws of 2021.

(b) In cases where the statewide children's legal representation program provides funding and where consistent with its administration and oversight responsibilities, the statewide children's legal representation program should

prioritize continuity of counsel for children who are already represented at county expense when the statewide children's legal representation program becomes effective in a county. The statewide children's legal representation program shall coordinate with relevant county stakeholders to determine how best to prioritize continuity of counsel.

((~~(7)~~)) (8) The case plan for and delivery of services to a youth receiving extended foster care services is subject to the review requirements set forth in RCW 13.34.138 and 13.34.145, and should be applied in a developmentally appropriate manner, as they relate to youth age ((~~eighteen~~)) 18 to ((~~twenty-one~~)) 21 years. Additionally, the court shall consider:

(a) Whether the youth is safe in his or her placement;

(b) ((~~Whether the youth continues to be eligible for extended foster care services;~~

~~(c)~~)) Whether the current placement is developmentally appropriate for the youth;

((~~(d)~~)) (c) The youth's development of independent living skills; and

((~~(e)~~)) (d) The youth's overall progress toward transitioning to full independence and the projected date for achieving such transition.

((~~(8)~~)) (9) Prior to the review hearing, the youth's attorney shall indicate whether there are any contested issues and may provide additional information necessary for the court's review.

Sec. 4. RCW 74.13.020 and 2020 c 270 s 4 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) "Certificate of parental improvement" means a certificate issued under RCW 74.13.720 to an individual who has a founded finding of physical abuse or negligent treatment or maltreatment, or a court finding that the individual's child was dependent as a result of a finding that the individual abused or neglected their child pursuant to RCW 13.34.030(6)(b).

(3) "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.

(4) "Child protective services" has the same meaning as in RCW 26.44.020.

(5) "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.

(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) "Department" means the department of children, youth, and families.

(8) "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; supervised independent living subsidy; and counseling or treatment.

(9) "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.

(10) "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.

(11) "Nonminor dependent" means any individual age ((~~eighteen~~)) 18 to ((~~twenty-one~~)) 21 years who is participating in extended foster care services authorized under RCW 74.13.031.

(12) "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.

(13) "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.

(14) "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.

(15) "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).

(16) "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.

(17) "Secretary" means the secretary of the department.

(18) "Supervised independent living setting" 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.

(19) "Supervised independent living subsidy" means a foster care maintenance payment.

(20) "Unsupervised" has the same meaning as in RCW 43.43.830.

((~~(20)~~)) (21) "Voluntary placement agreement" ((~~means~~)) has, 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~~)) the same meaning as in RCW 74.13.336.

Sec. 5. RCW 74.13.031 and 2023 c 221 s 3 are each 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, children with disabilities or behavioral health conditions, teens, pregnant and parenting teens, and the department shall annually provide data and information to the governor and the legislature concerning the department's success in: (a) Placing children with relatives; (b) providing supports to kinship caregivers including guardianship assistance payments; (c) supporting relatives to pass home studies and become licensed caregivers; and (d) meeting the need for nonrelative family foster homes when children cannot be placed with relatives.

(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, 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 may accept custody of children from parents through a voluntary placement agreement to provide child welfare services. The department may place children with a relative, a suitable person, or a licensed foster home under a voluntary placement agreement. In seeking a placement for a voluntary placement agreement, the department should consider the preferences of the parents and attempt to place with relatives or suitable persons over licensed foster care.

(9) 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.

(10) The department shall have authority to purchase care for children.

(11) 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.

(12)(a) The department shall provide continued extended foster care services to ((~~nonminor dependents~~)) eligible youth who ((~~are~~)) request extended foster care. The department shall develop policies and procedures to ensure that dependent youth aged 15 and older are informed of the extended foster care program.

(b) The department shall pursue federal reimbursement, where appropriate, when a youth is:

(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)~~)) (b)(i) through (iv) of this subsection due to a documented medical condition.

((~~(b)~~)) (c) To be eligible for extended foster care services, the ((~~nonminor dependent~~)) youth must have been dependent at the time that he or she reached age ((~~eighteen~~)) 18 years. If the dependency case of the ((~~nonminor dependent~~)) youth 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~~)) youth whose dependency case was dismissed by the court may request extended foster care services before reaching age ((~~twenty-one~~)) 21 years. Eligible ((~~nonminor dependents~~)) youths may unenroll and reenroll in extended foster care through a voluntary placement agreement an unlimited number of times between ages ((~~eighteen~~)) 18 and ((~~twenty-one~~)) 21.

(((~~(c)~~))) (d) The department shall ((~~develop and implement rules regarding youth eligibility requirements~~)) not create additional eligibility requirements for extended foster care. The department shall develop and implement rules and policies designed to provide age-appropriate social work support for youth in extended foster care through a codesign process that includes those with lived experience in the foster care system.

(((~~(d)~~))) (e) 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)~~))) (f) The department shall allow ((~~a~~)) eligible 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~~)).

(g) A youth enrolled in extended foster care may elect to receive a licensed foster care placement or may live independently. A youth who is not in a licensed foster care placement is eligible for a monthly supervised independent living subsidy effective the date the youth signs the voluntary placement agreement, agrees to dependency, or informs their social worker that they are living independently, whichever occurs first.

(h) The department shall pursue federal reimbursement, where appropriate, when a youth is residing in an approved supervised independent living setting. If the youth is not residing in an approved supervised independent living setting, the department is to work with the youth to help identify an appropriate living arrangement until the youth is living in a safe location approved by the department or the court. During this time, the department shall continue to pay the monthly supervised independent living subsidy.

(13) The department shall have authority to provide adoption support benefits on behalf of youth ages 18 to 21 years who achieved permanency through adoption at age 16 or older and who meet the criteria described in subsection (12)(b)(i) through (v) of this section.

(14) The department shall have the authority to provide guardianship subsidies on behalf of youth ages 18 to 21 who achieved permanency through guardianship and who meet the criteria described in subsection (12)(b)(i) through (v) of this section.

(15) 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~~)) 18 through ((~~twenty~~)) 20 shall not be referred to the division of child support unless required by federal law.

(16) 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 (9) 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.

(17) The department may, within funds appropriated for guardianship subsidies, provide subsidies for eligible guardians who are appointed as guardian of an Indian child by the tribal court of a federally recognized tribe located in Washington state, as defined in RCW 13.38.040. The provision of subsidies shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department provides subsidies. To be eligible, the guardian must either be certified by a department-licensed child-placing agency or licensed by a federally recognized tribe located in Washington state that is a Title IV-E agency, as defined in 45 C.F.R. 1355.20.

(18) 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.

(19) 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-three years of age, who are or have been in the department's care and custody, or who are or were nonminor dependents.

(20) 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.

(21)(a) The department shall, within current funding levels, place on its public website 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.

(22)(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, 26.26A, or 26.26B 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. 6. RCW 74.13.336 and 2018 c 34 s 4 are each amended to read as follows:

(1) A youth who has reached age ((~~eighteen~~)) 18 years may request extended foster care services authorized under RCW 74.13.031 at any time before he or she reaches the age of ((~~twenty-one~~)) 21 years if:

(a) The dependency proceeding of the youth was dismissed pursuant to RCW 13.34.267((~~(4)~~)) (5) at the time that he or she reached age ((~~eighteen~~)) 18 years; or

(b) The court, after holding the dependency case open pursuant to RCW 13.34.267(1), has dismissed the case because the youth became ineligible for extended foster care services.

(2)(a) Upon a request for extended foster care services by a youth pursuant to subsection (1) of this section, a determination that the youth is eligible for extended foster care services, and the completion of a voluntary placement agreement, the department shall provide extended foster care services to the youth.

(b) In order to continue receiving extended foster care services after entering into a voluntary placement agreement with the department, the youth must agree to the entry of an order of dependency within ((~~one hundred eighty~~)) 180 days of the date that the youth is placed in extended foster care pursuant to a voluntary placement agreement.

(3) A youth may enter into a voluntary placement agreement for extended foster care services. A youth ((~~may transition among the eligibility categories~~

~~identified in RCW 74.13.031 while under the same voluntary placement agreement, provided that the youth remains eligible for extended foster care services during the transition~~)) becomes eligible for extended foster care services as of the date the youth either signs an extended foster care agreement or voluntary placement agreement or turns 18, whichever occurs later. A youth may sign a voluntary placement agreement or an extended foster care agreement anytime within six months of the youth's 18th birthday, in which case the agreement will take effect on the youth's 18th birthday. A youth may sign a voluntary placement agreement or agreement to participate in extended foster care at any time after turning 18. The youth may withdraw his or her consent to participate, at any time, including prior to their 18th birthday. A voluntary placement agreement may be signed by a dependent child or eligible youth over the age of 18 electronically.

(4) A youth who is not in a licensed foster care placement upon signing an extended foster care agreement or voluntary placement agreement, and who has turned 18 years old, shall receive their first supervised independent living subsidy within one month.

((~~(4)~~)) (5) The department shall develop a program to make incentive payments to youth in extended foster care who participate in qualifying activities described in RCW 74.13.031(12)(b) (i) through (v). This program design must include stakeholder engagement from impacted communities. Subject to appropriations for this specific purpose, the department shall make incentive payments to qualifying youth in addition to the supervised independent living subsidy, beginning by July 1, 2025.

(6) "Voluntary placement agreement," for the purposes of this section, means a written voluntary agreement ((~~between~~)) by a ((~~nonminor dependent~~)) youth who agrees to ((~~submit to the care and authority of the department for the purposes of participating in the~~)) participate in extended foster care ((~~program~~)).

Passed by the Senate March 4, 2024.
Passed by the House February 28, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 193

[Senate Bill 5938]

DEPARTMENT OF CORRECTIONS RESIDENTIAL PARENTING PROGRAM—COMMUNITY PARENTING ALTERNATIVE—MODIFICATION

AN ACT Relating to modifying the community parenting alternative for eligible participants in the residential parenting program at the department of corrections; and amending RCW 9.94A.6551.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.94A.6551 and 2020 c 137 s 3 are each amended to read as follows:

((~~For~~)) (1)(a) Except as provided in (b) of this subsection, for an ((~~offender~~)) incarcerated individual not sentenced under RCW 9.94A.655, but otherwise eligible under this section, no more than the final ((~~twelve~~)) 12 months of the ((~~offender's~~)) incarcerated individual's term of confinement may be served in

partial confinement as home detention as part of the parenting program developed by the department.

((~~(1)~~)) (b) For an incarcerated individual not sentenced under RCW 9.94A.655, but otherwise eligible under this section, who is participating in the residential parenting program at the department, no more than the final 18 months of the incarcerated individual's term of confinement may be served in partial confinement as home detention as part of the parenting program developed by the department.

(2) The secretary may transfer an ((~~offender~~)) incarcerated individual 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~~)) incarcerated individual is serving a sentence in which the high end of the range is greater than one year;

(b) The ((~~offender~~)) incarcerated individual has no current conviction for a felony that is classified as a sex offense or a serious violent offense;

(c) The ((~~offender~~)) incarcerated individual has no current conviction for a violent offense, or where the ((~~offender~~)) incarcerated individual has a current conviction for a violent offense, he or she has not been determined to be a high risk to reoffend;

(d) The ((~~offender~~)) incarcerated individual 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~~)) incarcerated individual is:

(i) A parent with guardianship or legal custody of a minor child;

(ii) An expectant parent; or

(iii) 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; and

(f) The department determines that the ((~~offender's~~)) incarcerated individual'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)~~)) (3) Except for sex offenses and serious violent offenses, prior juvenile adjudications are not considered offenses when considering eligibility for the parenting program developed by the department.

((~~(3)~~)) (4) When the department is considering partial confinement as part of the parenting program for an ((~~offender~~)) incarcerated individual, the department shall inquire of the individual 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~~)) incarcerated individual.

((~~(4)~~)) (5) 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~~)) incarcerated individual, services agreed to by the ((~~offender~~)) incarcerated individual working voluntarily with the department, or services ordered by the court within the ((~~offender's~~)) incarcerated individual's child welfare case. The department and its officers,

agents, and employees are not liable for the acts of ((~~offenders~~)) incarcerated individuals participating in the parenting program unless the department or its officers, agents, and employees acted with willful and wanton disregard.

(((~~(5)~~))) (6) All ((~~offenders~~)) incarcerated individuals placed on home detention as part of the parenting program shall provide an approved residence and living arrangement prior to transfer to home detention.

(((~~(6)~~))) (7) While in the community on home detention as part of the parenting program, the department shall:

(a) Require the ((~~offender~~)) individual to be placed on electronic home monitoring;

(b) Require the ((~~offender~~)) individual to participate in programming and treatment that the department determines is needed after consideration of the ((~~offender's~~)) individual's stated needs;

(c) Assign a community corrections officer who will monitor the ((~~offender's~~)) individual's compliance with conditions of partial confinement and programming requirements; and

(d) If the ((~~offender~~)) individual 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.

(((~~(7)~~))) (8) The department has the authority to return any ((~~offender~~)) incarcerated individual serving partial confinement in the parenting program to total confinement if the ((~~offender~~)) individual is not complying with sentence requirements.

(((~~(8)~~))) (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 the process of a final adoption.

(b) "Minor child" means a child under the age of eighteen.

(c) "Residential parenting program" means a correctional nursery program administered by the department that allows pregnant, minimum security incarcerated individuals that meet eligibility criteria established by the department to keep their newborn children with them after giving birth in a designated unit and receive support and education in alliance with skilled early childhood educators.

Passed by the Senate February 9, 2024.
Passed by the House March 1, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 194

[Engrossed Second Substitute Senate Bill 5955]

LARGE PORT DISTRICTS—AIRCRAFT NOISE MITIGATION

AN ACT Relating to mitigating harm and improving equity in large port districts; amending RCW 53.54.020, 53.54.030, and 53.54.040; adding a new section to chapter 43.330 RCW; adding a new section to chapter 53.20 RCW; adding new sections to chapter 43.131 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** Airports are an important part of Washington's economy. Airports enable travel for business or recreation, allow for the transportation of cargo, and provide thousands of jobs for the people of the state.

For those living near an airport, there can also be adverse impacts from aircraft operations. In King county, the majority of people identifying as Black, Hispanic, Native Hawaiian, or Pacific Islander live within 10 miles of Seattle-Tacoma international airport.

Large port districts operating commercial service airports that administer aircraft noise mitigation programming have expressed a desire and intention to repair or replace aircraft noise mitigation equipment that has been found to be no longer working as intended or is reported to have caused additional hazards or structural damage to the property. Large port districts are restricted to use local, nonairport resources to address such equipment due to limitations imposed by federal regulations.

Ensuring the efficacy of existing noise mitigation equipment, and the repair or replacement of equipment that has caused hazards or structural damage to the property serves a fundamental governmental purpose and thereby provides wider public benefit to the citizens of Washington.

The legislature intends to partner with port districts operating large airports in the state and impacted areas to provide resources to repair or replace noise mitigation equipment that has been found to be no longer working as intended, or is found to have caused additional hazards or structural damage to the property, and to address the impacts of aircraft operations that are faced by impacted areas.

With this partnership and resources large airports can be more responsive, more effectively and quickly address relevant noise mitigation equipment, and help uphold the values of respect, antiracism, equity, and stewardship.

Sec. 2. RCW 53.54.020 and 2020 c 105 s 2 are each amended to read as follows:

(1) Prior to initiating programs as authorized in this chapter, the port commission shall undertake the investigation and monitoring of aircraft noise impact to determine the nature and extent of the impact. The port commission shall adopt a program of noise impact abatement based upon the investigations and as amended periodically to conform to needs demonstrated by the monitoring programs. In no case may the port district undertake any of the programs prescribed in this chapter in an area that is:

(a) More than ((~~ten~~)) 10 miles beyond the paved north end of any runway;

(b) More than ((~~thirteen~~)) 13 miles beyond the paved south end of any runway; or

(c) More than two miles from the centerline of any runway ((~~ten~~)) 10 miles north and ((~~thirteen~~)) 13 miles south from the paved end of such runway.

(2) ((~~Such areas as determined in this section,~~)) Areas within which a port district may undertake a program authorized in this chapter shall be known as "impacted areas."

Sec. 3. RCW 53.54.030 and 2021 c 65 s 3 are each amended to read as follows:

(1) For the purposes of this chapter, in developing a remedial program, the port commission may take steps as appropriate including, but not limited to, one or more of the following programs:

(a) Acquisition of property or property rights within the impacted area, which shall be deemed necessary to accomplish a port purpose. The port district may purchase such property or property rights by time payment notwithstanding the time limitations provided for in RCW 53.08.010. The port district may mortgage or otherwise pledge any such properties acquired to secure such transactions. The port district may assume any outstanding mortgages.

(b) Transaction assistance programs, including assistance with real estate fees and mortgage assistance, and other neighborhood remedial programs as compensation for impacts due to aircraft noise and noise associated conditions. Any such programs shall be in connection with properties located within an impacted area and shall be provided upon terms and conditions as the port district shall determine appropriate.

(c) Programs of soundproofing structures located within an impacted area. Such programs may be executed without regard to the ownership, provided the owner waives damages and conveys an easement for the operation of aircraft, and for noise and noise associated conditions therewith, to the port district.

(d) Mortgage insurance of private owners of lands or improvements within such noise impacted area where such private owners are unable to obtain mortgage insurance solely because of noise impact. In this regard, the port district may establish reasonable regulations and may impose reasonable conditions and charges upon the granting of such mortgage insurance. Such mortgage insurance fees and charges shall at no time exceed fees established for federal mortgage insurance programs for like service.

(e) Management of all lands, easements, or development rights acquired, including but not limited to the following:

(i) Rental of any or all lands or structures acquired;

(ii) Redevelopment of any such lands for any economic use consistent with airport operations, local zoning and the state environmental policy;

(iii) Sale of such properties for cash or for time payment and subjection of such property to mortgage or other security transaction: PROVIDED, That any such sale shall reserve to the port district by covenant an unconditional right of easement for the operation of all aircraft and for all noise or noise conditions associated therewith.

(2)(a) An individual property may be provided benefits by the port district under each of the programs described in subsection (1) of this section. However, an individual property may not be provided benefits under any one of these programs more than once, unless the property:

(i) Is subjected to increased aircraft noise or differing aircraft noise impacts that would have afforded different levels of mitigation, even if the property owner had waived all damages and conveyed a full and unrestricted easement; or

(ii) Contains a soundproofing installation, structure, or other type of sound mitigation equipment product or benefit previously installed pursuant to the remedial program under this chapter by the port district that is determined through inspection to be in need of a repair or replacement.

(b) Port districts choosing to exercise the authority under (a)(ii) of this subsection are required to conduct inspections of homes where mitigation improvements are no longer working as intended. In those properties, port districts ((~~must work with a state certified building inspector~~)) may contract with building inspectors or other professionals with experience in sound testing, or window and door installs, or port districts may enter into an interlocal agreement under chapter 39.34 RCW with the county in which the port is located to contract for the provision of building inspectors or professionals with experience in sound testing, or window and door installs to determine whether package failure resulted in additional hazards or structural damage to the property. Any expense incurred by the county related to contracting of a building inspector or professional under this subsection (2)(b) must be reimbursed by the port district. A port district may use funds from the grant program created under section 5 of this act to reimburse the county for expenses incurred for the contracting of a building inspector or other professional.

(c) Port districts choosing to exercise their authority under (b) of this subsection may apply to the grant program created under section 5 of this act for resources to facilitate the assessment and inspection of noise mitigation equipment that is no longer working as intended, or is reported to have caused additional hazards or structural damage to the property.

(d) If a building inspector or other professional contracted pursuant to (c) of this subsection identifies that a property's noise mitigation equipment is no longer working as intended, then the associated port district must apply to the grant program created under section 5 of this act for resources to repair or replace existing noise mitigation equipment. If an inspection confirms that installation of noise mitigation equipment resulted in additional hazards or structural damage to the property, then a port district must apply to the grant program under section 5 of this act for resources to address those hazards or damages.

(3) A property shall be considered within the impacted area if any part thereof is within the impacted area.

Sec. 4. RCW 53.54.040 and 1974 ex.s. c 121 s 4 are each amended to read as follows:

A port district may establish a fund to be utilized in effectuating the intent of this chapter. The port district may finance such fund by: The proceeds of any grants or loans made by federal agencies; the proceeds of any grants made by the department of commerce pursuant to section 5 of this act; rentals, charges, and other revenues as may be generated by programs authorized by this chapter, airport revenues; and revenue bonds based upon such revenues. The port district may also finance such fund, as necessary, in whole or in part, with the proceeds of general obligation bond issues of not more than one-eighth of one percent of the value of taxable property in the port district: PROVIDED, That any such bond issue shall be in addition to bonds authorized by RCW 53.36.030: PROVIDED FURTHER, That any such general obligation bond issue may be subject to referendum by petition as provided by county charter, the same as if it were a county ordinance.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The department of commerce shall administer a grant program to provide assistance to qualifying port districts for expenses related to noise mitigation pursuant to RCW 53.54.030(2) (c) and (d).

(2) The department of commerce shall prepare and publish an annual report on its website detailing grants made under this section. The report must include: (a) The number of inspectors or other professionals contracted; (b) the number of inspections conducted; (c) the number of properties provided with new or improved noise mitigation equipment subsequent to an inspection; (d) the number of properties receiving funds to address hazards or damages proven by an inspection to be associated with the installation of noise mitigation equipment; and (e) the number of inspected properties where no repairs occurred and the reasons why.

(3) A qualifying port district receiving funds under this section may commit to matching, from port district funds not subject to federal airport revenue use requirements, at least half of the total funding provided by the legislature under section 6 of this act for the purposes of noise mitigation under RCW 53.54.030(2) (c) and (d) each fiscal year.

(4) For the purposes of this section, "qualifying port district" means a port district authorized to undertake programs for the abatement of aircraft noise under RCW 53.54.010.

NEW SECTION. **Sec. 6.** A new section is added to chapter 53.20 RCW to read as follows:

(1) The port district equity fund is created in the custody of the state treasurer. Moneys to the account may consist of appropriations by the legislature, contributions from county and local governments and port districts, and private contributions. Expenditures from the account may only be used to make grants to port districts under section 5 of this act. Only the director of the department of commerce or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The department of commerce shall provide management services for the port district equity fund. The department shall establish procedures for fund management. The department shall develop the grant criteria, monitor the grant program, and select grant recipients.

(3) The department of commerce shall prepare and publish an annual report on its website detailing grants made under this section, the uses to which the grants have been put, and the benefits that have been realized.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.131 RCW to read as follows:

The grant program providing assistance to qualifying port districts for expenses related to noise mitigation under section 5 of this act shall be terminated July 1, 2029.

NEW SECTION. **Sec. 8.** A new section is added to chapter 43.131 RCW to read as follows:

In addition to the requirements of this chapter, the joint legislative audit and review committee must include in its review of the grant program under section

5 of this act the number of homes remediated since the effective date of this section and the number of homes remaining in need of noise mitigation remediation.

NEW SECTION. **Sec. 9.** 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, 2030:

(1) RCW 43.330.--- and 2024 c . . . s 5 (section 5 of this act); and

(2) RCW 53.20.--- and 2024 c . . . s 6 (section 6 of this act).

Passed by the Senate February 13, 2024.
Passed by the House March 1, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 195

[Engrossed Substitute Senate Bill 6038]

CHILD CARE—BUSINESS AND OCCUPATION TAX EXEMPTION

AN ACT Relating to reducing the costs associated with providing child care; amending RCW 82.04.2905; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter . . ., Laws of 2024 (section 2 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to reduce the costs associated with providing child care by expanding the business and occupation tax exemption for child care services to include income derived from the care and education of children up to age 12.

(4) If a review finds a reduction in the cost of providing child care and education, then the legislature intends to extend the expiration date of this tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state.

Sec. 2. RCW 82.04.2905 and 1998 c 312 s 7 are each amended to read as follows:

((~~Upon~~)) (1) Except as provided in subsection (2) of this section, upon every person engaging within this state in the business of providing child care for periods of less than twenty-four hours((~~; as to such persons~~)), the amount of tax with respect to such business ((~~shall be~~)) is equal to the gross proceeds derived from such sales multiplied by the rate of 0.484 percent.

(2) Until January 1, 2035, this chapter does not apply to amounts received by a child care provider for the care and supervision for periods of less than 24 hours of children:

(a) Under 13 years of age; or

(b) Under 19 years of age who have a verified special need or are under court supervision as determined by the department of children, youth, and families under chapter 43.216 RCW.

(3) The exemption under subsection (2) of this section applies only to persons primarily engaged in the business of providing child care.

NEW SECTION. **Sec. 3.** This act takes effect October 1, 2024.

Passed by the Senate March 6, 2024.
Passed by the House March 5, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 196

[Engrossed Senate Bill 6089]

ELECTRICAL INSPECTORS—MINIMUM REQUIREMENT EQUIVALENCIES

AN ACT Relating to eliminating certain minimum requirement equivalencies for electrical inspectors; amending RCW 19.28.321; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 19.28.321 and 2007 c 218 s 84 are each amended to read as follows:

The director of labor and industries of the state of Washington and the officials of all incorporated cities and towns where electrical inspections are required by local ordinances shall have power and it shall be their duty to enforce the provisions of this chapter in their respective jurisdictions. The director of labor and industries shall appoint a chief electrical inspector and may appoint other electrical inspectors as the director deems necessary to assist the director in the performance of the director's duties. The chief electrical inspector, subject to the review of the director, shall be responsible for providing the final interpretation of adopted state electrical standards, rules, and policies for the department and its inspectors, assistant inspectors, electrical plan examiners, and other individuals supervising electrical program personnel. If a dispute arises within the department regarding the interpretation of adopted state electrical standards, rules, or policies, the chief electrical inspector, subject to the review of the director, shall provide the final interpretation of the disputed standard, rule, or policy. All electrical inspectors appointed by the director of labor and industries shall have not less than: Four years experience as ((~~journeyperson~~)) journey level electricians in the electrical construction trade installing and maintaining electrical wiring and equipment((~~, or two years electrical training in a college of electrical engineering of recognized standing and four years continuous practical electrical experience in installation work, or four years of electrical training in a college of electrical engineering of recognized standing and two years continuous practical electrical experience in electrical installation work~~)); or four years experience as a ((~~journeyperson~~)) journey level electrician performing the duties of an electrical inspector employed by the department or a

city or town with an approved inspection program under RCW 19.28.141, except that for work performed in accordance with the national electrical safety code and covered by this chapter, such inspections may be performed by a person certified as an outside journeyperson lineworker, under RCW 19.28.261(5)(b), with four years experience or a person with four years experience as a certified outside journeyperson lineworker performing the duties of an electrical inspector employed by an electrical utility. Such state inspectors shall be paid such salary as the director of labor and industries shall determine, together with their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. As a condition of employment, inspectors hired exclusively to perform inspections in accordance with the national electrical safety code must possess and maintain certification as an outside journeyperson lineworker. The expenses of the director of labor and industries and the salaries and expenses of state inspectors incurred in carrying out the provisions of this chapter shall be paid entirely out of the electrical license fund, upon vouchers approved by the director of labor and industries.

NEW SECTION. **Sec. 2.** (1) The department of labor and industries and the association of Washington cities must work with cities that issue their own electrical permits and perform their own electrical inspections to identify appropriate pathways to qualify as an electrical inspector in this state.

(2) The department of labor and industries shall submit a report to the legislature with its findings and recommendations, in accordance with RCW 43.01.036, by December 15, 2024.

(3) This section expires June 30, 2025.

Passed by the Senate February 6, 2024.
Passed by the House March 1, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 197

[Senate Bill 6094]

RETIRED PUBLIC EMPLOYEES—HEALTH CARE SUBSIDY

AN ACT Relating to aligning statutory language concerning the retired state employee and retired or disabled school employee health insurance subsidy with the historical interpretation and implementation of the relevant subsidy language in the operating budget; and amending RCW 41.05.085.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.05.085 and 2018 c 260 s 16 are each amended to read as follows:

(1) ((~~Beginning with the appropriations act for the 2005-2007 biennium, the~~)) The legislature shall establish as part of both the state employees' and the school and educational service district employees' insurance benefit allocation the portion of the allocation to be used to provide a ((~~prescription drug~~)) subsidy to reduce the ((~~health care~~)) medical and prescription drug insurance premium((~~s~~)) charged to retired or disabled school district and educational service district employees, or retired state employees, who are eligible for parts A and B of medicare. ((~~The legislature may also establish a separate health care~~

~~subsidy to reduce insurance premiums charged to individuals who select a medicare supplemental insurance policy option established in RCW 41.05.195.~~))

(2) The amount of any premium reduction shall be established by the public employees' benefits board. The amount established shall not result in a premium reduction of more than fifty percent, except as provided in subsection (3) of this section. The public employees' benefits board may also determine the amount of any subsidy to be available to spouses and dependents.

(3) The amount of the premium reduction in subsection (2) of this section may exceed fifty percent, if the director, in consultation with the office of financial management, determines that it is necessary in order to meet eligibility requirements to participate in the federal employer incentive program as provided in RCW 41.05.068.

Passed by the Senate February 6, 2024.

Passed by the House March 1, 2024.

Approved by the Governor March 19, 2024.

Filed in Office of Secretary of State March 19, 2024.

CHAPTER 198

[Substitute Senate Bill 6100]

BUDGET STABILIZATION ACCOUNT APPROPRIATIONS

AN ACT Relating to making expenditures from the budget stabilization account for declared catastrophic events; creating a new section; making an appropriation; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** On August 19, 2023, the governor declared a state of emergency in all counties due to threats to life and property from existing and threatened wildfires.

NEW SECTION. **Sec. 2. FOR THE DEPARTMENT OF NATURAL RESOURCES—FIRES.** The sum of $21,143,000 is appropriated from the budget stabilization account for the fiscal year ending June 30, 2024, and is provided solely for fire suppression costs incurred by the department of natural resources during the 2023 fire season. For purposes of RCW 43.88.055(4), the appropriation in this section does not alter the requirement to balance in ensuing biennia.

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.

Passed by the Senate February 7, 2024.

Passed by the House March 4, 2024.

Approved by the Governor March 19, 2024.

Filed in Office of Secretary of State March 19, 2024.

CHAPTER 199

[Substitute Senate Bill 6192]

CONSTRUCTION PROJECT CHANGE ORDERS

AN ACT Relating to additional work and change orders on public and private construction projects; and amending RCW 39.04.360.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 39.04.360 and 2009 c 193 s 1 are each amended to read as follows:

(1) No later than ((~~thirty~~)) 30 days after satisfactory completion of any additional work or portion of any additional work by a contractor, subcontractor, or supplier on a public works project or private construction project, except private residential projects of 12 units or less, and receipt by the owner, state, or municipality of a request from the contractor for issuance of a change order to the contract, the owner, ((~~the~~)) state, or municipality shall issue a change order to the contract for the full dollar amount of the work not in dispute ((~~between the state or municipality and~~)) to the contractor. Within 10 days of receipt of a change order from the owner, state, municipality, or upper-tier contractor, the contractor or subcontractor must issue change orders to lower-tier subcontractors impacted by the change. If the owner, state, or municipality does not issue such a change order within the ((~~thirty~~)) 30 days, or the contractor or upper-tier subcontractor does not issue a change order to lower-tier subcontractors within 10 days after receipt of the approved change order, interest must accrue on the dollar amount of the additional work satisfactorily completed and not in dispute until a change order is issued. The owner, contractor, subcontractor, state, or municipality shall pay ((~~this~~)) their proportionate share of the interest at a rate of one percent per month. For the purposes of this section, as it pertains to obligations of an owner, state, or municipality, additional work is work beyond the scope defined in the contract between the contractor and the owner, state, or municipality.

(2) No later than 30 days after satisfactory completion of any additional work or portion of any additional work authorized by the owner, state, or municipality and a request by a subcontractor or supplier, the contractor must request a change order from the owner, state, or municipality. A lower-tier subcontractor or supplier must request a change order from the upper-tier contractor 30 days after the completion of the additional work and a request from the lower-tier subcontractor. If a contractor or subcontractor has requested the change order from the owner, upper-tier contractor, state, or municipality within 30 days of the request from the subcontractor or supplier, the contractor or subcontractor is not liable for any interest on the unpaid dollar amount for any additional work satisfactorily completed and not in dispute if the owner, upper-tier contractor, state, or municipality has not issued the requested change order. This section does not provide any rights to a contractor, subcontractor, or supplier against a party with whom they are not a party to a written contract.

(3) An aggrieved party may bring a civil action for violations of this section in a court of competent jurisdiction for appropriate relief, including interest and reasonable attorneys' fees and costs.

Passed by the Senate February 12, 2024.
Passed by the House February 28, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 19, 2024.

CHAPTER 200

[House Bill 1879]

JOHN MCCOY (LULILAŠ)—PUBLIC SCHOOL TRIBAL HISTORY, CULTURE, AND GOVERNMENT CURRICULUM

AN ACT Relating to naming the curriculum used to inform students about tribal history, culture, and government after John McCoy (lulilaš); amending RCW 28A.320.170, 28A.300.444, and 28A.715.005; and adding new sections to chapter 28A.320 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) The legislature recognizes the tireless and visionary efforts of John McCoy to support student and educator learning about the history, culture, and government of federally recognized Indian tribes in the Pacific Northwest.

(2) In 2005, John McCoy, whose traditional name in Lushootseed is lulilaš, sponsored Substitute House Bill No. 1495. The enacted legislation began the statewide process of incorporating information about tribal history, culture, and government into social studies courses in which Washington or United States history is taught. The resulting instructional materials have become known as the since time immemorial curriculum.

(3) The legislature, therefore, intends to honor the efforts of John McCoy by naming the curriculum used to support his vision as the John McCoy (lulilaš) since time immemorial curriculum.

Sec. 2. RCW 28A.320.170 and 2015 c 198 s 2 are each amended to read as follows:

(1)(a) Beginning July 24, 2015, when a school district board of directors reviews or adopts its social studies curriculum, it shall incorporate curricula about the history, culture, and government of the nearest federally recognized Indian tribe or tribes, so that students learn about the unique heritage and experience of their closest neighbors.

(b) School districts shall meet the requirements of this section by using the John McCoy (lulilaš) since time immemorial curriculum developed and made available free of charge by the office of the superintendent of public instruction and may modify that curriculum in order to incorporate elements that have a regionally specific focus or to incorporate the curriculum into existing curricular materials.

(2) As they conduct regularly scheduled reviews and revisions of their social studies and history curricula, school districts shall collaborate with any federally recognized Indian tribe within their district, and with neighboring Indian tribes, to incorporate expanded and improved curricular materials about Indian tribes, and to create programs of classroom and community cultural exchanges.

(3) School districts shall collaborate with the office of the superintendent of public instruction on curricular areas regarding tribal government and history that are statewide in nature, such as the concept of tribal sovereignty and the history of federal policy towards federally recognized Indian tribes. The program of Indian education within the office of the superintendent of public instruction shall help local school districts identify federally recognized Indian tribes whose reservations are in whole or in part within the boundaries of the district and/or those that are nearest to the school district.

Sec. 3. RCW 28A.300.444 and 2020 c 292 s 2 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall provide state leadership for the integration of environmental and sustainability content with curriculum, instruction, and assessment.

(2)(a) Subject to funds appropriated for this specific purpose, the office of the superintendent of public instruction shall contract on a competitive basis with a Washington state-based qualified 501(c)(3) nonprofit community-based organization to integrate the state learning standards in English language arts, mathematics, and science with outdoor field studies and project-based and work-based learning opportunities aligned with the environmental, natural resources, and agricultural sectors.

(b) The selected Washington state nonprofit organization must work collaboratively with the office of the superintendent of public instruction and educational service districts to:

(i) Build systemic programming that connects administrators, school boards, and communities to support teacher practice and student opportunities for the strengthened delivery of environmental and sustainability education;

(ii) Support K-12 educators to teach students integrated, equitable, locally relevant, real-world environmental science and engineering outdoors, aligned to Washington science and environmental and sustainability education standards, and provide opportunities to engage students in renewable natural resource career awareness; and

(iii) Deliver learning materials, opportunities, and resources including, but not limited to:

(A) Providing opportunities outside the classroom to connect transdisciplinary content, concepts, and skills in the context of the local community;

(B) Encouraging application of critical and creative thinking skills to identify and analyze issues, seek answers, and engineer solutions;

(C) Creating community-connected, local opportunities to engage students in stewardship projects that enhance their interest in sustaining the ecosystem and respecting natural resources;

(D) Providing work-based learning opportunities for careers in the environmental science and engineering, natural resources, sustainability, renewable energy, agriculture, and outdoor recreation sectors and build skills for completion of industry recognized certifications; and

(E) Providing models for integrating the John McCoy (lulilaš) since time immemorial curriculum in teaching materials so that students learn the unique heritage, history, culture, and government of the nearest federally recognized Indian tribe or tribes.

(c) Priority focus must be given to schools that have been identified for improvement through the Washington school improvement framework and communities historically underserved by science education. These communities can include, but are not limited to, tribal nations including tribal compact schools, migrant students, schools with high free and reduced-price lunch populations, rural and remote schools, students in alternative learning environments, students of color, English language learner students, and students receiving special education services.

(3) For the purposes of this section, a "qualified 501(c)(3) nonprofit community-based organization" means a nonprofit organization physically located in Washington state ((~~that~~)):

(a) ((~~Has~~)) That has multiple years of experience collaborating with school districts across the state to provide high quality professional development to kindergarten through twelfth grade educators to teach students real-world environmental science and engineering outside the classroom;

(b) Whose materials and instructional practices align with Washington's environmental and sustainability learning standards and the Washington state learning standards, including the common core standards for mathematics and English language arts;

(c) Whose materials and instructional practices emphasize the next generation science standards to support local, relevant, and field-based learning experiences; and

(d) ((~~Delivers~~)) That delivers project-based learning materials and resources that incorporate career connections to local businesses and community-based organizations, contain professional development support for classroom teachers, have measurable assessment objectives, and have demonstrated community support.

Sec. 4. RCW 28A.715.005 and 2013 c 242 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) American Indian and Alaska Native students make up 2.5 percent of the total student population in the state and twenty-five percent or more of the student population in fifty-seven schools across the state.

(b) American Indian students in Washington have the highest annual dropout rate at 9.5 percent, compared to 4.6 percent of all students in each of grades nine through twelve. Of the students expected to graduate in 2010 because they entered the ninth grade in 2006, the American Indian on-time graduation rate was only fifty-eight percent, compared to 76.5 percent of all students.

(c) The teaching of American Indian language, culture, and history ((~~are [is]~~)) is important to American Indian people and critical to the educational attainment and achievement of American Indian children.

(d) The state-tribal education compacts authorized under this chapter reaffirm the state's important commitment to government-to-government relationships with the tribes that has been recognized by proclamation, and in the centennial accord and the millennium agreement. These state-tribal education compacts build upon the efforts highlighted by the office of the superintendent of public instruction in its 2012 Centennial Accord Agency Highlights, including: The John McCoy (lulilaš) Since Time Immemorial (STI): Tribal

Sovereignty in Washington State Curriculum Project that imbeds the history surrounding sovereignty and intergovernmental responsibilities into this state's classrooms; the agency's regular meetings with the superintendents of the seven current tribal schools, as well as the federal bureau of Indian education representatives at the regional and national level on issues relating to student academic achievement, accessing of funding for tribal schools, and connecting tribal schools to the K-20 network; and the recent establishment, in statute, of the office of native education within the office of the superintendent of public instruction.

(e) School funding should honor tribal sovereignty and reflect the government-to-government relationship between the state and the tribes, however the current structure that requires negotiation of an interlocal agreement between a school district and a tribal school ignores tribal sovereignty and results in a siphoning of funds for administration that could be better used for teaching and learning.

(2) The legislature further finds that:

(a) There is a preparation gap among entering kindergartners with many children, especially those from low-income homes, arriving at kindergarten without the knowledge, skills, and good health necessary to succeed in school;

(b) Upon entry into the K-12 school system, the educational opportunity gap becomes more evident, with children of color and from low-income homes having lower scores on math, reading, and writing standardized tests, as well as lower graduation rates and higher rates of dropping out of school; and

(c) Comprehensive, culturally competent early learning and greater collaboration between the early learning and K-12 school systems will ensure appropriate connections and smoother transitions for children, and help eliminate or bridge gaps that might otherwise develop.

(3) In light of these findings, it is the intent and purpose of the legislature to authorize the superintendent of public instruction to enter into state-tribal education compacts.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.320 RCW to read as follows:

This act shall be known and cited as the John McCoy (lulilaš) memorial tribal history, culture, and government act.

Passed by the House February 10, 2024.

Passed by the Senate February 27, 2024.

Approved by the Governor March 19, 2024.

Filed in Office of Secretary of State March 21, 2024.

CHAPTER 201

[Engrossed Second Substitute House Bill 1956]

DRUG OVERDOSE PREVENTION AND AWARENESS EDUCATION

AN ACT Relating to fentanyl and other substance use prevention education; adding a new section to chapter 43.70 RCW; adding a new section to chapter 28A.300 RCW; creating new sections; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that overdoses and overdose deaths, particularly from synthetic opioids, have increased in recent years. According to the federal centers for disease control and prevention, among persons aged 14 through 18, overdose deaths increased 94 percent from 2019 to 2020 and 20 percent from 2020 to 2021. In 2021, over 75 percent of all drug overdose deaths involved opioids, with synthetic opioids, including fentanyl, accounting for nearly 88 percent of those deaths. Between 2022 and 2023, Washington saw the largest increase in overdose deaths of any state at 40 percent.

(2) The legislature recognizes that fatal overdose risk among adolescents is increasing due to widespread availability of illicitly manufactured fentanyl, proliferation of counterfeit pills resembling prescription drugs but containing illicit drugs, and ease of purchasing pills through social media. The United States drug enforcement administration states that there is significant risk that illegal drugs have been intentionally contaminated with fentanyl. As a result, many young people may ingest a lethal dose without knowing that they are consuming fentanyl.

(3) The legislature acknowledges that the level of public health crisis created by use of fentanyl and other synthetic opioids requires an immediate, substantial, and coordinated effort by national, state, and local public health, social service, and educational agencies working together.

(4) The legislature also acknowledges that the popularity of drugs grows and wanes forming distinct drug epidemics, similar to disease epidemics. As the popularity and availability of synthetic opioids wanes, it is likely that some other substance will pose the next acute public health crisis.

(5) Therefore, in order to combat the current public health crisis of abuse of fentanyl and other synthetic opioids, and to be prepared to address the next drug epidemic before it reaches crisis level, the legislature intends to direct the state department of health to deploy a statewide substance use prevention and awareness campaign that evolves to address the substance or substances with the greatest impact on the health of Washington youth and their families, diverse regions and communities, and the broader public. The legislature also intends for the public education system to actively incorporate campaign messages and materials in classrooms, as well as in family and community communications.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The department shall develop, implement, and maintain a statewide drug overdose prevention and awareness campaign to address the drug overdose epidemic.

(2)(a) The campaign must educate the public about the dangers of methamphetamines and opioids, including fentanyl, and the harms caused by drug use. The campaign must include outreach to both youth and adults aimed at preventing substance use and overdose deaths.

(b) The department, in consultation with the health care authority, may also include messaging focused on substance use disorder and overdose death prevention, resources for addiction treatment and services, and information on immunity for people who seek medical assistance in a drug overdose situation pursuant to RCW 69.50.315.

(3) The 2024 and 2025 campaigns must focus on increasing the awareness of the dangers of fentanyl and other synthetic opioids, including the high possibility that other drugs are contaminated with synthetic opioids and that even trace amounts of synthetic opioids can be lethal.

(4) Beginning June 30, 2025, and each year thereafter, the department must submit a report to the appropriate committees of the legislature on the content and distribution of the statewide drug overdose prevention and awareness campaign. The report must include a summary of the messages distributed during the campaign, the mediums through which the campaign was operated, and data on how many individuals received information through the campaign. The department must identify measurable benchmarks to determine the effectiveness of the campaign and recommend whether the campaign should continue and if any changes should be made to the campaign. The report must be submitted in compliance with RCW 43.01.036.

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

(1) The office of the superintendent of public instruction shall collaborate with the department of health, the health care authority, other state agencies, and educational service districts to develop age-appropriate substance use prevention and awareness materials for school and classroom uses. These materials must be periodically updated to align with substance use prevention and awareness campaigns implemented by the department of health and the health care authority.

(2) The office of the superintendent of public instruction shall actively distribute the materials developed under subsection (1) of this section to school districts, public schools, educational service districts, and community-based organizations that provide extended learning opportunities, and strongly encourage the incorporation of age-appropriate materials in classrooms, as well as in family and community communications.

NEW SECTION. **Sec. 4.** (1) The office of the superintendent of public instruction shall collaborate with the department of health, the health care authority, other state agencies, and educational service districts to develop school and classroom materials on the lethality of fentanyl and other opioids in coordination with the public health campaign created in section 2 of this act. The office of the superintendent of public instruction must make these materials available to school districts and public schools.

(2) By December 1, 2025, the office of the superintendent of public instruction shall adjust the state health and physical education learning standards for middle and high school students to add opioids to the list of drugs included in drug-related education and update the school and classroom materials developed under subsection (1) of this section to reflect the adjusted standards required by this subsection (2). The office of the superintendent of public instruction must make these materials available to school districts and public schools.

(3) This section expires July 1, 2026.

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.

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, 2024, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 7.** This act may be known and cited as the Lucas Petty act.

Passed by the House March 5, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 21, 2024.

CHAPTER 202

[Third Substitute House Bill 1228]

DUAL AND TRIBAL LANGUAGE EDUCATION

AN ACT Relating to building a multilingual, multiliterate Washington through dual and tribal language education; amending RCW 28A.300.575 and 28A.230.125; reenacting and amending RCW 28A.180.030; adding new sections to chapter 28A.300 RCW; adding a new section to chapter 28A.410 RCW; creating new sections; repealing RCW 28A.300.574; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that a multilingual, multiliterate education will benefit all Washington students. A multilingual, multiliterate student body is better prepared to enter a global job market, has developed cognitive skills unique to working within two or more languages, and can build cohesive communities across the state while sharing, celebrating, and strengthening individual cultural ties.

(2) The legislature finds that school districts across the state are demonstrating readiness to develop dual language education programs, and that requests for current grant funding consistently surpass available dollars.

(3) The legislature recognizes that English learners benefit from specific instructional models and supports to thrive in public schools, and that dual language education is the best instructional model for providing those supports.

(4) The legislature finds that Washington has a special duty to honor tribal sovereignty and a duty to serve American Indian and Alaska Native students. The legislature recognizes that centuries of colonial educational practices aimed at destruction of tribal communities and cultures has resulted in intergenerational trauma that continues to negatively impact American Indian and Alaska Native learners, and that state investment in tribal language education programs in schools serving students in kindergarten through 12th grade will move all Washingtonians forward together in addressing and healing those wounds.

(5) The legislature intends to establish a comprehensive approach to support and expand dual language education and tribal language education in Washington. It is the goal of the legislature to annually fund at least 10 new dual language education programs that begin in kindergarten, so that all school districts that want to may offer a program by 2040.

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 administer a grant program to support school districts and state-tribal education compact schools establishing and expanding dual language education.

(a) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must award grants to school districts and state-tribal education compact schools applying to: (i) Establish a dual language education program that begins in kindergarten; or (ii) expand an established dual language education program.

(b) The office of the superintendent of public instruction must identify criteria for awarding the grants, evaluate applicants, and award grant money. Establishment grants must be prioritized to schools in the educational opportunity gap, with the first priority to schools with over 50 percent students of color.

(c) Recipients of the grants awarded under this subsection (1) must: (i) Convene an advisory board to guide the development and continuous improvement of the dual language education program, including addressing enrollment considerations and staff hiring; (ii) prioritize offering the program in the language that the majority of its English learner students speak; (iii) conduct outreach to the community; and (iv) submit data to the office of the superintendent of public instruction identifying which grade levels and which courses are part of the dual language education program and which students are enrolled in those courses. Grant recipients must actively recruit to the advisory board parents of English learner students and current or former English learner students, with a goal of filling at least half of the advisory board seats with these individuals; the other members of the advisory board must represent teachers, students, school leaders, governing board members, and community-based organizations that support English learners.

(2) The office of the superintendent of public instruction shall develop a program to support tribal language education. The office of Native education within the office of the superintendent of public instruction shall provide school districts and state-tribal education compact schools with guidance, technical assistance, and statewide leadership and support.

(a) The office of Native education within the office of the superintendent of public instruction shall administer a grant program to support school districts and state-tribal education compact schools establishing and expanding tribal language education programs.

(b) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must award grants to school districts to: (i) Establish a tribal language education program; or (ii) expand an established tribal language education program.

(c) The office of Native education within the office of the superintendent of public instruction must identify criteria for awarding the grants, evaluate applicants, and award grant money.

(d) Recipients of the grants awarded under this subsection (2) must submit data to the office of the superintendent of public instruction identifying which students are enrolled in tribal language education programs.

(e) The office of Native education within the office of the superintendent of public instruction shall convene biannually up to 20 tribal language educators to develop and share best practices, resources, and knowledge.

(3) The office of the superintendent of public instruction must provide technical assistance and support related to the establishment, implementation, and expansion of dual language education and tribal language education programs.

(4) The office of the superintendent of public instruction may adopt rules under chapter 34.05 RCW for school districts and state-tribal education compact schools to establish, implement, and expand dual language education and tribal language education programs.

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

(a) "Dual language education" means an instructional model in which public school students are taught subject matter in both English and a world language other than English. "Dual language education" includes heritage language education, in which students develop and maintain grade level literacy and language use in the language of their communities, homes, and families.

(b) "Tribal language education" means the revitalization of and instruction in tribal languages in public schools, developed in consultation with Washington's federally recognized tribes and federally recognized tribes with reserved treaty rights in Washington, and provided by a certificated teacher with a Washington state first peoples' language, culture, and oral tribal traditions endorsement established under RCW 28A.410.045.

(c) "World language other than English" includes sign languages, for example American sign language, and indigenous languages.

NEW SECTION. **Sec. 3.** (1) By November 1, 2024, and in accordance with RCW 43.01.036, the office of the superintendent of public instruction shall report to the appropriate committees of the legislature with its plan for expanding dual language education, as defined in section 2 of this act, so that all school districts that want to may offer a dual language education program that begins in kindergarten by 2040. The plan must prioritize the expansion to reach students in the educational opportunity gap first.

(2) This section expires August 1, 2025.

Sec. 4. RCW 28A.300.575 and 2014 c 102 s 2 are each amended to read as follows:

(1) The Washington state seal of biliteracy is established to recognize public high school graduates who have attained a high level of proficiency in ((~~speaking, reading, and writing in~~)) English and in one or more world languages ((~~in addition to~~)) other than English. ((~~School districts are encouraged to~~)) Beginning with the 2025-26 school year, school districts shall award the seal of biliteracy to graduating high school students who meet the criteria established by the office of the superintendent of public instruction under this section. ((~~Participating school~~)) School districts shall place a notation on a student's high school diploma and high school transcript indicating that the student has earned the seal of biliteracy.

(2)(a) The office of the superintendent of public instruction shall adopt rules establishing criteria for award of the Washington state seal of biliteracy.

(b) The criteria must require a student to demonstrate ((~~proficiency~~)) both:

(i) Proficiency in English by meeting state high school graduation requirements in English, including through state assessments and credits((~~, and proficiency in~~)); and

(ii)(A) Except as provided in (b)(ii)(B) of this subsection (2), proficiency in speaking, reading, and writing one or more world languages other than English. ((~~The~~))

(B) For a world language other than English that is an unwritten language, the criteria must only require a student to demonstrate proficiency in speaking the unwritten language.

(c)(i) Except as provided in (c)(ii) of this subsection (2), the criteria must permit a student to demonstrate proficiency in ((~~another~~)) a world language other than English through multiple methods including nationally or internationally recognized language proficiency tests and competency-based world language credits awarded under the model policy adopted by the Washington state school directors' association.

(ii) For a world language other than English that is an indigenous language, the criteria must specify that only a sovereign tribal government may certify a student as proficient in the language of the tribe.

(3) The office of the superintendent of public instruction shall provide students with access to methods for the student to demonstrate proficiency in less commonly taught or assessed languages at a cost that is not higher than that of assessing commonly taught or assessed languages.

(4) This section governs school operation and management under RCW 28A.710.040 and 28A.715.020 and applies to charter schools established under chapter 28A.710 RCW and state-tribal education compact schools subject to chapter 28A.715 RCW.

(5) For the purposes of this section, ((~~a~~)) "world language other than English" ((~~must include American sign language and Native American languages~~)) has the same meaning as in section 2 of this act.

Sec. 5. RCW 28A.230.125 and 2019 c 252 s 111 are each amended to read as follows:

(1) The superintendent of public instruction, in consultation with the four-year institutions as defined in RCW 28B.76.020, the state board for community and technical colleges, and the workforce training and education coordinating board, shall develop for use by all public school districts a standardized high school transcript. The superintendent shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

(2) The standardized high school transcript ((~~may~~)) must include a notation of whether the student has earned the Washington state seal of biliteracy established under RCW 28A.300.575.

Sec. 6. RCW 28A.180.030 and 2013 2nd sp.s. c 9 s 3 are each reenacted and amended to read as follows:

((~~As used throughout this chapter, unless the context clearly indicates otherwise:~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Eligible pupil" means any enrollee of the school district whose primary language is other than English and whose English language skills are sufficiently deficient or absent to impair learning.

(2) "Exited pupil" means a student previously enrolled in the transitional bilingual instruction program who is no longer eligible for the program based on his or her performance on an English proficiency assessment approved by the superintendent of public instruction.

(3) "Primary language" means the language most often used by the student for communication in his/her home.

(4) "Transitional bilingual instruction" means:

(a) A system of instruction which uses two languages, one of which is English, as a means of instruction to build upon and expand language skills to enable the pupil to achieve competency in English. ((~~Concepts and information are introduced in the primary language and reinforced in the second language: PROVIDED, That the program shall include testing in the subject matter in English~~)) Dual language education and tribal language education as defined in section 2 of this act are the preferred transitional bilingual instruction program models; or

(b) In those cases in which ((~~the use of~~)) instruction in two languages is not practicable as established by the superintendent of public instruction and unless otherwise prohibited by law, an alternative system of instruction which may include English as a second language and is designed to enable the pupil to achieve competency in English.

NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.410 RCW to read as follows:

By January 1, 2025, the professional educator standards board and the paraeducator board shall collaborate with the office of the superintendent of public instruction and institutions of higher education to align bilingual education and English language learner endorsement standards and determine language assessment requirements for multilingual teachers and paraeducators.

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

Beginning with the 2025-26 school year, the office of the superintendent of public instruction shall provide school districts and state-tribal education compact schools with program guidance, technical assistance, and professional learning to serve American Indian and Alaska Native students with appropriate, culturally affirming literacy supports.

NEW SECTION. **Sec. 9.** RCW 28A.300.574 (Dual language learning cohorts—Rules) and 2017 c 236 s 3 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, 2024, in the omnibus appropriations act, this act is null and void.

Passed by the House February 12, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 21, 2024.

CHAPTER 203

[Engrossed Substitute House Bill 2019]

NATIVE AMERICAN APPRENTICE ASSISTANCE PROGRAM

AN ACT Relating to establishing a Native American apprentice assistance program; adding a new chapter to Title 28B RCW; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes that Native American people have faced historical traumas that have had a lasting impact in many facets of life, including educational attainment. Historically, education was used as a reformation tactic to strip away Native identity and culture to whitewash the indigenous population and destroy a nation's own first people by separating Native children from their families. The legislature acknowledges the historical use of education as a weapon and the opportunity to partner with federally recognized Indian tribes to establish truth and reconciliation regarding boarding school traumas in order to facilitate change and remove stigmas of how Native Americans view education.

Native Americans face additional challenges in attaining higher education, such as high rates of poverty and lack of postsecondary educational access near reservations. When the state invests in an educated Native workforce, Native communities become more economically resilient, stronger, healthier, and empowered. Robust Native communities help make a more resilient and vigorous Washington state and contribute to alleviating workforce demand by tapping into historically underutilized talent. Therefore, the legislature intends to establish the Native American apprentice assistance program with the recognition that indigenous populations need additional assistance to pursue postsecondary education because of historical actions that have left lasting impacts.

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

(1) "Eligible participant" means a member of a federally recognized Indian tribe as defined in RCW 43.376.010 who files a financial aid application approved by the office and enrolls in a state-registered apprenticeship program.

(2) "Gift aid" has the same definition as in RCW 28B.145.010.

(3) "Office" means the office of student financial assistance within the student achievement council.

(4) "State-registered apprenticeship program" means an approved apprenticeship program under chapter 49.04 RCW that has been approved to participate in state financial aid programs.

NEW SECTION. **Sec. 3.** (1) Subject to the availability of amounts appropriated for this specific purpose, the Native American apprentice assistance program is established and shall be administered by the office. In administering the program, the office has the following duties:

(a) Publicize the program;

(b) Award assistance to eligible participants according to rules and guidelines adopted beginning with the year 2025; and

(c) Adopt any necessary rules and guidelines for the program in consultation with tribes and state-registered apprenticeship programs.

(2) The office shall determine apprenticeship assistance awarding priorities and award amounts for eligible participants in collaboration with the tribes and state-registered apprenticeship programs.

(a) For eligible participants attending a state-registered apprenticeship program, the office shall prioritize funding to cover any tuition costs for related supplemental instruction. Additional funding may be used to provide a grant to cover required supplies, tools, materials, work clothing, and living expenses.

(b) The office may also prioritize funding that secures an eligible participant's grant for the entire length of the participant's program.

NEW SECTION. **Sec. 4.** (1) The office of student financial assistance shall submit annual reports to the governor and the appropriate committees of the legislature in accordance with RCW 43.01.036 on the Native American apprentice assistance program by December 1st of each year until 2025. The report must include:

(a) The total number of eligible participants and the number of eligible participants who received an assistance grant;

(b) The amount that the office determined the assistance award to be;

(c) How the office determined what the assistance award should be; and

(d) How many members of federally recognized Indian tribes in Washington received assistance versus members of federally recognized Indian tribes from other states.

(2) This section expires December 31, 2025.

NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act constitute a new chapter in Title 28B RCW.

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, 2024, in the omnibus appropriations act, this act is null and void.

Passed by the House February 9, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 21, 2024.

CHAPTER 204

[Substitute House Bill 2075]

INDIAN HEALTH CARE PROVIDERS—ESTABLISHMENT LICENSING

AN ACT Relating to licensing of Indian health care providers as establishments; and amending RCW 71.12.460.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 71.12.460 and 2001 c 254 s 2 are each amended to read as follows:

(1) No person, association, county, municipality, public hospital district, or corporation, shall establish or keep, for compensation or hire, an establishment as defined in this chapter without first having obtained a license therefor from the department of health, complied with rules adopted under this chapter, and paid the license fee provided in this chapter.

(2)(a) Beginning no later than July 1, 2025, the department shall issue a license under this chapter to an Indian health care provider, as defined in RCW 71.24.025, attesting to have met the state minimum standards as an establishment if the Indian health care provider submits to the department a tribal attestation and payment of an administrative processing fee as established in rule. The department shall establish the administrative processing fee at a level sufficient to cover the administrative processing costs for the attestation while recognizing the reduced cost of an attestation compared to a standard license.

(b) The issuance of a license under (a) of this subsection to an Indian health care provider only applies to holding a license under this chapter and does not satisfy any requirements that the Indian health care provider may have to meet other credentialing standards including, but not limited to, any licensure and certification requirements for behavioral health agencies under chapter 71.24 RCW, any certificate of need requirements under chapter 70.38 RCW, any construction review requirements, any applicable test site requirements under chapter 70.42 RCW, any applicable pharmacy commission requirements, any fire protection standards established by the director of fire protection of the Washington state patrol, and any regulations established by local authorities.

(3) Any person who carries on, conducts, or attempts to carry on or conduct an establishment as defined in this chapter without first having obtained a license from the department of health, as in this chapter provided, is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment. The managing and executive officers of any corporation violating the provisions of this chapter shall be liable under the provisions of this chapter in the same manner and to the same effect as a private individual violating the same.

Passed by the House February 8, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 21, 2024.

CHAPTER 205

[House Bill 2135]

EMERGENCY WORKER PROGRAM—FEDERALLY RECOGNIZED TRIBES

AN ACT Relating to including federally recognized tribes as part of the Washington emergency management division emergency worker program; and amending RCW 38.52.010 and 38.52.180.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 38.52.010 and 2022 c 203 s 2 are each amended to read as follows:

As used in this chapter:

(1) "911 emergency communications system" means a public 911 communications system consisting of a network, database, and on-premises equipment that is accessed by dialing or accessing 911 and that enables reporting police, fire, medical, or other emergency situations to a public safety answering

point. The system includes the capability to selectively route incoming 911 voice and data to the appropriate public safety answering point that operates in a defined 911 service area and the capability to automatically display the name, location, and telephone number of incoming 911 voice and data at the appropriate public safety answering point.

(2) "Automatic location identification" means information about a caller's location that is part of or associated with an enhanced or next generation 911 emergency communications system as defined in this section and RCW 82.14B.020 and intended for the purpose of display at a public safety answering point with incoming 911 voice or data, or both.

(3) "Automatic number identification" means a method for uniquely associating a communication device that has accessed 911 with the incoming 911 voice or data, or both, and intended for the purpose of display at a public safety answering point.

(4) "Baseline level of 911 service" means access to 911 dialing from all communication devices with service from a telecommunications provider within a county's jurisdiction so that incoming 911 voice and data communication is answered, received, and displayed on 911 equipment at a public safety answering point designated by the county.

(5) "Broadcaster" means a person or entity that holds a license issued by the federal communications commission under 47 C.F.R. Part 73, 74, 76, or 78.

(6)(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.

(7) "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.

(8) "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.

(9) "Continuity of operations planning" means the internal effort of an organization to provide that the capability exists to continue essential functions and services in response to a comprehensive array of potential emergencies or disasters.

(10) "Department" means the state military department.

(11) "Director" means the adjutant general.

(12) "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.

(13)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 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 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.

(14) "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 (13)(b) of this section.

(15) "Emergency services communication system" means a multicounty or countywide communications network, including an enhanced or next generation 911 emergency communications system, which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for police, fire, medical, or other emergency services.

(16) "Emergency services communications system data" includes voice or audio; multimedia, including pictures and video; text messages; telematics or telemetrics; or other information that is received or displayed, or both, at a public safety answering point in association with a 911 access.

(17) "Emergency worker" means any person who is registered with a local emergency management organization, any federally recognized Indian tribe as defined in RCW 43.376.010 provided the department is in receipt of a tribal government resolution declaring its intention to be a participant in the emergency worker program under this chapter, or the department and holds an identification card issued by the local emergency management director, tribal government, 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.

(18) "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.

(19) "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.

(20) "First informer broadcaster" means an individual who:

(a) Is employed by, or acting pursuant to a contract under the direction of, a broadcaster; and

(b)(i) Maintains, including repairing or resupplying, transmitters, generators, or other essential equipment at a broadcast station or facility; or (ii) provides technical support services to broadcasters needed during a period of proclaimed emergency.

(21) "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.

(22) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

(23) "Interconnected voice over internet protocol service provider" means a provider of interconnected voice over internet protocol service as defined by the federal communications commission in 47 C.F.R. Sec. 9.3 on January 1, 2009, or a subsequent date determined by the department.

(24) "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.

(25) "Local director" means the director of a local organization of emergency management or emergency services.

(26) "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.

(27) "Next generation 911" means an internet protocol-based system comprised of managed emergency services internet protocol networks, functional elements (applications), and databases that replicate enhanced 911 features and functions as defined in RCW 82.14B.020(4) that provide additional capabilities designed to provide access to emergency services from all connected communications sources and provide multimedia data capabilities for public safety answering points.

(28) "Next generation 911 demarcation point" means the location and equipment that separates the next generation 911 network from:

(a) A telecommunications provider's network, known as the ingress next generation 911 demarcation point; and

(b) A public safety answering point, known as the egress next generation 911 demarcation point.

(29) "Next generation 911 emergency communications system" means a public communications system consisting of networks, databases, and public safety answering point 911 hardware, software, and technology that is accessed by the public in the state through 911. The system includes the capability to: Route incoming 911 voice and data to the appropriate public safety answering point that operates in a defined 911 service area; answer incoming 911 voice and data; and receive and display incoming 911 voice and data, including automatic location identification and automatic number identification, at a public safety answering point. "Next generation 911 emergency communications system" includes future modernizations to the 911 system.

(30) "Next generation 911 emergency services internet protocol network" means a managed internet protocol network used for 911 emergency services communications that is managed and maintained, including security and credentialing functions, by the state 911 coordination office to provide next generation 911 emergency communications from the ingress next generation 911 demarcation point to the egress next generation 911 demarcation point. It provides the internet protocol transport infrastructure upon which application platforms and core services are necessary for providing next generation 911 services. Next generation 911 emergency services internet protocol networks may be constructed from a mix of dedicated and shared facilities and may be interconnected at local, regional, state, federal, national, and international levels to form an internet protocol-based inter-network (network of networks).

(31) "Next generation 911 service" means public access to the next generation 911 emergency communications system and its capabilities by accessing 911 from communication devices to report police, fire, medical, or other emergency situations to a public safety answering point.

(32) "Political subdivision" means any county, city or town.

(33) "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.

(34) "Public safety answering point" means the public safety location that receives and answers 911 voice and data originating in a given area as designated by the county. Public safety answering points must be equipped with 911 hardware, software, and technology that is accessed through 911 and is capable of answering incoming 911 calls and receiving and displaying incoming 911 data.

(a) "Primary public safety answering point" means a public safety answering point, as designated by the county, to which 911 calls and data originating in a given area and entering the next generation 911 network are initially routed for answering.

(b) "Secondary public safety answering point" means a public safety answering point, as designated by the county, that only receives 911 voice and data that has been transferred by other public safety answering points.

(35) "Radio communications service company" means every corporation, company, association, joint stock, partnership, and person, their lessees, trustees, or receivers appointed by any court, and every city or town making available facilities to provide commercial mobile radio services, as defined by 47 U.S.C. Sec. 332(d)(1), or cellular communications services for hire, sale, and both facilities-based and nonfacilities-based resellers, and does not include radio paging providers.

(36) "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.

(37) "Telecommunications provider" means a telecommunications company as defined in RCW 80.04.010, a radio communications service company as defined in ((~~RCW 38.52.010~~)) this section, a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3, providers of interconnected voice over internet protocol service as defined in ((~~RCW 38.52.010~~)) this section, and providers of data services.

(38) "Washington state patrol public safety answering points" means those designated as primary or secondary public safety answering points by the counties in which they provide service.

Sec. 2. RCW 38.52.180 and 2017 c 36 s 1 are each amended to read as follows:

(1) There shall be no liability on the part of anyone including any person, partnership, corporation, the state of Washington or any political subdivision thereof who owns or maintains any building or premises which have been designated by a local organization for emergency management as a shelter from destructive operations or attacks by enemies of the United States for any injuries sustained by any person while in or upon said building or premises, as a result of the condition of said building or premises or as a result of any act or omission, or in any way arising from the designation of such premises as a shelter, when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority, except for an act of willful negligence by such owner or occupant or his or her servants, agents, or employees.

(2) All legal liability for damage to property or injury or death to persons (except an emergency worker, regularly enrolled and acting as such), caused by acts done or attempted during or while traveling to or from an emergency or disaster, search and rescue, or training or exercise authorized by the department in preparation for an emergency or disaster or search and rescue, under the color of this chapter in a bona fide attempt to comply therewith, except as provided in subsections (3), (4), and (5) of this section regarding covered volunteer emergency workers, shall be the obligation of the state of Washington. Suits may

be instituted and maintained against the state for the enforcement of such liability, or for the indemnification of persons appointed and regularly enrolled as emergency workers while actually engaged in emergency management duties, or as members of any agency of the state or political subdivision thereof, or federally recognized Indian tribe as defined in RCW 43.376.010, engaged in emergency management activity, or their dependents, for damage done to their private property, or for any judgment against them for acts done in good faith in compliance with this chapter: PROVIDED, That the foregoing shall not be construed to result in indemnification in any case of willful misconduct, gross negligence, or bad faith on the part of any agent of emergency management: PROVIDED, That should the United States or any agency thereof, in accordance with any federal statute, rule, or regulation, provide for the payment of damages to property and/or for death or injury as provided for in this section, then and in that event there shall be no liability or obligation whatsoever upon the part of the state of Washington for any such damage, death, or injury for which the United States government assumes liability.

(3) No act or omission by a covered volunteer emergency worker while engaged in a covered activity shall impose any liability for civil damages resulting from such an act or omission upon:

(a) The covered volunteer emergency worker;

(b) The supervisor or supervisors of the covered volunteer emergency worker;

(c) Any facility or their officers or employees;

(d) The employer of the covered volunteer emergency worker;

(e) The owner of the property or vehicle where the act or omission may have occurred during the covered activity;

(f) Any local organization that registered the covered volunteer emergency worker;

(g) The state or any state or local governmental entity; ((~~and~~))

(h) Federally recognized Indian tribes as defined in RCW 43.376.010; and

(i) Any professional or trade association of covered volunteer emergency workers.

(4) The immunity in subsection (3) of this section applies only when the covered volunteer emergency worker was engaged in a covered activity:

(a) Within the scope of his or her assigned duties;

(b) Under the direction of a local emergency management organization or the department, or a local law enforcement agency for search and rescue; and

(c) The act or omission does not constitute gross negligence or willful or wanton misconduct.

(5) For purposes of this section:

(a) "Covered volunteer emergency worker" means an emergency worker as defined in RCW 38.52.010 who (i) is not receiving or expecting compensation as an emergency worker from the state or local government, or (ii) is not a state or local government employee unless on leave without pay status.

(b) "Covered activity" means:

(i) Providing assistance or transportation authorized by the department during an emergency or disaster or search and rescue as defined in RCW 38.52.010, whether such assistance or transportation is provided at the scene of

the emergency or disaster or search and rescue, at an alternative care site, at a hospital, or while in route to or from such sites or between sites; or

(ii) Participating in training or exercise authorized by the department in preparation for an emergency or disaster or search and rescue.

(6) Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency worker who shall, in the course of performing his or her duties as such, practice such professional, mechanical, or other skill during an emergency described in this chapter.

(7) The provisions of this section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under this chapter, or under the workers' compensation law, or under any pension or retirement law, nor the right of any such person to receive any benefits or compensation under any act of congress.

(8) Any act or omission by a covered volunteer emergency worker while engaged in a covered activity using an off-road vehicle, nonhighway vehicle, or wheeled all-terrain vehicle does not impose any liability for civil damages resulting from such an act or omission upon the covered volunteer emergency worker or the worker's sponsoring organization.

Passed by the House March 5, 2024.
Passed by the Senate February 28, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 21, 2024.

CHAPTER 206

[Substitute House Bill 2335]

STATE-TRIBAL EDUCATION COMPACTS—PROVISIONS

AN ACT Relating to state-tribal education compacts; and amending RCW 28A.715.010 and 28A.715.020.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.715.010 and 2018 c 257 s 1 are each amended to read as follows:

(1) The superintendent of public instruction is authorized to enter into state-tribal education compacts.

(2) No later than six months after July 28, 2013, the superintendent of public instruction shall establish an application and approval process, procedures, and timelines for the negotiation, approval or disapproval, and execution of state-tribal education compacts.

(3) The process may be initiated by submission, to the superintendent of public instruction, of a resolution by:

(a) The governing body of a tribe in the state of Washington; or

(b) The governing body of any of the schools in Washington that are currently funded by the federal bureau of Indian affairs, whether directly or through a contract or compact with an Indian tribe or a tribal consortium.

(4) The resolution must be accompanied by an application that indicates the grade or grades from kindergarten through twelve that will be offered and that demonstrates that the school will be operated in compliance with all applicable

laws, the rules adopted thereunder, and the terms and conditions set forth in the application.

(5) Within ninety days of receipt of a resolution and application under this section, the superintendent must convene a government-to-government meeting for the purpose of considering the resolution and application and initiating negotiations.

(6) State-tribal education compacts must include provisions regarding:

(a) Compliance;

(b) Notices of violation;

(c) Dispute resolution, which may include nonjudicial processes such as mediation;

(d) Recordkeeping and auditing;

(e) The delineation of the respective roles and responsibilities;

(f) The term or length of the contract, and whether or not it is renewable; and

(g) Provisions for compact termination.

(7) If a tribal school chooses to participate in the teachers' retirement system, the school employees' retirement system, or both, the state-tribal education compact must also include the following:

(a) Acknowledgment by the tribal school that it affirmatively chooses to participate in the teachers' retirement system, the school employees' retirement system, or both;

(b) Evidence that the person or persons who sign the compact on behalf of a tribe, dependent Indian community, or subdivision thereof have authority under tribal or community law to bind the tribe or dependent Indian community to all provisions in the compact, including any waiver of sovereign immunity;

(c) If the tribal school chooses to participate in the teachers' retirement system:

(i) Agreement by the tribal school that it meets the definition of an employer as defined in chapter 41.32 RCW;

(ii) Agreement by the tribal school to adhere to all reporting, contribution, and auditing requirements as defined in chapter 41.32 RCW, and all rules adopted under authority of RCW 41.50.050(5);

(iii) Agreement between the superintendent of public instruction and the tribal school that for the duration of the compact the school will be a public school for the purposes of retirement plan membership as defined in chapter 41.32 RCW; and

(iv) Agreement by the tribal school that, at the request of the superintendent of public instruction, the tribal school will make available to the superintendent any records the tribal school has provided to the department of retirement systems as required under the reporting, contribution, and auditing requirements defined in chapter 41.32 RCW, and rules implementing that chapter;

(d) If the tribal school chooses to participate in the school employees' retirement system:

(i) Agreement by the tribal school that it meets the definition of an employer as defined in chapter 41.35 RCW;

(ii) Agreement by the tribal school to adhere to all reporting, contribution, and auditing requirements as defined in chapter 41.35 RCW, and all rules adopted under authority of RCW 41.50.050(5); and

(iii) Agreement by the tribal school that, at the request of the superintendent of public instruction, the tribal school will make available to the superintendent any records the tribal school has provided to the department of retirement systems as required under the reporting, contribution, and auditing requirements defined in chapter 41.35 RCW, and rules implementing that chapter;

(e) Agreement by the tribe or, if applicable, the dependent Indian community, to a limited waiver of sovereign immunity and consent to the jurisdiction of the Washington state courts for the purpose of enforcing the reporting, contribution, and auditing requirements defined in chapters 41.32 and 41.35 RCW and all rules adopted under authority of RCW 41.50.050(5);

(f) Agreement by the tribal school to dissolution procedures memorialized in the state-tribal education compact so that all parties are aware of their expectations and duties if the compact terminates or the tribal school chooses to no longer participate in the state retirement systems at a future date;

(g) Acknowledgment by the tribal school that it has been advised that choosing to no longer participate in the retirement systems may result in federal tax implications for the governing body and its employees that are outside the control of the state of Washington, the department of retirement systems, and the superintendent of public instruction, and that the tribal school is encouraged to seek counsel before agreeing to any dissolution procedures in the compact; and

(h) Acknowledgment by both parties that the pension plan participation portions of the state-tribal education compact are null and void if the federal internal revenue service issues guidance stating that any portion of those sections are in conflict with the plan qualification requirements for governmental plans in section 401(a) of the internal revenue code, and the conflict cannot be resolved through administrative action, statutory change, or amendment to the state-tribal education compact.

(8) For tribal schools that opt out of pension plan participation, such schools' employees shall have no right to earn additional service credit in the plan.

(9) The superintendent of public instruction shall adopt such rules as are necessary to implement this chapter and consult with the state board of education on provisions within new or revised state-tribal education compacts relating to the duties or authorizations of the board.

(10) "Tribal school" for the purposes of this section means any school qualified to participate in a state-tribal education compact under this section.

Sec. 2. RCW 28A.715.020 and 2013 c 242 s 3 are each amended to read as follows:

(1) A school that is the subject of a state-tribal education compact must operate according to the terms of its compact executed in accordance with RCW 28A.715.010.

(2) Schools that are the subjects of state-tribal education compacts are exempt from all state statutes and rules applicable to school districts and school district boards of directors, except those statutes and rules made applicable under this chapter and in the state-tribal education compact executed under RCW 28A.715.010.

(3) Each school that is the subject of a state-tribal education compact must:

(a) Provide a curriculum and conduct an educational program that satisfies the requirements of RCW 28A.150.200 through 28A.150.240 and 28A.230.010

through 28A.230.195, unless an exemption for one or more of these requirements is expressly included within the state-tribal education compact;

(b) Employ certificated instructional staff as required in RCW 28A.410.010, however such schools may hire noncertificated instructional staff of unusual competence and in exceptional cases as specified in RCW 28A.150.203(7);

(c) Comply with the employee record check requirements in RCW 28A.400.303 and the mandatory termination and notification provisions of RCW 28A.400.320, 28A.400.330, 28A.405.470, and 28A.405.475;

(d) Comply with nondiscrimination laws;

(e) Adhere to generally accepted accounting principles and be subject to financial examinations and audits as determined by the state auditor, including annual audits for legal and fiscal compliance; and

(f) Be subject to and comply with legislation enacted after July 28, 2013, governing the operation and management of schools that are the subject of a state-tribal education compact.

(4) No such school may engage in any sectarian practices in its educational program, admissions or employment policies, or operations.

(5) Nothing in this chapter may limit or restrict any enrollment or school choice options otherwise available under ((~~Title 28A RCW~~)) this title.

Passed by the House February 7, 2024.
Passed by the Senate February 29, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 21, 2024.

CHAPTER 207

[Substitute Senate Bill 6146]

TRIBAL WARRANTS

AN ACT Relating to tribal warrants; adding a new chapter to Title 10 RCW; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes that the 29 federally recognized Indian tribes with territory inside the state of Washington have a shared interest with the state in public safety, and that continued and expanded cooperation with tribal justice systems will promote that interest. The legislature also recognizes that tribes have, for decades, agreed by treaty and through practice not to shelter or conceal those individuals who violate state law and to surrender them to the state for prosecution. In the interests of public safety and partnership, it is therefore the intent of the legislature to create uniform processes by which the state may consistently reciprocate with tribes the return of those individuals who violate tribal law and seek to avoid tribal justice systems by leaving tribal jurisdiction.

The legislature further recognizes it is a constitutional imperative that individuals alleged to have violated criminal laws are afforded the fullest protections of due process including, but not limited to: (1) The right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; (2) the right of an indigent defendant to the assistance of a licensed defense attorney, at the expense of the tribal government; (3) the right to a

criminal proceeding presided over by a judge who is licensed to practice law and has sufficient legal training; (4) the right to have access, prior to being charged, to the tribe's criminal laws, rules of evidence, and rules of criminal procedure; and (5) the right to a record of the criminal proceeding, including an audio or other recording of the trial proceeding. The legislature finds that numerous federally recognized tribes with territory inside the state have systems and processes recognized by the federal government as providing due process to defendants at least equal to those required by the United States Constitution. The legislature also finds that all defendants in tribal courts have the right to petition for a writ of habeas corpus.

The legislature additionally recognizes the importance of establishing clear statutory duties when directing peace officers of this state to effectuate new aspects of their work. It is the intent of the legislature that this act set forth procedures by which peace officers and correctional staff of this state must recognize and effectuate tribal arrest warrants.

Therefore, the legislature declares the purpose of this act is to expand cross jurisdictional cooperation so that fugitives from tribal courts cannot evade justice by remaining off reservation in Washington's counties and cities, while ensuring that defendants receive the fullest due process protections.

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

(1) "Noncertified tribe" means a federally recognized tribe located within the borders of the state of Washington that is requesting that a tribal fugitive be surrendered to the duly authorized agent of the tribe, but has not received approval to exercise jurisdiction under the tribal law and order act of 2010, section 234, codified at 25 U.S.C. Sec. 1302, and which has agreed by treaty or practice not to shelter or conceal offenders against the laws of the state of Washington but to deliver them up to state authorities for prosecution.

(2) "Certified tribe" means a federally recognized tribe located within the borders of the state of Washington that (a) may impose a term of imprisonment of greater than one year, or a fine greater than $5,000, or both, pursuant to the tribal law and order act of 2010, section 234, codified at 25 U.S.C. Sec. 1302; and (b) has agreed not to shelter or conceal offenders against the laws of the state of Washington but to deliver them up to state authorities for prosecution.

(3) "Peace officer" has the same meaning as in RCW 10.93.020(4).

(4) "Place of detention" means a jail as defined in RCW 70.48.020, a correctional facility as defined in RCW 72.09.015, and any similar facility contracted by a city or county.

(5) "Tribal court judge" includes every judicial officer authorized alone or with others, to hold or preside over the criminal court of a certified tribe or noncertified tribe.

(6) "Tribal fugitive" or "fugitive" means any person who is subject to tribal court criminal jurisdiction, committed an alleged crime under the tribal code, and thereafter fled tribal jurisdiction, including by escaping or evading confinement, breaking the terms of their probation, bail, or parole, or absenting themselves from the jurisdiction of the tribal court.

(7) "Tribal police officer" has the same meaning as in RCW 10.92.010.

NEW SECTION. **Sec. 3.** A certified tribe must provide certification of section 2(2) (a) and (b) of this act, signed by the tribe's judicial officer and chief legal counsel, to the office of the attorney general. The office of the attorney general shall receive the certification documentation indicating that the tribe meets the requirements of the tribal law and order act of 2010 section 234, codified at 25 U.S.C. Sec. 1302, and review the documentation to confirm that it is complete according to the information provided in the documentation. The office of the attorney general shall be immune from liability arising out of the performance of duties under this section, except their intentional or willful misconduct.

I. PROCEDURE FOR TRIBAL WARRANTS OF NONCERTIFIED TRIBES

NEW SECTION. **Sec. 4.** A place of detention shall provide notice to the tribal law enforcement within the jurisdiction of a noncertified tribe who issued an arrest warrant for a tribal fugitive as soon as practicable after learning that the tribal fugitive is a prisoner in the place of detention. The notice shall include the reason for the detention and the anticipated date of release, if known.

NEW SECTION. **Sec. 5.** The noncertified tribe whose court issued the warrant of arrest may demand the extradition of the tribal fugitive from a place of detention. The demand will be recognized if in writing, it alleges that the person is a tribal fugitive, the tribal court has jurisdiction, and is accompanied by either:

(1) A copy of the complaint, information, or other charging document supported by affidavit of the tribe having jurisdiction of the crime;

(2) A copy of an affidavit made before an authorized representative of the tribal court, together with a copy of any warrant which was issued thereupon; or

(3) A copy of a judgment of conviction or of a sentence imposed in execution thereof.

NEW SECTION. **Sec. 6.** If a criminal prosecution has been instituted against a tribal fugitive under the laws of this state or any political subdivision thereof and is still pending, extradition on a tribal court request under sections 4 through 10 of this act shall be placed on hold until the tribal fugitive's release from a place of detention, unless otherwise agreed upon in any given case.

NEW SECTION. **Sec. 7.** (1) The attorney general or prosecuting attorney shall submit all applicable documents specified in section 4 of this act to a superior court judge in this state along with a motion for an order of surrender. The motion for an order of surrender shall be served upon the person whose extradition is demanded.

(2) A person who is served with a motion for an order of surrender shall be taken before a superior court judge in this state the next judicial day. The judge shall inform the person of the demand made for the person's surrender and the underlying reason for the demand, and that the person has the right to demand and procure legal counsel.

(3) The person whose return is demanded may, in the presence of any superior court judge, sign a statement that the person consents to his or her return to the noncertified tribe. However, before such waiver may be executed, it shall be the duty of such judge to inform the person of his or her right to test the legality of the extradition request before an order of surrender may be issued.

(4) Any hearing to test the legality of the extradition request shall occur within three judicial days, excluding weekends and holidays, of the person receiving notice of the motion for an order of surrender. The hearing is limited to determining:

(a) Whether the person has been charged with or convicted of a crime by the noncertified tribe;

(b) Whether the person before the court is the person named in the request for extradition; and

(c) Whether the person is a fugitive.

(5) The guilt or innocence of the person as to the crime of which the person is charged may not be inquired into by a superior court judge except as it may be necessary to identify the person held as being the person charged with the crime.

(6) If the superior court judge determines that the requirements of subsection (4) of this section and section 4 of this act have been met, the judge shall issue an order of surrender to the noncertified tribe. If the noncertified tribe does not take custody of the person pursuant to the order of surrender on the date the person is scheduled to be released from the place of detention or within 48 hours of the entry of the order of surrender, whichever is later, the person may be released from custody with bail conditioned on the person's appearance before the court at a time specified for his or her surrender to the noncertified tribe or for the vacation of the order of surrender.

NEW SECTION. **Sec. 8.** Subject to the provisions of section 6 of this act, a place of detention shall deliver or make available a person in custody to the noncertified tribe without a judicial order of surrender provided that:

(1) Such person is alleged to have broken the terms of his or her probation, parole, bail, or any other release of the noncertified tribe; and

(2) The place of detention has received from the noncertified tribe an authenticated copy of a prior waiver of extradition signed by such person as a term of his or her probation, parole, bail, or any other release of the noncertified tribe and photographs or fingerprints or other evidence properly identifying the person as the person who signed the waiver.

NEW SECTION. **Sec. 9.** (1) A noncertified tribe that requests extradition pursuant to this act is responsible to arrange the transportation for the tribal fugitive from the place of detention to the tribal court or detention facility. The detention facility and noncertified tribe are encouraged to select the means of transport that best protects public safety after considering available resources. At the request of a noncertified tribe, a city, county, or the governor must engage in good faith efforts to negotiate an agreement to effectuate this subsection.

(2) A tribal court representative who is certified as a general authority Washington peace officer under chapter 10.92 RCW, or who is cross-deputized pursuant to chapter 10.93 RCW, may transport a tribal fugitive within the state of Washington pursuant to an order of surrender.

NEW SECTION. **Sec. 10.** (1) A peace officer may arrest a person subject to a tribal arrest warrant from a noncertified tribe when the warrant is presented by a tribal court representative or tribal law enforcement officer to the peace officer or a general authority Washington law enforcement agency as defined in RCW 10.93.020 or entered in the national crime information center interstate identification index. The arrested person must be brought to an appropriate place

of detention and then to the nearest available superior court judge without unnecessary delay. The superior court judge shall issue an order continuing custody upon presentation of the tribal arrest warrant.

(2) The judge shall inform the person appearing under subsection (1) of this section of the name of the noncertified tribe that has subjected the person to an arrest warrant, the basis of the arrest warrant, the right to assistance of counsel, and the right to require a judicial hearing before transfer of custody to the applicable noncertified tribe.

(3) After being informed by the judge of the effect of a waiver, the arrested person may waive the right to require a judicial hearing and consent to return to the applicable noncertified tribe by executing a written waiver. If the waiver is executed, the judge shall issue an order to transfer custody under subsection (5) of this section or, with consent of the applicable noncertified tribe, authorize the voluntary return of the person to that tribe.

(4) If a hearing is not waived under subsection (3) of this section, the court shall hold a hearing within three days, excluding weekends and holidays, after the initial appearance. The arrested person and the prosecuting attorney's office shall be informed of the time and place of the hearing. The court shall release the person upon conditions that will reasonably assure availability of the person for the hearing or direct a peace officer to maintain custody of the person until the time of the hearing. Following the hearing, the judge shall issue an order to transfer custody under subsection (5) of this section unless the arrested person established by clear and convincing evidence that the arrested person is not the person identified in the warrant. If the court does not order transfer of custody, the judge shall order the arrested person to be released.

(5) A judicial order to transfer custody issued under subsection (4) of this section shall be directed to a peace officer to take or retain custody of the person until a representative of the applicable noncertified tribe is available to take custody. If the noncertified tribe has not taken custody with three days, excluding weekends and holidays, the court may order the release of the person upon conditions that will assure the person's availability on a specified date with seven days. If the noncertified tribe has not taken custody within the time specified in the order, the person shall be released. Thereafter, an order to transfer custody may be entered only if a new arrest warrant is issued. The court may authorize the voluntary return of the person with the consent of the applicable noncertified tribe.

II. PROCEDURE FOR TRIBAL WARRANTS OF CERTIFIED TRIBES

NEW SECTION. **Sec. 11.** (1) Any arrest warrant issued by the court of a certified tribe shall be accorded full faith and credit by the courts of the state of Washington and enforced by the court and peace officers of the state as if it were the arrest warrant of the state. A Washington state peace officer who arrests a person pursuant to the arrest warrant of a certified tribe, if no other grounds for detention exist under state law, shall, as soon as practical after detaining the person, and in accordance with standard practices, contact the tribal law enforcement agency that issued the warrant to establish the warrant's validity.

(2) A place of detention shall allow a certified tribe to place a detainer on an inmate based on a tribal warrant. For the purposes of this section, detainer means a request by a certified tribe's tribal court, tribal police department, or tribal prosecutor's office, filed with the place of detention in which a person is

incarcerated, to hold the person for the certified tribe and to notify the tribe when release of the person is imminent so that the person can be transferred to tribal custody.

(3) The privilege of the writ of habeas corpus shall be available to any person detained under this provision.

NEW SECTION. **Sec. 12.** This act is not intended to and does not diminish the authority of the state or local jurisdictions to enter into government-to-government agreements with Indian tribes, including mutual aid and other interlocal agreements, concerning the movement of persons within their jurisdiction, does not diminish the validity or enforceability of any such agreements, and is not intended to and does not expand or diminish the authority of the state or local jurisdictions to arrest individuals over whom they have jurisdiction within Indian reservations.

NEW SECTION. **Sec. 13.** A tribal arrest warrant under this act is not required to be given prioritization above other warrants.

NEW SECTION. **Sec. 14.** (1) A peace officer or a peace officer's legal advisor may not be held criminally or civilly liable for making an arrest under this act if the peace officer or the peace officer's legal advisor acted in good faith and without malice.

(2) This act is not intended to limit, abrogate, or modify existing immunities for prosecuting attorneys for good faith conduct consistent with statutory duties.

NEW SECTION. **Sec. 15.** This chapter may be known and cited as the "tribal warrants act."

NEW SECTION. **Sec. 16.** Sections 1 through 15 of this act constitute a new chapter in Title 10 RCW.

NEW SECTION. **Sec. 17.** (1) The office of the governor shall convene an implementation work group to develop processes and recommendations as needed to ensure the successful implementation of this act, including verification and processing of warrants under this act.

(2) A representative of the governor's office shall chair the work group and the governor's office may consult or contract with an entity with subject matter expertise in criminal jurisdiction in Indian country to cochair and assist with administering the work group.

(3) The governor's office must ensure that the membership of the work group is composed of equal parts state and tribal partners and consists of, but is not limited to, representatives from:

(a) State and tribal law enforcement;

(b) Tribal leadership and local government leaders;

(c) The attorney general's office;

(d) State and tribal court judges;

(e) State and tribal court clerks;

(f) State and tribal jail administrators and directors; and

(g) Tribal and state prosecuting and defense attorneys.

(4) The office of the governor must provide staff support to the work group and may establish subcommittees as needed.

(5) The work group shall:

(a) Hold its first meeting by July 1, 2024;

(b) Meet at least monthly; and

(c) Submit a report to the governor and appropriate committees of the legislature by December 1, 2024, with a summary of its work, which may include recommendations for best practices for implementation of this act.

(6) This section expires December 31, 2024.

NEW SECTION. **Sec. 18.** This act takes effect July 1, 2025, except for section 17 of this act, which 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 May 1, 2024.

Passed by the Senate March 5, 2024.

Passed by the House February 28, 2024.

Approved by the Governor March 19, 2024.

Filed in Office of Secretary of State March 21, 2024.

CHAPTER 208

[Substitute Senate Bill 6186]

MISSING PERSONS—DISCLOSURE OF PUBLIC ASSISTANCE RECIPIENT INFORMATION TO WASHINGTON STATE PATROL

AN ACT Relating to disclosure of recipient information to the Washington state patrol for purposes of locating missing and murdered indigenous women and other missing and murdered indigenous persons; and amending RCW 74.04.062.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.04.062 and 2011 1st sp.s. c 15 s 67 are each amended to read as follows:

(1)(a) Upon written request of a person who has been properly identified as an officer of the law or a properly identified United States immigration official the department or authority shall disclose to such officer the current address and location of a recipient of public welfare if the officer furnishes the department or authority with such person's name and social security account number and satisfactorily demonstrates that such recipient is a fugitive, that the location or apprehension of such fugitive is within the officer's official duties, and that the request is made in the proper exercise of those duties.

(b) When the department or authority becomes aware that a public assistance recipient is the subject of an outstanding warrant, the department or authority may contact the appropriate law enforcement agency and, if the warrant is valid, provide the law enforcement agency with the location of the recipient.

(2) To the extent allowed under federal law, upon written request of a law enforcement officer from a state, local, or tribal law enforcement agency, the department or authority shall disclose to such officer whether the recipient has accessed his or her public assistance benefits in the last 30 days for the purpose of assisting the officer in confirming whether the recipient is alive if the recipient is the subject of a missing person's report as described in RCW 36.28A.120. For purposes of this section, "law enforcement officer" and "law enforcement agency" have the same meaning as defined in RCW 10.122.020.

Passed by the Senate February 6, 2024.
Passed by the House February 27, 2024.
Approved by the Governor March 19, 2024.
Filed in Office of Secretary of State March 21, 2024.

AUTHENTICATION

I, Kathleen Buchli, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2024 session (68th Legislature), chapters 1 through 208, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 15th day of April, 2024.

Kathleen Buchli
Code Reviser